

Corrigendum No 1 to Commercial Portion of the Bidding Documents

Bidding Document No: CS-0011-004F-0

IFB No: 20509

- 1.0 Complete Commercial Portion of the Bidding Documents comprising Section- I to V (IFB, ITB, BDS, GCC and SCC) and Section -VII has been revised and complete set of revised documents are being issued and uploaded at the e-tender portal <https://ntpc.procure247.com> through this corrigendum No 01.
- 2.0 This revised Commercial Bidding Documents shall replace the earlier published Commercial Bidding Documents at the e-tender portal.
- 3.0 Salient changes incorporated in the revised Commercial Bidding Documents with respect to earlier published Commercial Bidding Documents are summarised as following:
 - ISA has been identified as Employer in place of beneficiary country, as per following details

International Solar Alliance (ISA)
Surya Bhawan,
National Institute of Solar Energy Campus,
Gwal Pahari,
Faridabad-Gurugram Road,
Gurugram, Haryana – 122003, India
 - The country where project is to be installed shall be named as 'Recipient Country'
 - Dispute Resolution Clause (GCC 6) modified as per the Governing laws in the Employer's country.
 - The Contract shall be governed by and interpreted in accordance with laws in force in the Recipient Country (GCC 5).
 - Suitable changes incorporated in the Commercial Bidding Documents with respect to change of function and responsibility of Employer/ Recipient Country/ ISA/ PMC.
- 4.0 No change in the Technical Specifications (Section-VI).

NTPC LIMITED
(A Government of India Enterprise)

Project Management Consultant (PMC) for

International Solar Alliance (ISA)



BIDDING DOCUMENTS

FOR

Supply, Installation, Commissioning of Solar Cold Storage at Senegal, Djibouti, Sudan and Seychelles

BIDDING DOCUMENT NO.: CS-0011-004F-0

(This document is meant for the exclusive purpose of bidding against this Bid Document No. / Specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued).

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Section VI	:	Technical Specification (TS)
Section VII	:	Forms and Procedures (FP)
		(a) Section-VII (Book 1 of 3) Bid Form & Attachments (Techno-Commercial Bid)
		(b) Section-VII (Book 2 of 3)
		(c) Section-VII (Book 3 of 3) LOA and other formats

Acronyms

BDS	Bid Data Sheet
CIF	Cost, Insurance and Freight
CIP	Carriage and Insurance paid to (place)
CPM	Critical Path Method
EDI	Electronic Data Interchange
EXW	Ex factory, ex works or ex warehouse
FCA	Free Carrier
FOB	Free on Board
FP	Forms & Procedures
GCC	General Conditions of Contract
ICC	International Chamber of Commerce
IFB	Invitation for Bids
ITB	Instructions to Bidders
SCC	Special Conditions of Contract
TS	Technical Specifications and Drawings
UNCITRAL	United Nations Commission on International Trade Law
INCOTERMS	International Rules for International Trade Law.
Note:	The terms EXW, CIF, etc. shall be governed by the rules prescribed in the current edition of INCOTERMS, published by the International Chamber of Commerce, 38, Cours Albert 1er, 75008, Paris, France/.

SECTION - I

INVITATION FOR BIDS (IFB)

INVITATION FOR BID

**INVITATION FOR BIDS (IFB)
FOR
Supply, Installation and Commissioning of Solar Cold Storage at
Senegal, Djibouti, Sudan and Seychelles
(International Competitive Bidding)**

IFB No.: 20509

Date: 22.06.2022

Bidding Document No: CS-0011-004F-0

1.0 NTPC Ltd invites e-bid on behalf of International Solar Alliance (ISA) from eligible bidders from ISA member/signatories countries for **Supply, Installation and Commissioning of Solar Cold Storage at Senegal, Djibouti, Sudan and Seychelles** package as single stage two envelope bid basis (Envelope-I: Techno Commercial & Envelope-II: Price).

2.0 BRIEF SCOPE OF WORK

Supply, Installation and Commissioning of Solar based cold storage system at Senegal (5MT), Djibouti (2 x 2MT), Sudan (5MT) and Seychelles (5MT). The scope includes one year standard warranty and two years extended warranty. The detailed scope of work is defined in the Bidding document.

3.0 The project shall be financed by ISA as per provisions of Grant Agreement.

4.0 Detailed specifications, Scope of work and Terms & Conditions are given in the bidding documents, which are available at e-tender portal <https://ntpc.procure247.com> and as per the following schedule:

IFB Date	20.06.2022
Last Date for receipt of queries from prospective Bidders	30.06.2022
Last Date and Time for receipt of bids comprising both Techno-Commercial Bid and Price Bid	25.07.2022
Date & Time of opening of Techno-Commercial Bid (Envelop-I)	26.07.2022

INVITATION FOR BID

Date & Time for opening of Price bid
(Envelop-II)

Shall be intimated after opening of
Techno-Commercial Bid.

Cost of Bidding Documents and Bid Security are NIL.

5.0 Qualifying Requirements for Bidders:

Bidders shall be required to meet the Technical and Financial Qualifying Requirement (QR) as enclosed at Annexure-I to IFB.

6.0 NTPC Ltd. reserves the right to reject any or all bids or cancel / withdraw the Invitation for Bids without assigning any reason whatsoever and in such case no bidder / intending bidder shall have any claim arising out of such action.

7.0 A complete set of Bidding Documents may be downloaded by any interested Bidder from the website <https://ntpc.procure247.com> as per aforementioned schedule. The tender is invited under e-tendering process. The bidders can enroll themselves on the website <https://ntpc.procure247.com>. Bidder can participate in the tendering process by paying the portal charges as indicated at the e-tender portal.

The said website also has the user manuals with detailed guidelines on enrollment and participation in the bidding process. The e-tender portal is based on the email OTP based authentication for participation in the bidding process.

No hard copy of Bidding Documents shall be issued. Bids shall be submitted ONLY at the e-tendering portal.

10.0 Communication Details:

Email: ravikumar04@ntpc.co.in / neerajkumar02@ntpc.co.in

Telephone No. 01204948687/ 1204946675

Address:

Sr Manager(CS)/ AGM(CS)

CC&M, NTPC Limited, 6th Floor,

Engineering Office Complex (EOC),

A-8A, Sector-24, NOIDA,

Distt. Gautam Budh Nagar, (UP)

India, Pin - 201301

Clause no.	Qualifying Requirements (QR)	
<u>1) QR for Solar PV Cold Storage</u>		
1 Technical Criteria		
1.1	The Bidder should have supplied, installed/got installed and commissioned Solar cold storage of total cumulative capacity of 25 MT. The reference plants of a cumulative minimum capacity of 10 MT must have been in successful operation for at least one-year from the date of commissioning prior to the techno-commercial bid opening date.	
<u>Notes for clause 1</u>		
a)	The reference Solar cold storage plant as per clause 1.1 should consist of system of minimum 2MT capacity at a single location supplied, installed/got installed, and commissioned by Bidder for a client.	
b)	Bidder shall submit certificate of successful completion and operation, as per Technical Criteria 1.1 from the Owner	
c)	The Bidder should be a legal entity, duly incorporated/registered under the laws of its country of domicile in one of the member/signatory countries of ISA as on the date of techno-commercial bid submission.	
2 Financial Criteria		
2.1 a)	<p>The average annual turnover of the Bidder, should not be less than USD 100000 (US Dollar One Hundred Thousand only) during the preceding three (3) financial years as on date of techno-commercial bid opening</p> <p>In case a Bidder does not satisfy the average annual turnover criteria, stipulated above on its own, its Holding Company would be required to meet the stipulated turnover requirements as above, provided that the Net Worth of such Holding Company as on the last day of the preceding financial year is at least equal to or more than the paid- up share capital of the Holding Company. In such an event, the Bidder would be required to furnish along with its Techno-Commercial Bid, a Letter of Undertaking from the Holding Company, supported by the Holding Company's Board Resolution, as per the format enclosed in the Bid documents, pledging unconditional and irrevocable financial support for the execution of the Contract by the Bidder in case of award.</p>	
2.1 b)	In case the Bidder is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the Bidder can be considered acceptable provided the Bidder further furnishes the following documents on substantiation of its qualification:	
2.1 c)	Copies of the unaudited unconsolidated financial statements of the Bidder along with copies of the audited consolidated financial statements of its Holding Company	

2.1 d)	Certificate from the CEO/ CFO of the Holding Company, as per the format enclosed in the bidding documents, stating that the unaudited unconsolidated financial statements form part of the consolidated financial statement of the Holding Company.	
2.1 e)	In case where audited results for the last financial year as on the date of Techno Commercial Bid Opening are not available, the financial results certified by a practicing Chartered Accountant shall be considered acceptable. In case the Bidder is not able to submit the Certificate from a practicing Chartered Accountant certifying its financial parameters, the audited result of three consecutive financial years preceding the last financial year shall be considered for evaluating financial parameters. Further, a certificate would be required from the CEO/CFO as per the format enclosed in the bidding documents stating that the financial results of the company are under audit as on date of Techno Commercial Bid Opening and the Certificate from a practicing Chartered Accountant certifying the financial parameters is not available.	
<u>Notes for Clause 2</u>		
a)	Net worth means the sum-total of the paid-up share capital and free reserves. Free reserves mean 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 provision 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,	
b)	Other income shall not be considered for arriving at annual turnover.	
c)	"Holding Company" and "Subsidiary" shall have the meaning ascribed to them as per Companies Act of domicile country of the bidder	
d)	For Turnover indicated in foreign currency, the exchange rate as on seven (7) days prior to Techno Commercial Bid Opening date shall be used.	

SECTION – II

INSTRUCTION TO BIDDERS

for

Supply, Installation, Commissioning of Solar Cold Storage at Senegal, Djibouti, Sudan and Seychelles

Table of Clauses – Instruction to Bidders

Cl. No.	Description
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A. Introduction

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| 1. | Bidders Eligible for Bidding |
| 2. | Source of Funds |
| 3. | Cost of Bidding |

B. The Bidding Documents

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| 4. | Content of Bidding Documents |
| 5. | Clarification on Bidding Documents |
| 6. | Amendment to Bidding Documents |

C. Preparation of Bids

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| 7. | Language of Bid |
| 8. | Documents Comprising the Bid |
| 9. | Not Used |
| 10. | Bid Prices |
| 11. | Bid Currencies |
| 12. | Bid Security: Not Applicable |
| 13. | Period of Validity of Bids (Techno-Commercial Bid and Price Bid) |
| 14. | Format and Signing of Bid |

D. Submission of Bids

- | | |
|-----|-------------------------------------|
| 15. | Submission of Bids |
| 16. | Deadline for Submission of Bids |
| 17. | Not Used |
| 18. | Modification and Withdrawal of Bids |

E. Bid Opening and Evaluation

- 19. Opening of Bids
- 20. Clarification on Bids
- 21. Preliminary Examination of Techno-Commercial Bids
- 22. Evaluation of Techno-Commercial Bids
- 23. Not Used
- 24. Not Used
- 25. Not Used
- 26. Preliminary Examination of Price Bids
- 27. Evaluation of Price Bids
- 28. Contacting the PMC
- 29. Not Used

F. Award of Contract

- 30. Award Criteria
 - 31. PMC's Right to accept any Bid and to reject any or all Bids
 - 32. Letter of Award
 - 33. Not Used
 - 34. Performance Security
 - 35. Annulment of award
 - 36. Corrupt or Fraudulent Practices
 - 37. Ineligibility for Participation in Re-Tender
 - 38. Pre-Bid Conference
 - 39. Policy for withholding and Banning of Business Dealings
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p style="text-align: center;">INSTRUCTIONS TO BIDDERS</p> <p>Mode & Type of Bidding</p> <p>NTPC Ltd, as Project Management Consultant (PMC) invites e-bid on behalf of International Solar Alliance (ISA) from eligible bidders from ISA member/signatory countries as single stage two envelope bid basis (Envelope-I: Techno- Commercial & Envelope-II: Price).</p> <p>Bidding documents will be available at the e-tender portal https://ntpc.procure247.com and bids shall be submitted online only at same portal. No physical copy of Bidding Documents shall be issued and no physical bids shall be required to be submitted by bidders.</p> <p>The above e-tender portal is having system of mobile and/or email based authentication for tendering. The aforesaid website also contains the user manuals with detailed guidelines on enrollment and participation in the bidding process. Brief Guidelines for tendering is available at the e-tender portal.</p> <p style="text-align: center;">A. Introduction</p> <p>1. Bidders Eligible for Bidding</p> <p>1.1 Bidding is open to bidders from ISA member/signatory countries only as on the last date of bid submission. (List of ISA signatory countries are available at https://isolaralliance.org/membership/countries and list of ISA members countries are available at https://isolaralliance.org/membership/countries).</p> <p>2. Source of Funds</p> <p>2.1 The project shall be financed by ISA as per Grant Agreement.</p> <p>3. Cost of Bidding</p> <p>3.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the PMC/ISA/Recipient Country will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.</p>
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p style="text-align: center;">B. The Bidding Documents</p> <p>4. Content of Bidding Documents</p> <p>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:</p> <p style="padding-left: 40px;">Section I - Invitation for Bids (IFB)</p> <p style="padding-left: 40px;">Section II - Instructions to Bidders (ITB)</p> <p style="padding-left: 40px;">Section III - Bid Data Sheet (BDS)</p> <p style="padding-left: 40px;">Section IV - General Conditions of Contract (GCC)</p> <p style="padding-left: 40px;">Section V - Special Conditions of Contract (SCC)</p> <p style="padding-left: 40px;">Section VI - Technical Specifications (TS)</p> <p style="padding-left: 40px;">Section VII- Forms and Procedures (FP)</p> <p>4.2 The Bidder is expected to examine all instructions, forms, terms, conditions, specifications and other information in the bidding documents. Failure to furnish all information required as per 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.</p> <p>5. Clarification on Bidding Documents</p> <p>5.1 A prospective Bidder requiring any clarification to the bidding documents may submit it at the Clarifications section on the e-tender portal or through email to email ID(s) mentioned in the BDS. The PMC will respond to any request for clarification or modification of the bidding documents that it receives not later than the date specified in IFB. The PMC will post the Clarifications at e-tender portal and Bidders can view these clarifications once they are posted at the e-tender portal.</p> <p style="padding-left: 40px;">Bidders are advised to regularly check e-tender portal regarding posting of clarifications to the bidding documents, if any.</p> <p>Further, no queries from Bidders shall be entertained after last date of receipt of Queries/ Pre-Bid Conference (if applicable) as specified in IFB.</p>
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
5.2	The Bidder is advised to visit and examine the site where the facilities are to be installed and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for supply and installation of the facilities. The costs of visiting the site shall be borne by the bidder only.
5.3	The Bidder and any of its personnel or agents will be granted permission by the Recipient Country/Employer to enter upon its premises and lands for the purpose of such inspection, but only upon the express condition that the Bidder, its personnel and agents will release and indemnify the Recipient Country/Employer and its personnel and agents 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.
6.	Amendment to Bidding Documents
6.1	At any time prior to the deadline for submission of bids, the PMC 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	The amendments will be posted at e-tender portal for viewing by the Bidder. The amendments will be binding on Bidders and it will be assumed that the information contained therein will have been taken into account by the Bidder in its bid. Bidders are also advised to regularly check e-tender portal regarding posting of Amendment, if any.
6.3	In order to afford prospective Bidders reasonable time in which to take the amendment into account in preparing their bid, the PMC may, at its discretion, extend the deadline for the submission of bids.
C. Preparation of Bids	
7.	Language of Bid
7.1	<p>The bid prepared by the Bidder and all correspondence and documents related to the bid exchanged between the Bidder and the PMC shall be written in English language, provided that any printed literature furnished by the Bidder may be written in another language, as long as such literature is accompanied by a translation of its pertinent passages in English language in which case, for purposes of interpretation of the bid, the translation shall govern.</p> <p>The English Translation of the documents shall be carried out by professional translators and the translator shall certify that he is proficient in both</p>
SECTION-II (ITB) INSTRUCTIONS TO BIDDERS	
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<p>8.</p> <p>8.1</p> <p>8.2</p>	<p>languages in order to translate the document and that the translation is complete and accurate.</p> <p>Documents Comprising the Bid</p> <p>Single Stage-Two Envelope Bidding procedure shall be followed through e-tendering for the subject package as under:</p> <p>Envelope - I : Techno-Commercial Bid</p> <p>Envelope - II : Price Bid</p> <p>The Envelope - I: “Techno-Commercial Bid” shall be evaluated for completeness and in regard to fulfillment of the qualification requirements and eligibility conditions.</p> <p>Envelope - I: Techno-Commercial Bid</p> <p>The Techno-Commercial Bid submitted by the Bidder shall comprise of the following documents:</p> <p>Bid Form (Techno-Commercial Bid) Section-VII, (Part 1 of 3) duly completed and signed by the Bidder together with following Attachments shall be uploaded on e-tender portal under section “Technical”</p> <p>(a) Attachment 1: DELETED</p> <p>(b) Attachment 2: Power of Attorney</p> <p>A power of attorney, indicating that the person signing and submitting the bid digitally/ submitting the documents has the authority to sign the bid and the bid is binding upon the Bidder during the full period of its validity. It may be noted that scanned copy of Power of Attorney is to be submitted along with the bid on e-tender portal. Original copy Power of Attorney in physical form shall be submitted by bidder on demand of PMC.</p> <p>(c) Attachment 3: Bidder’s Qualifications</p> <p>The documentary evidence of the Bidder’s qualifications to perform the contract, if its bid is accepted, shall establish to PMC’s satisfaction that the Bidder has the capacities and capabilities necessary to perform the</p>
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	<p>contract and meets the experience and other criteria outlined in the Qualifying Requirements in the BDS.</p> <p>Documentary evidence that the Bidder is eligible to bid and is qualified to perform the contract as per Qualifying Requirements shall be furnished in Attachment-3 (Section-VII Book 1 of 3) to Bid.</p> <p>In case Bidder is permitted in the Bid Data Sheets to offer to supply and/or install plant and equipment under the contract that the Bidder did not manufacture or otherwise produce and/or install, the Bidder shall (i) have the financial and other capabilities necessary to perform the contract; (ii) have been duly authorised by the manufacturer or producer of the related plant and equipment or component to supply and/or install that item in the Recipient country; (iii) be responsible for ensuring that the manufacturer or producer of the related item meets the minimum criteria listed for that item.</p> <p>(d) Attachment 4: DELETED</p> <p>(e) Attachment 5: Technical Data Sheets</p> <p>Technical Data Sheets duly filled in as per the format, enclosed with Technical Specifications of the bidding documents</p> <p>(f) Attachment 6: Additional Information</p> <p>Additional Information which the bidder wishes to provide in his bid, without any price Component.</p> <p>(g) Attachment 7: General Declaration</p> <p>Bidders to accept general declaration and provide information as per details as mentioned below:</p> <p>Bankruptcy- Not declared bankruptcy, not involved in bankruptcy or receivership proceedings, and there is no judgment or pending legal action against the Bidder that could impair its operations in the foreseeable future.</p> <p>History of Non-Performing Contracts- Non-performance of a contract did not occur as a result of contractor default for the last 3 years</p> <p>Litigation History- No consistent history of court/arbitral award decisions against the Bidder for the last 3 years</p>
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p>Note: Techno-Commercial Bid should not contain any price content entry. If any of the Bidder indicates the price in Techno-Commercial Bid, such bid shall be liable for rejection.</p>
8.3	<p>Envelope - II: Price Bid</p> <p>Bidders to submit the price bid in the “Commercial” section of the e-tender portal as per BOQ in the bid documents. Bidders to note following while submission of price bid:</p>
8.3.1	<p>Price Bid should not contain any matter in respect of Technical and/ or Commercial aspects other than the details specifically sought by the PMC in the Price Bid. If the Technical/ commercial matters indicated in Price Bid are found to be in contradiction with the details furnished in Techno-Commercial Bid, the details furnished in Techno-Commercial Bid shall prevail.</p>
8.3.2	<p>The price bid submitted by the bidder should be without any deviations and strictly in conformity with the provisions of all bidding documents and amendment/addenda/corrigenda/ errata/clarification to the bidding documents issued by PMC.</p>
8.3.3	<p>Bidders shall be required to upload prices for mandatory Spares as per Section-VII book 2 of 3 under “Commercial” section at the e-tender portal.</p>
9.	<p>NOT USED</p>
10.	<p>Bid Prices</p>
10.1	<p>Unless otherwise specified in the Technical Specifications, Bidders shall quote for the entire facilities on a “single responsibility” basis such that the total bid price including taxes and duties 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 subcontracting (if any), delivery, construction [including Structural Steel Works, Civil & Allied Works etc.], installation, commissioning, completion of the facilities including supply of mandatory spares (if any), one year standard warranty and two years extended warranty. This includes all requirements under the Contractor’s responsibilities for testing, pre-commissioning and commissioning of the facilities, where so required by the bidding documents, the acquisition of all permits, approvals and licenses, Royalties etc.; the training services and such other items and services as may be specified in the bidding documents, all in accordance with the requirements of the General Conditions of Contract and Technical Specifications.</p>
10.2	<p>Bidders are required to quote the total lumpsum price inclusive of taxes and duties for each project separately as per the format specified in the</p>
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)				
10.3	<p>price schedule for the commercial, contractual and technical obligations outlined in the bidding documents.</p> <p>Bidders are required to fill up their Bid Price (inclusive of taxes and duties) in the price schedule under “Commercial” section screen at the e-tender portal as per following:</p>				
	Sl. No.	Item Description	Unit	Quantity	Price (USD)
	1	Supply, Installation, Commissioning of Solar Cold Storage (5 MT) in Senegal	1	LOT	
	2	Supply, Installation, Commissioning of Solar Cold Storage (2 X 2 MT) in Djibouti	1	LOT	
	3	Supply, Installation, Commissioning of Solar Cold Storage (5 MT) in Sudan	1	LOT	
	4	Supply, Installation, Commissioning of Solar Cold Storage (5 MT) in Seychelles	1	LOT	
	<p>Bidders shall have option to submit price bid for either one project or more than one project. Evaluation of price bid shall be carried out item wise i.e award of each project shall be separately based on the quoted price of each project. Cumulative price evaluation shall not be carried out.</p> <p>The above price schedules shall include the following:</p> <p>Plant and Equipment including Mandatory Spares, Commissioning spares, Special Tools and Tackles etc. from outside / within Recipient Country which is required to complete the scope of work as per Technical Specifications and Conditions of Contract. The price shall be inclusive of all costs as well as taxes, duties and levies paid or payable on components and raw materials incorporated or to be incorporated in the facilities.</p> <p>All services i.e. Transportation from Works to Port of embarkation in manufacturer’s / supplier’s country including insurances, Ocean / Air Transport from the port of embarkation in manufacturer’s / supplier’s country to Recipient Country’s country, port handling, port clearance and port charges in both manufacturer’s / supplier’s and Recipient Country, further loading, inland transportation within Recipient Country for delivery at site, inland transit insurance, unloading, storage, handling at site, installation (including civil, structural steel work & allied work, if applicable), insurance covers other</p>				

CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
10.4	<p>than inland transit insurance, erection, testing, commissioning and conducting Guarantee tests and all other services as specified in the Contract Documents.</p> <p>The prices quoted in the Price Schedule shall be inclusive of all Taxes, Duties, Levies & charges and no Separate payment on this account, whatsoever, shall be made.</p> <p>While quoting the prices, bidders are required to take into account that the Recipient Country shall grant exemption to any domestic or international direct and indirect taxes and duties prevailing in Recipient Country that may otherwise be levied on expenses relating to the Project, including, but not limited to the plant, machinery, equipment, components, services availed, and/or commission charged. If the Recipient Country fails to grant such exemptions, it shall fully reimburse to offset the expenses incurred for payment of such taxes and duties as specified before. Any such resources provided by the Recipient Country will be considered as in-kind resources provided by the Recipient Country government for successful implementation of the Project.</p>
10.5	<p>Bidders shall also be required to furnish a separate item wise price break-up for Mandatory Spare parts (already included in lot price of project) under price bid envelop. These prices of spares shall be included in the lot price of that project. The Price shall be inclusive of Transportation from Works to Port of embarkation in manufacturer's / supplier's country including insurances, Ocean / Air Transport from the port of embarkation in manufacturer's / supplier's country to Recipient Country, port handling, port clearance and port charges in both manufacturer's / supplier's and Recipient Country, further loading, inland transportation within Recipient Country for delivery at project site, inland transit insurance and unloading at project site.</p>
10.6	<p>Price Basis</p> <p>Prices quoted by the Bidder shall remain FIRM and fixed for the entire period of execution of the Contract.</p>
11.	<p>Bid Currencies</p> <p>Bidders shall indicate the entire Bid Price in USD only.</p>
12.	<p>Bid Security: NOT APPLICABLE</p>
13.	<p>Period of Validity of Bid (Techno-Commercial Bid and Price Bid)</p>
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
13.1	Bids (both Techno-Commercial Bid and Price Bid) shall remain valid for one hundred & eighty (180) days from the closing date for the receipt of bids pursuant to Clause 16. The bid valid for shorter period shall be rejected as being non-responsive. The bidder agrees not to vary, alter or revoke his bid either in whole or in part during that period.
13.2	In exceptional circumstances, prior to the expiry of the original bid validity period, the PMC may request the Bidders to extend the period of validity for a specified additional period. The request and the responses thereto shall be made in writing through email. A Bidder agreeing to the request will not be permitted to modify his bid.
14.	NOT USED.
	D. Submission of Bids
15.	<p>Submission of Bids</p> <p>Bid shall be submitted online at e-tender Portal in the manner specified elsewhere in Bidding Document. Bidders to ensure that all uploaded documents must be certified. Bidder to further ensure that documents uploaded should be in the proper format so that it could be downloaded properly. PMC shall not be responsible for corrupted files, if any, uploaded online at the e-tender portal.</p> <p>No Manual / Physical Copy of the Bid shall be acceptable.</p>
15.1	<p>Techno-Commercial (Envelope-I) submission:</p> <p>Bidder shall be required to submit documents as indicated in the ITB 8.2 in the e-tender portal.</p> <p>While submission of bid, bidders to comply condition of “DO YOU CERTIFY FULL COMPLIANCE TO ALL PROVISIONS OF BID DOC?” as per ITB 21.5 and "Do you certify full compliance on Qualifying Requirements" as per ITB 21.7.1.</p>
15.2	Price Bid (Envelop-II) Submission:
15.2.1	Bidders will submit his Price bid online under “Commercial” section on the e-tender portal in the following manner after carefully examining the document/conditions etc.:
SECTION-II (ITB) INSTRUCTIONS TO BIDDERS	
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p>Bidders are required to fill up their Bid Price on screen under Commercial section to the e-tender portal along with all annexure in Financial Part. Bidder to further ensure that documents uploaded should in the proper format so that it could be downloaded properly. PMC shall not be responsible for corrupted files, if any, uploaded.</p> <p>This tender is pertaining to five different projects in five different countries as specified in the bidding document. Bidders shall have option to submit price bid for either one project or more than one project. If bidder mentions “No price”, or “zero” price against any item(s) in the commercial section, it shall be considered that bidder has not quoted that particular project and no claim whatsoever for that particular project shall be permitted.</p> <p>The Price Bid shall be strictly in conformity with the provisions of the Bidding Documents, amendments/clarifications/errata thereof issued and does not contain any matter or deviation to any provision of the Bidding Documents including its Amendments/Clarifications/Errata.</p> <p>After opening of Price Bid, if any deviation to the provisions of the Bidding Documents (including all amendments/Clarifications) is observed in the Price Bid, the same shall be ignored by PMC and considered as withdrawn by the bidder without any cost implication to PMC.</p>
16.	Deadline for Submission of Bids
16.1	Bids must be submitted online at e-tender portal no later than the time and date stated at the e-tender portal. Deadline for Bid Submission shall be date and time as stated in IFB or any subsequent communication from the PMC or date and time indicated at the e-tender portal.
16.2	The PMC may, at its discretion, extend this deadline for submission of bids by amending the bidding documents in accordance with ITB Sub-Clause 6.0, in which case all rights and obligations of PMC and Bidders will thereafter be subject to the deadline as extended.
17.	NOT USED
18.	Modification and Withdrawal of Bids
18.1	The Bidder may modify or withdraw its bid up-to the bid submission deadline as per the process at the e-tender Portal.
18.2	No bid may be withdrawn in the interval between the bid submission deadline and the expiration of the bid validity period specified in ITB Clause 13.
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p data-bbox="597 254 1036 285" style="text-align: center;">E. Bid Opening and Evaluation</p> <p data-bbox="212 321 623 352">19. Opening of Bids</p> <p data-bbox="212 388 865 420">19.1 Techno-Commercial Bid Opening</p> <p data-bbox="212 455 1427 630">19.1.1 The PMC will open the Techno-Commercial bids online at the time, on the date specified at the E-tender portal. In the event of the specified date for the opening of bids being declared a holiday for the PMC, the bids will be opened at the appointed time on the next working day. Bidder's attendance during the Techno-commercial Bid opening in PMC Premises is not envisaged.</p> <p data-bbox="212 665 1427 735">19.1.2 Techno-Commercial Bids that are not opened during bid opening will not be considered for further evaluation, regardless of the circumstances.</p> <p data-bbox="212 770 1427 871">19.1.3 Techno-Commercial Bids which are generally responsive to the operating and performance requirements as laid out in Technical Specifications, Section-VI of bidding documents will then be considered for evaluation.</p> <p data-bbox="212 907 1427 976">19.1.4 The Price Bid will remain unopened and shall be opened separately by PMC after completion of evaluation of Techno-Commercial Bids.</p> <p data-bbox="212 1012 651 1043">19.2 Price Bid Opening</p> <p data-bbox="212 1079 1427 1213">19.2.1 After evaluation process of Techno-Commercial bids is completed, Price bids shall be opened of the bidders qualified during Techno-Commercial bids (Envelop-I) evaluation. Bidder's attendance during the Price Bid opening in PMC Premises is not envisaged.</p> <p data-bbox="212 1249 675 1281">20. Clarification of Bids</p> <p data-bbox="212 1316 1427 1591">20.1 During the bid evaluation, the PMC may, at its discretion, ask the Bidder for a clarification of its bid including documentary evidence pertaining to the reference plants declared in the bid for the purpose of meeting Qualifying Requirement specified in Bid Data Sheet. The request for clarification and the response shall be in writing and no change in the price or substance of the bid including substitution of reference plants in the bid by new/additional plant for conforming to Qualifying Requirement shall be sought, offered or permitted.</p> <p data-bbox="212 1627 1148 1659">21. Preliminary Examination of Techno-Commercial Bids</p> <p data-bbox="212 1694 1427 1795">21.1 The PMC will examine the Bids to determine whether the same are complete, whether required documents have been furnished, whether the documents have been properly signed and whether the Bids are generally in order.</p>
SECTION-II (ITB) INSTRUCTIONS TO BIDDERS	
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
21.2	During evaluation and comparison of bids, the PMC may, at his discretion ask the bidder for clarification on its bid. The request for clarification shall be in writing and no change in prices or substance of the bid shall be sought, offered or permitted. No post bid clarification at the initiative of the bidder shall be entertained as all such clarifications would have been obtained prior to the submission of the bid.
21.3	The PMC may waive any minor informality, nonconformity, or irregularity in a bid that does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
21.4	Prior to the detailed evaluation, the PMC will determine whether each Techno-commercial 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 materially conforms to all the terms, conditions and specifications of the bidding documents without material deviations, objections, conditionalities or reservations. A material deviation, exception, 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 that is inconsistent with the Bidding Documents, the PMC’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 have submitted substantially responsive bids.
21.5	<p>No deviation, whatsoever, is permitted by PMC, to any provisions of the Bidding Documents. The bidders are advised that while making their Bid proposals and quoting prices, all conditions may appropriately be taken into consideration.</p> <p>Bidders shall certify their full compliance to all the provisions of Bidding Documents and its subsequent Amendment(s) / Clarification(s) / Addenda / Errata, if any, issued by the PMC by accepting the following condition in the e-tender portal.</p> <p>“DO YOU CERTIFY FULL COMPLIANCE TO ALL PROVISIONS OF BID DOC?”</p> <p>Acceptance of above condition shall be considered as bidder's confirmation to the following:</p> <p>(a) Confirm that we comply with all terms, conditions and specifications of the Bidding Documents read in conjunction with Amendments(s)/ Clarification(s) /Addend/Errata (if any) issued by the PMC prior to opening of Techno-Commercial Bids and the same has been taken into consideration</p>
<div>SECTION-II (ITB) INSTRUCTIONS TO BIDDERS</div> <div>PAGE 15 OF 23</div>	

CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p>while making our Techno-Commercial Bid & Price Bid and we declare that we have not taken any deviation in this regard.</p> <p>(b) Any deviation, variation or additional condition etc. or any mention, contrary to Bidding Documents and its Amendments(s)/Clarification(s) /Addend/Errata (if any) found anywhere in our Techno-Commercial Bid and/or Price Bid, implicit or explicit shall stand unconditionally withdrawn, without any cost implication whatsoever to Employer, failing which the bid shall be rejected.</p> <p>21.6 The PMC's determination of a bid's responsiveness is to be based on the contents of the bid itself without recourse to extrinsic evidence. If a bid is not substantially responsive, it will be rejected by the PMC, and may not subsequently be made responsive by the Bidder by correction of the nonconformity.</p> <p>21.7 QUALIFICATION</p> <p>21.7.1 Compliance on "Qualifying Requirements</p> <p>Bidders shall certify their compliance on "Qualifying Requirements" by accepting the following at the e-tender portal of Bid Invitation :</p> <p style="text-align: center;">"Do you certify full compliance on Qualifying Requirements"</p> <p>Acceptance of above condition shall be considered as bidder's confirmation to the following conditions:</p> <p>(a) The declared reference Plants shall only be considered for evaluation / establishing compliance to Qualifying Requirement (QR).</p> <p>(b) No change or substitution in respect of reference Plants for meeting the specified Qualifying Requirement (QR) shall be offered by the bidder.</p> <p>21.7.2 PMC, by the examination of Techno-Commercial Bid, will determine to its satisfaction whether the participating bidders are qualified to satisfactorily perform the contract in terms of the qualifying requirements stipulated in the Bid Data Sheet. The determination will take into account the bidder's financial and technical capabilities. It will be based upon an examination of documentary evidence of bidder's qualification submitted by the bidder in relevant attachment to the Bid Form of Techno-Commercial Bid as well as such other information as PMC deems necessary and appropriate. Notwithstanding anything stated anywhere else in the bidding documents, PMC reserves the right to seek in writing information relating to qualifying</p>
<p style="text-align: center;">SECTION-II (ITB) INSTRUCTIONS TO BIDDERS</p>	
<p style="text-align: right;">PAGE 16 OF 23</p>	

CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	requirements in addition to details contained in the bid. The bidder shall furnish required information promptly to PMC. PMC will shortlist the Bidders meeting the stipulated Qualifying Requirements.
21.7.3	An affirmative determination of meeting the qualifying requirements will be a prerequisite for further evaluation of Techno-Commercial bid and holding clarification meeting, if any, with the Bidder. A negative determination will result in rejection of the Bidder's Techno-Commercial Bid in which event PMC will not open the Price Bid of the concerned bidder.
21.8	Bidder may note that deviations, variations and additional conditions etc. found anywhere in the bid, shall not be given effect to in evaluation and it will be assumed that the Bidder complies with all the conditions of Bidding Documents. In case the Bidder refuses to withdraw deviations, implicit or explicit, found anywhere in the bid, without any financial implication whatsoever, the bid shall be rejected.
22.	Evaluation of Techno-Commercial Bids Techno-Commercial Bid, prepared and comprising details/ documents, submitted by Bidder's will be evaluated as described below:
22.1	The PMC will carry out a detailed evaluation of Techno-Commercial Bids (of the qualified bidders short listed as above) previously determined to be substantially responsive in order to determine whether the technical aspects are in accordance with the requirements set forth in the bidding documents. In order to reach such a determination, the PMC will examine and compare the technical aspects of the bids on the basis of the information supplied by the bidders, taking into account the following factors: (a) overall completeness and compliance with the Technical Specifications and Drawings; suitability of the facilities offered in relation to the environmental and climatic conditions prevailing at the site; and quality, function and operation of any process control concept included in the bid. The bid that does not meet acceptable standards of completeness, consistency and detail will be rejected for non-responsiveness. (b) achievement of specified performance criteria by the facilities
22.2	DELETED
<div>SECTION-II (ITB) INSTRUCTIONS TO BIDDERS</div>	
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
22.3	<p>Bidder may note that deviations, variations and additional conditions etc. found elsewhere in the bid, shall not be given effect to in evaluation and it will be assumed that the Bidder complies to all the conditions of Bidding Documents. In case the Bidder refuses to withdraw deviation implicit or explicit found anywhere in the bid, without any financial implication whatsoever to the PMC, the bid shall be rejected.</p>
23.	NOT USED
24.	NOT USED
25.	NOT USED
26.0	Preliminary Examination of Price Bids
26.1	<p>The PMC will examine the Price Bids to determine whether they are complete, whether any computational errors have been made and whether the bids are generally in order.</p>
26.2	DELETED
27.	<p>Evaluation of Price Bids</p> <p>The PMC's evaluation and comparison shall take into account the total lumpsum price inclusive of taxes and duties quoted by the bidder for each project separately for the scope of work, technical specifications and terms and conditions specified in the bidding documents.</p> <p>If bidder mentions “No price”, or “zero” price against any item(s) / project in the commercial section at the e-tender portal , it shall be considered that bidder has not quoted that particular project and no claim whatsoever for that particular project shall be permitted.</p> <p>Price(s) quoted by bidder against each item of the BOQ shall be considered as lumpsum price of complete scope for that project and shall be evaluated accordingly.</p> <p>The PMC's evaluation of a price bid will take into account the bid prices indicated in Price Schedule and Arithmetical Corrections, if any.</p> <p>Bidders shall have option to submit price bid for either one project or more than one project. Evaluation of price bid shall be carried out item wise i.e award of each project shall be placed separately based on the quoted price of each project. Cumulative price evaluation shall not be carried out.</p>
<p style="text-align: center;">SECTION-II (ITB) INSTRUCTIONS TO BIDDERS</p>	
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p>Bid prices quoted by Bidders shall remain unaltered.</p>
28.	<p>Contacting the PMC</p>
28.1	<p>Subject to ITB Clause 20, no Bidder shall contact the PMC on any matter relating to its bid, from the time of the opening of bids to the time the contract is awarded.</p>
28.2	<p>Information relating to examination, evaluation and comparison of bids and recommendation for the award of contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful bidder has been announced. Any effort by a Bidder to influence the PMC in the PMC's bid evaluation, bid comparison or contract award decisions may result in rejection of the Bidder's bid.</p>
29.	<p>NOT USED.</p>
<p>F. AWARD OF CONTRACT</p>	
30.	<p>Award Criteria</p>
30.1	<p>Subject to ITB Clause 31, the PMC will award the contract(s) to the successful Bidder(s) whose bid has been determined to be substantially responsive and to be the lowest evaluated bid for each project, further provided that the Bidder(s) is/are determined to be qualified to perform the contract satisfactorily.</p>
30.2	<p>The Bidder will be required to comply with all requirements of the Bidding Documents and subsequent amendment thereof, if any without any extra cost to the Employer.</p>
30.3	<p>The Employer reserves the right to vary the quantity of any of Spares and / or delete any Item of Spares altogether at the time of Award of Contract.</p>
30.4	<p>The mode of contracting with the successful bidder will be as per stipulation outlined in GCC Clause 3.6 and briefly indicated below:</p> <p>The award shall be made as follows:</p> <p>The Contract for supply of all plant and equipment including mandatory spares including Transportation from Works to Port of embarkation in manufacturer's / supplier's country including insurances, Ocean / Air Transport from the port of embarkation in manufacturer's / supplier's country to Recipient Country, port handling, port clearance and port charges in both</p>
<p>SECTION-II (ITB) INSTRUCTIONS TO BIDDERS</p>	
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p>manufacturer's / supplier's and Recipient Country, further loading, inland transportation within Recipient Country for delivery at site, inland transit insurance, unloading, storage, handling at site and providing other services such as installation (including civil, structural steel work & allied work, if applicable), insurance covers other than inland transit insurance, erection, testing, commissioning, conducting tests, one year standard warranty , two years extended warranty and any other services specified in the Contract Documents.</p>
31.	<p>PMC's Right to Accept Any Bid and to Reject any or All Bids</p>
31.1	<p>The PMC reserves the right to accept or reject any bid, for any reasons including National defense and security consideration and to annul the bidding process and to 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 on the grounds for the PMC's action.</p>
32.	<p>Letter of Award (LOA)</p>
32.1	<p>Prior to the expiration of the period of bid validity, the PMC will issue Letter of Award for each project separately to the successful Bidder(s) in writing through post, or email or by hand that its bid has been accepted for that particular project.</p> <p>Separate Letter of award shall be issued to successful bidder (s) for each project mentioned in the bidding documents.</p> <p>The Letter of award (LOA) will constitute the formation of the contract.</p>
33.	<p>NOT USED</p>
34.	<p>Performance Security</p>
34.1	<p>Within twenty-eight (28) days after receipt of the Letter of Award, the successful Bidder(s) for each project shall furnish performance securities for ten percent (10%) of Contract Price for each project(s) to Project Manager as identified in SCC.</p>
34.2	<p>The Bank Guarantees submitted towards Performance Security shall be in favour of the Employer as identified in SCC and shall essentially be as per rules and regulations of the Employer country.</p>
<p>SECTION-II (ITB) INSTRUCTIONS TO BIDDERS</p>	
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
34.3	<p>The Bank Guarantees submitted towards Performance Security shall be essentially from any of the Banks listed in Annexure-2 to SCC.</p> <p>The Bank guarantee submitted from within India towards Performance Security shall be issued on Non-Judicial Stamp Paper of appropriate value as per Stamp Act prevailing in the State(s) where the BG is submitted.</p> <p>In case of guarantees issued by branches outside India for foreign banks, the bank guarantees shall be routed through the correspondent Bank in India for due verification of signatures of the executant.</p> <p>The BG issued by a Bank outside India also needs to bear Stamp Duty of appropriate value applicable to the place of PMC where BG is to be submitted, the BG will be adjudicated from Collector of Stamps, within 3 months of arrival of BG in PMC country and the expenses incurred in this regard shall be recovered from the Contractor.</p> <p>The Contractor also has the option for Security deposit instead of Bank Guarantees by making a request to employer/ PMC within thirty (30) days of the Letter of Award. In such case, the Employer shall at the time of making any payment to him for the work done under the Contract deduct towards the Contract Performance Security an amount equivalent to 20% of the gross bill amount accepted for payment until the Contract Performance Security so deducted becomes equal to 10% of the Contract Price. The Contractor at any time during currency of contract may convert the security deposit amount into a Bank Guarantee.</p>
35.	DELETED
36.	Corrupt and Fraudulent Practices
36.1	<p>The Employer requires that Bidders, Contractors and Suppliers observe the highest standard of ethics during the procurement and execution of the contracts. In pursuance of this policy, the PMC:</p> <p>(a) Defines, for the purposes of this provision, the terms set forth below as follows:</p> <p>(i) “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and</p> <p>(ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the PMC, and includes collusive</p>
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CLAUSE NO.	INSTRUCTIONS TO BIDDERS (ITB)
	<p>practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the PMC of the benefits of free and open competition;</p> <p>(b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;</p> <p>(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing a contract of the Employer.</p> <p>Bidders are required to certify their compliance to the conditions of “Corrupt or Fraudulent Practices ” by accepting the following condition at the e-tender portal:</p> <p>“Do you accept the condition of Corrupt or Fraudulent Practices?”</p> <p>36.2 Furthermore, Bidders shall be aware of the provision stated in the General Conditions of Contract regarding Corrupt or Fraudulent Practices.</p> <p>37.0 Ineligibility for Participation in Re-Tender</p> <p>If a bidder after having been issued the Letter of Award, the contract being terminated due to reason attributed to bidder, then such bidder shall be treated ineligible for participation in re-tendering of this particular Package.</p> <p>38.0 Pre-Bid Conference: NOT APPLICABLE</p> <p>39. Policy for withholding and Banning of Business Dealings</p> <p>39.1 The PMC has in place a Policy for withholding and Banning of Business dealings as mentioned at the link https://ntpctender.ntpc.co.in/Heading/Banning_Policy.pdf. Business dealings may be withheld or banned with the Bidder/Contractor on account of any of the grounds and following the procedures as detailed in the said Policy for withholding and Banning of Business Dealings.</p> <p>Bidders are required to certify their compliance to the conditions of “Withholding and Banning of Business Dealings policy” as per policy mentioned above by accepting the following at the e-tender portal.:</p> <p>“Do you accept withholding and Banning of Business Dealings policy”.</p>
<p>SECTION-II (ITB)</p> <p>INSTRUCTIONS TO BIDDERS</p>	
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SECTION - III

BID DATA SHEET (BDS)

BDS Item No.	ITB Clause Ref., if any	BID DATA SHEET										
		<table border="1"> <tr> <td>Project Location</td> <td>Louga section of Niyaes region and 200 kms away from the port of Dakar (Capital of Senegal)</td> </tr> <tr> <td>Recipient Country (Name and Address)</td> <td> Aïssatou D. SONKO Responsable Coopération Direction de la Promotion et de la Coopération Agence Nationale pour les Energies Renouvelables 120 Cité Asecna Liberté 6 Extension- Dakar Tél. : +221 33 869 55 04/ Mob. : +221 77 790 36 21 Email 1 : aissatou.sonko@aner.sn Email 2 : aissatoudsonko@hotmail.com </td> </tr> </table>	Project Location	Louga section of Niyaes region and 200 kms away from the port of Dakar (Capital of Senegal)	Recipient Country (Name and Address)	Aïssatou D. SONKO Responsable Coopération Direction de la Promotion et de la Coopération Agence Nationale pour les Energies Renouvelables 120 Cité Asecna Liberté 6 Extension- Dakar Tél. : +221 33 869 55 04/ Mob. : +221 77 790 36 21 Email 1 : aissatou.sonko@aner.sn Email 2 : aissatoudsonko@hotmail.com						
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		<table border="1"> <tr> <th colspan="2">Details of project Located in Djibouti</th> </tr> <tr> <td>Name of Project</td> <td>Supply, Installation, Commissioning of Solar PV Cold Storage(2 x2MT) at Djibouti</td> </tr> <tr> <td>Project Location</td> <td> Omar Jaga'a in ARTA prefecture and 67 kms away from the capital city Village of Dougoum, Region of Tadjourah </td> </tr> <tr> <td>Recipient Country (Name and Address)</td> <td> M.Souleiman ELMI IDRIS Engineer in Electrical Energy System Head of Service of Rural Électrification ,Direction of Energy Ministry of Energy, in charge of Natural Resources, Republic of DJIBOUTI Mob: (+253) 77 87 04 60 Phone: (+253) 21 34 60 10 BP: 10010 Mail id: seikasoulami@gmail.com </td> </tr> </table>		Details of project Located in Djibouti		Name of Project	Supply, Installation, Commissioning of Solar PV Cold Storage(2 x2MT) at Djibouti	Project Location	Omar Jaga'a in ARTA prefecture and 67 kms away from the capital city Village of Dougoum, Region of Tadjourah	Recipient Country (Name and Address)	M.Souleiman ELMI IDRIS Engineer in Electrical Energy System Head of Service of Rural Électrification ,Direction of Energy Ministry of Energy, in charge of Natural Resources, Republic of DJIBOUTI Mob: (+253) 77 87 04 60 Phone: (+253) 21 34 60 10 BP: 10010 Mail id: seikasoulami@gmail.com	
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BDS Item No.	ITB Clause Ref., if any	BID DATA SHEET														
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BDS Item No.	ITB Clause Ref., if any	BID DATA SHEET
3.	ITB 8.2 (c)	<p>Email: Ravikumar04@ntpc.co.in / neerajkumar02@ntpc.co.in CC&M, 6th Floor, Engineering Office Complex (EOC), A-8A, Sector-24, NOIDA, Distt. Gautam Budh Nagar, (UP) India, Pin – 201301</p> <p>Qualification Requirements for Bidders (QR)</p> <p>Technical and financial Qualification Requirements for Bidders is enclosed at Annexure-I to BDS.</p> <p>Bids not meeting the requirements as stated above shall be rejected.</p> <p>The reference plants whose details have been declared as per the specified format in the relevant attachment (i.e. Attachment No. 3) shall be considered to ascertain the bidder's compliance to the specified Qualifying Requirement (QR). Bidders wishing to provide additional reference plants are required to declare the same in similar format which shall be additionally attached.</p> <p>Bidders are required to furnish the details of the past experiences based on which selection is to be made as per format enclosed in the bidding documents for the same and enclose relevant documents like copies of authentic work order, completion certificate, agreements, etc. supporting the details/data provided in the format. No claims without supporting documents shall be accepted in this regard.</p> <p>The PMC at its discretion may seek any clarification and/or documentary evidence for the reference plants as mentioned in the bid including past data for conforming to the specified Qualifying Requirements from bidders.</p> <p>i. All other bidders, who are required to submit the details of the past experiences, shall submit all the documents, in support of Technical Qualification Requirements (such as copy of Purchase Orders/ Work Orders/ Contract Agreements/ Client Certificates</p>

BDS Item No.	ITB Clause Ref., if any	BID DATA SHEET
		<p>etc.), duly certified and verified for authenticity from Independent Statutory Auditor of their Company or specified Third-Party Inspection Agency (TPIA).</p> <p>Further, wherever information can be drawn from books of accounts, records and other relevant documents, Bidders can also submit a certificate issued by their Independent Statutory Auditor certifying the data required for meeting the Technical Qualification Requirements.</p> <p>Such bidder shall be required to submit duly certified and verified documents from their Statutory Auditors or specified TPIA in support of meeting Technical QR along with a certificate regarding verification of authenticity of documents as per the format placed at Appendix-I to Attachment-3A (Undertaking from Statutory Auditor) and/ or Appendix-II to Attachment-3A (Undertaking from TPIA). All the documents submitted by the bidder in support of meeting Technical QR shall be digitally signed by the Statutory Auditor and/ or specified TPIA.</p> <p>ii. In case documents are certified & verified for authenticity through TPIA, the verification and certification of authenticity of documents is acceptable from any of the following TPIAs:</p> <ol style="list-style-type: none"> 1) Société Générale de Surveillance / SGS India Pvt. Ltd.(SGS) 2) Gulf Lloyds Industrial Services (India) Pvt. Ltd (GLISPL) 3) International Certification Services (ICS) 4) TÜV Rheinland (India) Pvt. Ltd. 5) TÜV SÜD South Asia Pvt. Ltd. 6) TÜV India Pvt. Ltd. (TÜV Nord Group) 7) Intertek India Pvt. Ltd. 8) Moody International (India) Pvt. Ltd. 9) RINA India Pvt. Ltd. 10) Competent Inspectorate and Consultants LLP <p>The following website may be referred for contact details of above ten (10) TPIAs: http://nabcb.qci.org.in/accreditation/reg_bod_inspection_bodies.php</p> <p>iii. The Bidder shall be responsible to get their documents/ credentials in support of Qualifying Requirements verified &</p>

BDS Item No.	ITB Clause Ref., if any	BID DATA SHEET
		<p>certified by their Statutory Auditor(s) and/ or specified TPIAs. All the costs pertaining to third party verification and certification (including those by statutory auditors) shall be borne by the Bidder. PMC shall have no liability (financial or otherwise) towards the same and shall not be liable for any claim/ dispute between the bidder and TPIA and/ or Statutory Auditor.</p>
4.0	ITB 22.1(d)	<p>The completion period of the contract shall be five months from the date of award of work .</p>
5.0	General	<p>Joint Venture and Consortium are not eligible to bid as per Qualifying requirements. Bids received from Joint Venture and Consortium shall be rejected.</p>

Clause no.	Qualifying Requirements (QR)	
<u>1) QR for Solar Cold Storage</u>		
1 Technical Criteria		
1.1	The Bidder should have supplied, installed/got installed and commissioned Solar cold storage of total cumulative capacity of 25 MT. The reference plants of a cumulative minimum capacity of 10 MT must have been in successful operation for at least one-year from the date of commissioning prior to the techno-commercial bid opening date.	
<u>Notes for clause 1</u>		
a)	The reference Solar cold storage plant as per clause 1.1 should consist of system of minimum 2MT capacity at a single location supplied, installed/got installed, and commissioned by Bidder for a client.	
b)	Bidder shall submit certificate of successful completion and operation, as per Technical Criteria 1.1 from the Owner	
c)	The Bidder should be a legal entity, duly incorporated/registered under the laws of its country of domicile in one of the member/signatory countries of ISA as on the date of techno-commercial bid submission.	
2 Financial Criteria		
2.1 a)	<p>The average annual turnover of the Bidder, should not be less than USD 100000 (US Dollar One Hundred Thousand only) during the preceding three (3) financial years as on date of techno-commercial bid opening</p> <p>In case a Bidder does not satisfy the average annual turnover criteria, stipulated above on its own, its Holding Company would be required to meet the stipulated turnover requirements as above, provided that the Net Worth of such Holding Company as on the last day of the preceding financial year is at least equal to or more than the paid- up share capital of the Holding Company. In such an event, the Bidder would be required to furnish along with its Techno-Commercial Bid, a Letter of Undertaking from the Holding Company, supported by the Holding Company's Board Resolution, as per the format enclosed in the Bid documents, pledging unconditional and irrevocable financial support for the execution of the Contract by the Bidder in case of award.</p>	
2.1 b)	In case the Bidder is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the Bidder can be considered acceptable provided the Bidder further furnishes the following documents on substantiation of its qualification:	
2.1 c)	Copies of the unaudited unconsolidated financial statements of the Bidder along with copies of the audited consolidated financial statements of its Holding Company	

2.1 d)	Certificate from the CEO/ CFO of the Holding Company, as per the format enclosed in the bidding documents, stating that the unaudited unconsolidated financial statements form part of the consolidated financial statement of the Holding Company.	
2.1 e)	In case where audited results for the last financial year as on the date of Techno Commercial Bid Opening are not available, the financial results certified by a practicing Chartered Accountant shall be considered acceptable. In case the Bidder is not able to submit the Certificate from a practicing Chartered Accountant certifying its financial parameters, the audited result of three consecutive financial years preceding the last financial year shall be considered for evaluating financial parameters. Further, a certificate would be required from the CEO/CFO as per the format enclosed in the bidding documents stating that the financial results of the company are under audit as on date of Techno Commercial Bid Opening and the Certificate from a practicing Chartered Accountant certifying the financial parameters is not available.	
<u>Notes for Clause 2</u>		
a)	Net worth means the sum-total of the paid-up share capital and free reserves. Free reserves mean 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 provision 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,	
b)	Other income shall not be considered for arriving at annual turnover.	
c)	"Holding Company" and "Subsidiary" shall have the meaning ascribed to them as per Companies Act of domicile country of the bidder	
d)	For Turnover indicated in foreign currency, the exchange rate as on seven (7) days prior to Techno Commercial Bid Opening date shall be used.	

SECTION – IV

GENERAL CONDITION OF CONTRACT (GCC)

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GENERAL CONDITION OF CONTRACT (GCC)

A. Contract and Interpretation

1. **Definitions** 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- “Contract” means the Letter of award issued to 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 Letter of Award (including any amendments thereto).
- “GCC” means the General Conditions of Contract hereof.
- “SCC” means the Special Conditions of Contract.
- “Day” means calendar day of the Gregorian Calendar.
- “Month” means calendar month of the Gregorian Calendar.
- “Employer” means the person named as such in the SCC and includes the legal successors or permitted assigns of the Employer.
- “Recipient Country” means the Country(s) where the project(s) to be executed and the same is named as such in the SCC and includes the legal successors or permitted assigns .
- “Project Management Consultant (PMC)” means the person appointed by the Employer for implementation of said project and the same is named as such in the SCC and includes the legal successors or permitted assigns of PMC.
- “Project Manager” means the person appointed by the Employer in the manner provided in GCC Sub-Clause 17.1 (Project Manager) hereof and named as such in the SCC to perform the duties delegated by the Employer.
- “Contractor” or “Vendor” means the person(s) whose bid to perform the Contract has been accepted by the Employer and is named as such in the Letter of Award , and includes the legal successors or permitted assigns of the Contractor.

GENERAL CONDITION OF CONTRACT (GCC)

“Contractor’s Representative” means any person nominated by the Contractor and approved by the Employer in the manner provided in GCC Sub-Clause 17.2 (Contractor’s Representative and Construction Manager) hereof to perform the duties delegated by the Contractor.

“Subcontractor,” 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.

“Contract Price” means the sum specified in the Letter of Award, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.

“Facilities” means the Plant and Equipment to be supplied and installed, as well as all the Installation Services to be carried out by the Contractor under the Contract.

“Plant and Equipment” means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the spare parts to be supplied by the Contractor), but does not include Contractor’s Equipment.

“Installation 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., 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 use structural and construction materials required), installation including civil and allied works etc., testing, precommissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training of Recipient Country Personnel etc.

“Contractor’s Equipment” means all plant, facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and

GENERAL CONDITION OF CONTRACT (GCC)

maintenance of Facilities that are to be provided by the Contractor, but does not include Plant and 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” means the date from which the Time for Completion shall be determined as stated in Letter of Award.

“Time for Completion” means the time within which Completion of the Facilities as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) is to be attained in accordance with the stipulations in the SCC and the relevant provisions of the Contract.

“Completion” means that the Facilities (or a specific part thereof where specific parts are specified in the SCC) 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 or such specific part thereof has been completed; and Commissioning has been attained as per Technical Specifications.

“Pre-commissioning” means the testing, checking and other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning as provided in GCC Clause 24 (Commissioning and Completion of Facilities) hereof.

“Commissioning” means trial/initial operation of the Facilities or any part thereof by the Contractor, which operation is to be carried out by the Contractor as provided in GCC Sub-Clause 24 (Commissioning and Completion of Facilities) hereof, for the purpose of carrying out Guarantee Test(s).

“Guarantee Test(s)” means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Technical Specifications in accordance with the provisions of GCC Sub-Clause 25.1 (Guarantee Test) hereof.

GENERAL CONDITION OF CONTRACT (GCC)

“Operational Acceptance” means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor’s fulfillment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of GCC Clause 28 (Functional Guarantees) hereof and shall include deemed acceptance in accordance with GCC Clause 25 (Guarantee Tests and Operational Acceptance) hereof.

“Defect Liability Period” means the period of validity of the warranties given by the Contractor commencing at Completion of the Facilities or a part thereof, during which the Contractor is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC Clause 27 (Defect Liability) hereof.

2. Contract Documents

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

3. Interpretation

3.1 Language

- 3.1.1 All Contract Documents, 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 that language. The English Translation of the documents shall be carried out by professional translators and the translator shall certify that he is proficient in both languages in order to translate the document and that the translation is complete and accurate.
- 3.1.2 If any of the Contract Documents, correspondence or communications are prepared in any language other than the governing language under GCC Sub-Clause 3.1.1 above, the English translation of such documents, correspondence or communications shall prevail in matters of interpretation.

GENERAL CONDITION OF CONTRACT (GCC)

3.2 Singular and Plural

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

3.3 Headings

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

Words importing persons or parties shall include firms, corporations and government entities.

3.5 Incoterms

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.

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

3.6 Construction of the Contract

- 3.6.1 The Contract to be entered into between the Employer and the successful bidder shall be for supply of all plant and equipment including mandatory spares including Transportation from Works to Port of embarkation in manufacturer's / supplier's country including insurances, Ocean / Air Transport from the port of embarkation in manufacturer's / supplier's country to Recipient Country, port handling, port clearance and port charges in both manufacturer's / supplier's and Recipient Country, further loading, inland transportation within Recipient Country for delivery at site, inland transit insurance, unloading, storage, handling at site and providing other services such as installation (including civil, structural steel work & allied work, if applicable), insurance covers other than inland transit insurance, erection, testing, commissioning and conducting

GENERAL CONDITION OF CONTRACT (GCC)

Guarantee tests and any other services specified in the Contract Documents including warranty and extended warranty.

3.7 Entire Agreement

Subject to GCC Sub-Clause 16.4 hereof, the Contract constitutes the entire Letter of Award issued to the 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.

3.8 Amendment

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 authorized representative of each party hereto.

3.9 Independent Contractor

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

Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Employer, and nothing contained in the Contract or in any subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and the Employer.

3.11 Non-Waiver

3.11.1 Subject to GCC Sub-Clause 3.11.2 below, no relaxation, forbearance, delay or indulgence by either party in enforcing

GENERAL CONDITION OF CONTRACT (GCC)

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.

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

3.12 Severability

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.

3.13 Country of Origin

"Origin" means the place where the materials, equipment and other supplies for the facilities are mined, grown, produced or manufacturer and from which the services are provided.

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 post and/or email to the address of the relevant party set out in the Contract Coordination Procedure to be finalized pursuant to GCC Sub-Clause 17.2.3.1, with the following provisions.

4.2 Notices shall be deemed to include any approvals, consents, instructions, orders and certificates to be given under the Contract.

5. Governing Laws

5.1 The Contract shall be governed by and interpreted in accordance with laws in force in the Recipient Country.

6. Settlement of Disputes

GENERAL CONDITION OF CONTRACT (GCC)

6.1 The Employer/ Recipient Country and the Contractor shall make every effort to resolve amicably by direct informal negotiation/ mutual consultation any disagreement or dispute arising between them under or in connection with the Contract.

6.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Employer or the Contractor may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or during or after the completion of works under the Contract. There shall be no arbitration where the claim amount is only up to Rs. 5 lakhs. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified as follows:

6.2.1 The parties at the time of invocation of arbitration shall submit all the details of the claims and the counter-claims including the Heads/Sub-heads of the Claims/ Counter-Claims and the documents relied upon by the parties for their respective claims and counter-claims. The parties shall not file any documents/ details of the claims and counter-claims thereafter.

The claims and the counter claims raised by the parties at the time of invocation of the arbitration shall be final and binding on the parties and no further change shall be allowed in the same at any stage during arbitration under any circumstances whatsoever.

The parties to the contract shall invoke arbitration within Six months from the date of completion of the Facilities under the contract or the termination of the contract as the case may be and the parties shall not invoke arbitration later on after expiry of the said period of six months. The parties shall not invoke arbitration other than in the case of completion of the Facilities or the termination of the contract as mentioned above.

GENERAL CONDITION OF CONTRACT (GCC)

6.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Sub Clause 6.2.1, shall be finally settled by arbitration.

6.2.3 Any dispute raised by a party to arbitration shall be adjudicated by a Sole Arbitrator appointed by Employer in the following manner:-

- a) A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving 60 days notice to the other party.
- b) If the Arbitrator so appointed dies, resigns, becomes incapacitated or withdraws for any reason from the proceedings, it shall be lawful for Employer to appoint another person in his place in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor had left.
- c) It is agreed between the parties that the Arbitration proceedings shall be conducted as per the provisions of Fast Track Procedure as provided under section 29B of the Arbitration and Conciliation Act, 1996 as amended.
- d) Arbitrator shall be paid fees at the following rates:

Amount of Claims and Counter Claims (excluding interest)	Lump sum fees (including fees for study of pleadings, case material, writing of the award, secretarial charges etc.) to be shared equally by the parties.
Upto Rs 50 lakhs	Rs. 10,000 per meeting subject to a ceiling of Rs. 1,00,000/-.
Above Rs 50 lakhs to Rs 1 crore	Rs. 1,35,000/- plus Rs. 1,800/- per lakh or a part there of subject to a ceiling of Rs. 2,25,000/-.
Above Rs. 1 crore and upto Rs. 5 Crores	Rs. 2,25,000/- plus Rs. 33,750 per crore or a part there of subject to a

GENERAL CONDITION OF CONTRACT (GCC)

Amount of Claims and Counter Claims (excluding interest)	Lump sum fees (including fees for study of pleadings, case material, writing of the award, secretarial charges etc.) to be shared equally by the parties.
	ceiling of Rs. 3,60,000/-.
Above Rs. 5 crores and upto Rs. 10 crores.	Rs. 3,60,000/- plus Rs. 22,500/- per crore or a part there of subject to a ceiling of Rs. 4,72,500/-.
Above Rs. 10 crores	Rs. 4,72,500 plus Rs. 18,000/- per crore or part thereof subject to a ceiling of Rs. 10,00,000/-.

If the claim is in foreign currency, the SBI Bills Selling Exchange rate prevailing on the date of claim shall be used for the purpose of converting the claim in Indian Rupee which may be used for determining the arbitration fee as brought out above.

- e) If after commencement of the Arbitration proceedings, the parties agree to settle the dispute mutually or refer the dispute to Conciliation, the arbitrator shall put the proceedings in abeyance until such period as requested by the parties. Where the proceedings are put in abeyance or terminated on account of mutual settlement of dispute by the parties, the fees payable to the arbitrator shall be determined as under:
- (i) 40% of the fees if the Pleadings are complete.
 - (ii) 60% of the fees if the Hearing has commenced.
 - (iii) 80% of the fees if the Hearing is concluded but the Award is yet to be passed.
- f) Each party shall pay its share of arbitrator's fees in stages as under:
- (i) 40 % of the fees on Completion of Pleadings.
 - (ii) 40% of the fees on Conclusion of the Final Hearing.
 - (iii) 20% at the time when arbitrator notifies the date of final award.

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- g) The Claimant shall be responsible for making all necessary arrangements for the travel/ stay of the Arbitrator including venue of arbitration, hearings. The parties shall share the expenses for the same equally.
- h) The Arbitration shall be held at Delhi only.
- i) The Arbitrator shall give reasoned and speaking award and it shall be final and binding on the parties.
- j) Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof shall apply to the arbitration proceedings under this clause.

6.3 Notwithstanding any reference to arbitration herein,

- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- (b) the Employer shall pay the Contractor any monies due the Contractor.

B. Subject Matter of Contract

7. Scope of Facilities

- 7.1 Unless otherwise expressly limited in the Technical Specifications, the Contractor's obligations cover the provision of all Plant and Equipment including spares and the performance of all services required for the design, the manufacture (including procurement, quality assurance, construction, installation, associated civil, structural and other construction works, Pre-commissioning and delivery) of the Plant and Equipment and the installation, commissioning, completion of facilities and carrying out guarantees test for the Facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the Technical Specifications. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labour, materials, equipment, spare and accessories; Contractor's Equipment;

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construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, unloading and hauling to, from and at the Site); insurance and storage, except for those supplies, works and services that will be provided or performed by the Employer/ Recipient Country, as set forth in Technical Specifications.

- 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 as if such work and/or items and materials were expressly mentioned in the Contract.

8. Time for Commencement and Completion

- 8.1 The Contractor shall commence work on the Facilities from the date of Letter of Award and without prejudice to GCC Sub-Clause 26.2 hereof, the Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in SCC .
- 8.2 The Contractor shall attain Completion of the Facilities (or of a part where a separate time for Completion of such part is specified in the Contract) within the time stated in the SCC or within such extended time to which the Contractor shall be entitled under GCC Clause 40 (Extension of Time for Completion) hereof.

9. Contractor's Responsibilities

- 9.1 The Contractor shall design, manufacture (including associated purchases and/or subcontracting), install and complete the Facilities carry out the Guarantee tests with due care and diligence in accordance with the Contract.
- 9.2 The Contractor confirms that it has 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 as at the date twenty-eight (28) days prior to bid submission. The Contractor

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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.

9.3 The Contractor shall acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located that are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Employer under GCC Sub-Clause 10.3 hereof and that are necessary for the performance of the Contract.

9.4 The Contractor shall comply with all laws in force in the country where the Facilities are installed and where the Installation Services are carried out. The laws will include all national, provincial, municipal or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless the Employer/Recipient Country 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 Subcontractors and their personnel, but without prejudice to GCC Sub-Clause 10.1 hereof.

9.5 Any plant, material and services that will be incorporated in or be required for the facilities and other supplies shall have their origin as specified under GCC Clause 3.13 (Country of Origin).

10. Employer's and or Recipient Country Responsibilities

10.1 The Employer shall ensure the accuracy of all information and/or data to be supplied by the Employer as described in Technical Specifications to the Contract, except when otherwise expressly stated in the Contract.

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- 10.2 The Employer/ Recipient Country 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, as specified in Technical Specifications. The Employer/ Recipient Country shall give full possession of and accord all rights of access thereto on or before the date(s) specified in Technical Specifications.
- 10.3 The Employer/ Recipient Country shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Employer/ Recipient Country to obtain them in the Employer's/ Recipient Country name, are necessary for the execution of the Contract (they include those required for the performance by both the Contractor and the Employer of their respective obligations under the Contract), including those specified in Technical Specifications.
- 10.4 If requested by the Contractor, the Employer/ Recipient Country 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 all local, state or national government authorities or public service undertakings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.
- 10.5 Not used
- 10.6 The Employer/ Recipient Country shall be responsible for the continued operation of the Facilities after Completion, in accordance with GCC Sub-Clause 24.9, and shall be responsible for facilitating the Guarantee Test (s) for the Facilities, in accordance with GCC Sub-Clause 25.1.
- 10.7 All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the Employer/Recipient Country, save those to be incurred by the Contractor with respect to the

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performance of Guarantee Tests, in accordance with GCC Sub-Clause 25.1.

C. Payment

11. Contract Price

- 11.1 The Contract Price shall be as specified in Letter of Award.
- 11.2 The Contract Price shall be adjusted in accordance with provisions of SCC.
- 11.3 Subject to GCC Sub-Clauses 9.2, 10.1 and 35 (Unforeseen Conditions) hereof, the Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

12. Terms of Payment

- 12.1 The Contract Price shall be paid as per Terms and Procedures of payment specified in Special Conditions of Contract. The procedures to be followed in making application for and processing payments shall be those outlined in Special Conditions of Contract.
- 12.2 No payment made by the Employer herein shall be deemed to constitute acceptance by the Employer of the Facilities or any part(s) thereof.

13. Securities

13.1 Issuance of Securities

The Contractor shall provide the securities specified below in favor of the Employer at the times, and in the amount, manner and form specified below.

13.2 Advance Payment Security: Not Applicable

13.3 Contract Performance Security

- 13.3.1 The Contractor shall, within twenty-eight (28) days of the Letter of Award, provide securities for the due performance of the Contract for ten percent (10%) of the total Contract Price, with an initial validity up to ninety (90) days beyond the end of

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Defect Liability Period of the last equipment covered under the package. However, in case of delay in completion of the defect liability period/ standard warranty period, the validity of all the contract performance securities shall be extended by the period of such delay.

- 13.3.2 The performance security shall be denominated in the currency of the Contract and shall be in the form of unconditional bank guarantee provided in Section-VII (Forms and Procedures)-Form of Performance Security of the bidding documents.

14. Taxes and 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 Sub-contractor or their employees by all municipal, state or national government authorities in connection with the Facilities in and outside of the country where the Site is located.
- 14.2 Notwithstanding GCC Sub-Clause 14.1, Employer/ Recipient Country shall grant exemption to any direct and indirect taxes and duties prevailing in Recipient Country that may otherwise be levied on expenses relating to the Project, including, but not limited to the plant, machinery, equipment, components, services availed, and/or commission charged. If the Recipient Country fails to grant such exemptions, it shall fully pay / reimburse to offset the expenses incurred for payment of such taxes and duties as specified before. Any such resources provided by the Employer's/ Recipient Country will be considered as in-kind resources provided by the Recipient Country government for successful implementation of the Project.
- 14.3 If any tax exemptions, reductions, allowances or privileges are available to the Contractor in the country where the Site is located, the Employer/ Recipient Country shall use its best endeavours to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.
- 14.4 For the purpose of the Contract, it is agreed that the Contract Price specified in Letter of Award is based on the taxes, duties, levies and charges prevailing on seven (7) days prior to the deadline set for bid submission in the country where

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the Site is located (hereinafter called "Tax" in this GCC Sub-Clause 14.4). If any rates of Tax are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of Contract, which was or will be assessed on the Contractor in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction therefrom, as the case may be, in accordance with GCC Clause 36 (Change in Laws and Regulations) hereof. However, these adjustments shall not be applicable on procurement of raw materials, intermediary components and intermediary services etc. by the Contractor.

- 14.5 If the Employer/Recipient Country orders any spare at a later date, all applicable additional taxes & duties, if any, not included in the original price shall be to the account of Employer.

D. Intellectual Property

15. **Copyright** 15.1 The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Employer directly or through the Contractor by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party. The Employer shall however be free to reproduce all drawings, documents and other material furnished to the Employer for the purpose of the contract including, if required, for operation and maintenance of the facilities.

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 documents, 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 Subcontractor(s) such

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documents, data and other information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this GCC Clause 16.

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 GCC Sub-Clauses 16.1 and 16.2 above, 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 GCC Clause 16 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 GCC Clause 16 shall survive termination, for whatever reason, of the Contract.

E. Work Execution

17. Representatives

17.1 Project Manager

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If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Employer shall appoint and notify the Contractor in writing of the name of the Project Manager. The Employer may from time to time appoint some other person as the Project Manager in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. The Employer shall take reasonable care to see that no such appointment is made at such a time or in such a manner as to impede the progress of work on the Facilities. The Project Manager 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 Project Manager, 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 Project Manager, except as herein otherwise provided.

17.2 Contractor's Representative & Construction Manager

17.2.1 The Contractor shall appoint the Contractor's Representative within fourteen (14) days of the Effective Date or before start of work whichever is earlier and shall request the Employer in writing to approve the person so appointed.

17.2.1.1 The Contractor's representative shall be a regular Employee/Partner/ Director only and the Contractor shall be required to submit a Power of Attorney in original in favour of its representative. Notarized photocopy of the Power of Attorney shall be acceptable only if the Power of Attorney has been registered by the Contractor. The Employer may verify the photocopy of the Power of Attorney with the Original and the Contractor shall be required to produce the original Power of Attorney for verification, if required by the Employer. The relation of the Contractor's representative with the contractor such as Partner/ Employee etc. should be clearly brought out in the Power of Attorney. The Contractor would be required to submit a documentary proof of

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the relation of the Contractor's representative with the contractor in the form of self attested copy of any of the following documents:

- i. Documents indicating, if the Contractor's representative is an employee of contractor or his Appointment Letter/Salary Slip/other documentary evidence (only in case of recent appointment)
- ii. Article of Association / Registered Partnership Deed if the Contractor's representative is a partner or stake holder in Company.

In case, the Contractor is not able to submit any of the documentary proofs as mentioned above at para b (i) & (ii), he would be required to submit an affidavit stating the relationship between the Contractor's representative and the Contractor.

17.2.1.2 In case, the Contractor's representative is also doing some other Contract(s)/Work(s) as nominee of the same contractor, the Contractor shall give a declaration citing list of all works where the Contractor's representative is the nominee.

17.2.1.3 If the Employer objects to the appointment giving the reason therefore, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 17.2.1 shall apply thereto.

17.2.2 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 Project Manager 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 Project Manager 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.

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The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in GCC Sub-Clause 17.2.1.

- 17.2.3 The Contractor's Representative may, subject to the approval of the Employer (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Employer and the Project Manager.

Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 17.2.3 shall be deemed to be an act or exercise by the Contractor's Representative.

- 17.2.3.1 Notwithstanding anything stated in GCC Sub-clause 17.1 and 17.2.1 above, for the purpose of execution of contract, the Employer and the Contractor shall finalise and agree to a Contract Co-ordination Procedure and all the communication under the Contract shall be in accordance with such Contract Co-ordination Procedure.

- 17.2.4 From the commencement of installation of the Facilities at the Site until Operational Acceptance, the Contractor's Representative shall appoint a suitable person as the construction manager (hereinafter referred to as "the Construction Manager"). The Construction Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as his or her deputy.

- 17.2.5 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the

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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 GCC Sub-clause 22.3. The Employer shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities.

17.2.6 If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 17.2.5, the Contractor shall, where required, promptly appoint a replacement.

18. Work Program

18.1 Contractor's Organization

The Contractor shall supply to the Employer and the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out work on the Facilities. The chart shall include the identities of the key personnel together with the curricula vitae of such key personnel to be employed within twenty-one (21) days of the Effective Date. The Contractor shall promptly inform the Employer and the Project Manager in writing of any revision or alteration of such an organization chart.

18.2 Not used

18.3 Progress Report

The Contractor shall monitor progress of all the activities and supply a progress report to the Project Manager every month.

The progress report shall be in a form acceptable to the Project Manager and shall also 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.

18.4 Not used

18.5 Work Procedures

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The Contract shall be executed in accordance with the Contract Documents and the procedures given in the section on Forms and Procedures of the Contract Documents.

19. Subcontracting

19.1 The Contractor shall prepare a list of Subcontractors for and may from time to time propose any addition to or deletion of sub-contractors from such list. The Contractor shall submit such list or any modification thereto to the Employer for its approval in sufficient time so as not to impede the progress of work on the Facilities. Such approval by the Employer for any of the Subcontractors shall not relieve the Contractor from any of its obligations, duties or responsibilities under the Contract.

19.2 The Contractor shall select and employ its Subcontractors for such major items from those listed in the lists referred to in GCC Sub- Clause 19.1.

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.

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 Project Manager 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.

20.1.2 The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Employer, by giving a notice of such disclaimer to the Project Manager.

20.2 Codes and Standards

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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 twenty-eight (28) days prior to 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 Employer and shall be treated in accordance with GCC Clause 39 (Changes Originating from Contractor).

21. Procurement

21.1 Plant and Equipment

Subject to GCC Sub-Clause 14.2, the Contractor shall manufacture or procure and transport all the Plant and Equipment in an expeditious and orderly manner to the Site.

21.2 Not used

21.3 Transportation

- 21.3.1 The Contractor shall at its own risk and expense transport all the Plant and Equipment and the Contractor's Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.

Packing Material

The Contractor shall ensure that all the plant and equipment are suitably packed and protected to prevent damage or deterioration during its transportation to site, handling and storage at site till the time of its installation. The ownership of all such packing material shall stand transferred to the Employer upon dispatch of the plant and equipment and endorsement of dispatch documents in favour of the Employer.

- 21.3.2 Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the Plant and Equipment and the Contractor's Equipment.

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21.3.3 Upon dispatch of each shipment of the Plant and Equipment and the Contractor's Equipment, the Contractor shall notify the Employer by email of the description of the Plant and Equipment and of the Contractor's Equipment, the point and means of dispatch, and the estimated time and point of arrival in the country where the Site is located, if applicable, and at the Site. The Contractor shall furnish the Employer with relevant shipping documents to be agreed upon between the parties.

21.3.4 The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the Plant and Equipment and the Contractor's Equipment to the Site. 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/Recipient Country 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 and the Contractor's Equipment to the Site.

21.4 Customs Clearance

The Contractor shall, at its own expense, handle all imported Plant and Equipment and Contractor's Equipment at the point(s) of import and shall handle any formalities for customs clearance, subject to the Employer's/ Recipient Country's obligations under GCC Sub-Clause 14.2, provided that if applicable laws or regulations require any application or act to be made by or in the name of the Employer/ Recipient Country, the Employer/ Recipient Country shall take all necessary steps to comply with such laws or regulations. In the event of delays in customs clearance due to fault of the Employer/ Recipient Country, the Contractor shall be entitled to an extension in the Time for Completion, pursuant to GCC Clause 40.

22. Installation

22.1 Setting Out/Supervision/Labour

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

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If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by or on behalf of the Employer, the expense of rectifying the same shall be borne by the Employer.

22.1.2 Contractor's Supervision: The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy 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 callings and supervisory staff who are competent to adequately supervise the work at hand.

22.1.3 Labour:

- (a) The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labor that has the necessary skills.
- (b) Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation and catering of all labour, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.
- (c) The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labour and personnel to be employed on the Site.
- (d) The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by

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or amongst its employees and the labour of its Subcontractors.

- (e) The Contractor shall, in all dealings with its labour and the labour of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labour.

22.2 Contractor's Equipment

22.2.1 All Contractors' Equipment brought by the Contractor onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Project Manager's consent that such Contractor's Equipment is no longer required for the execution of the Contract.

22.2.2 Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor onto the Site and any surplus materials remaining thereon.

22.2.3 The Employer/ Recipient Country will, if requested, use its best endeavour to assist the Contractor in obtaining any local, state or national government permission required by the Contractor for the export of the Contractor's Equipment imported by the Contractor for use in the execution of the Contract that is no longer required for the execution of the Contract.

22.3 Site Regulations and Safety

22.3.1 The Employer and the Contractor shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply therewith. The Contractor shall prepare and submit to the Employer, with a copy to the Project Manager, proposed Site regulations for the Employer's approval, which approval shall not be unreasonably withheld. The contractor shall comply with safety requirements mentioned in the Technical Specifications.

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Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.

22.4 Opportunities for Other Contractors

22.4.1 The Contractor shall, upon written request from the Employer or the Project Manager, give all reasonable opportunities for carrying out the work to any other contractors employed by the Employer on or near the Site.

22.4.2 If the Contractor, upon written request from the Employer or the Project Manager, makes available to other contractors any roads or ways the maintenance for which the Contractor is responsible, permits the use by such other contractors of the Contractor's Equipment, or provides any other service of whatsoever nature for such other contractors, the Employer shall fully compensate the Contractor for any loss or damage caused or occasioned by such other contractors in respect of any such use or service, and shall pay to the Contractor reasonable remuneration for the use of such equipment or the provision of such services.

22.4.3 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 Project Manager / Employer/ Recipient country shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Employer in regard to their work.

22.4.4 The Contractor shall notify the Project Manager and the Employer promptly of any defects in the other Contractors' work that come to its notice, and that could affect the Contractor's work. The Project Manager / Employer shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Project Manager / Employer shall be binding on the Contractor.

22.5 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

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damage to the Facilities, the Contractor shall immediately carry out such work.

If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine 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.

22.6 Site Clearance

22.6.1 Site Clearance in Course of Performance: 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.

22.6.2 Clearance of Site after Completion: After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities clean and safe.

22.7 Watching and Lighting

The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

22.8 Shift Work

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- 22.8.1 To achieve the required rate of progress in order to complete the Facilities within the Time for Completion, the Contractor may carry on the work round the clock, in multiple shifts per day, as may be necessary. The Contractor shall however be responsible to comply with all applicable laws in this regard.
- 22.8.2 No additional payment will be made on account of round the clock working in multiple shifts.
- 22.8.3 Wherever the work is carried out at night adequate lighting of working areas and access routes for pedestrians or vehicles shall be provided by the Contractor at his cost. Sufficient notice should be given by the Contractor to the Employer or Project Manager regarding the details of works in shifts so that necessary supervision should be provided.

23. Test and Inspection

- 23.1 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.
- 23.2 The Employer and the Project Manager or their designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the Employer shall bear all 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 reasonable advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Employer and the Project Manager (or their designated representatives) to attend the test and/or inspection.
- 23.4 The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection.

If the Employer or Project Manager (or their designated representatives) fails to attend the test and/or inspection, or if

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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 may provide the Project Manager with a certified report of the results thereof.

- 23.5 The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.
- 23.6 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 GCC Sub-Clause 23.3.
- 23.7 If any dispute or difference of opinion shall arise between the parties in connection with or arising out of the test and/or inspection of the Plant and Equipment or part of the Facilities that cannot be settled between the parties within a reasonable period of time, it may be referred in accordance with GCC Sub-Clause 6.2.
- 23.8 The Contractor shall afford the Employer and the Project Manager, 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, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Contractor a reasonable prior notice.
- 23.9 The Contractor agrees that neither the execution of a test and/or inspection of Plant and Equipment or any part of the Facilities, nor the attendance by the Employer or the Project Manager, nor the issue of any test certificate pursuant to GCC Sub-Clause 23.4, shall release the Contractor from any other responsibilities under the Contract.

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23.10 No part of the Facilities or foundations shall be covered up on the Site without the Contractor carrying out any test and/or inspection required under the Contract. The Contractor shall give a reasonable notice to the Project Manager whenever any such part of the Facilities or foundations are ready or about to be ready for test and/or inspection; such test and/or inspection and notice thereof shall be subject to the requirements of the Contract.

23.11 The Contractor shall uncover any part of the Facilities or foundations, or shall make openings in or through the same as the Project Manager may from time to time require at the Site, and shall reinstate and make good such part or parts.

If any part of the Facilities or foundations have been covered up at the Site after compliance with the requirement of GCC Sub-Clause 23.10 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Employer, and the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

24. Commissioning and Completion of the Facilities

24.1 As soon as installation of the Facilities or any part thereof has, in the opinion of the Contractor, been completed as specified in the Technical Specifications, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer in writing.

24.2 Within seven (7) days after receipt of the notice from the Contractor under GCC Sub-Clause 24.1, the Employer shall supply the operating and maintenance personnel and the services and other matters as specified in Technical Specifications, required for Precommissioning of the Facilities or any part thereof.

24.3 As soon as reasonably practicable after the operating and maintenance personnel have been supplied by the Employer and the services and other matters, if so specified in Technical Specifications in accordance with GCC Sub-Clause 24.2, the Contractor shall commence Precommissioning of

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the Facilities or the relevant part thereof in preparation for Commissioning.

24.4 As soon as all works in respect of Precommissioning are completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall commence Commissioning of the facilities. As soon as Commissioning is satisfactorily completed, the Contractor shall so notify the Project Manager in writing.

24.5 Commissioning of the Facilities or any part thereof shall be completed by the Contractor as per procedures detailed in the Technical Specifications.

24.6 The Project Manager shall, within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 24.4, either issue a Completion Certificate in the form specified in the Forms and Procedures section in the bidding documents, stating that the Facilities or that part thereof have reached Completion as at the date of the Contractor's notice under GCC Sub-Clause 24.4, or notify the Contractor in writing of any defects and/or deficiencies.

If the Project Manager 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 GCC Sub- Clause 24.4.

If the Project Manager is satisfied that the Facilities or that part thereof have reached Completion, the Project Manager shall, within seven (7) days after receipt of the Contractor's repeated notice, issue a Completion Certificate stating that the Facilities or that part thereof have reached Completion as at the date of the Contractor's repeated notice.

If the Project Manager is not so satisfied, then it 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.

24.7 If the Project Manager fails to issue the Completion Certificate and fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 24.4 or within seven (7) days after receipt of the Contractor's repeated

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notice under GCC Sub-Clause 24.5, or if the Employer makes use of the Facilities or part thereof, then the Facilities or that part thereof shall be deemed to have reached Completion as of the date of the Contractor's notice or repeated notice, or as of the Employer's use of the Facilities, as the case may be.

24.8 As soon as possible after Completion, the Contractor shall complete all outstanding minor items 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 monies owing to the Contractor.

24.9 Upon Completion, the Employer/ Recipient country shall be responsible for the care and custody of the Facilities or the relevant part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.

25. **Guarantee Test and Operational Acceptance**

25.1 **Guarantee Test**

25.1.1 The Guarantee Test (and repeats thereof) shall be conducted by the Contractor after Commissioning of the Facilities or the relevant part thereof to ascertain whether the Facilities or the relevant part can attain the Functional Guarantees specified in the Contract Documents. The Contractor's and Project Manager's advisory personnel shall attend the Guarantee Test. The Employer shall promptly provide the Contractor with such information as the Contractor may reasonably require in relation to the conduct and results of the Guarantee Test (and any repeats thereof).

25.1.2 If for reasons attributable to the Employer, the Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within one (01) year from the date of completion of facilities, payment of Contractor due on Guarantee Test shall be released to the Contractor against Bank Guarantee. Such Bank Guarantee shall have initial validity of one (1) year. The Bank Guarantee shall be extended for any subsequent period, if required, such that the same remains valid till the Successful Completion of Guarantee Test.

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25.2 Operational Acceptance

25.2.1 Subject to GCC Sub-Clause 25.3 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the Facilities or any part thereof when

- (a) the Guarantee Test has been successfully completed and the Functional Guarantees are met; or
- (b) the Contractor has paid the liquidated damages specified in GCC Sub-Clause 28.3 hereof; and
- (c) any minor items mentioned in GCC Sub-Clause 24.8 hereof relevant to the Facilities or that part thereof have been completed.

25.2.2 At any time after any of the events set out in GCC Sub-Clause 25.2.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Bidding Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as at the date of such notice.

25.2.3 The Project Manager shall, after consultation with the Employer, and within forty five (45) days after receipt of the Contractor's notice, issue an Operational Acceptance Certificate.

25.2.4 If within forty five (45) days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have been accepted as at the date of the Contractor's said notice.

F. Guarantees and Liabilities

26. Completion Time Guarantee

26.1 The Contractor guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for

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completion is specified in the SCC) within the Time for Completion specified in the SCC pursuant to GCC Sub-Clause 8.2, or within such extended time to which the Contractor shall be entitled under GCC Clause 40 (Extension of Time for Completion) hereof.

- 26.2 If the Contractor fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under GCC Clause 40 (Extension of Time for Completion), the Contractor shall pay to the Employer liquidated damages in the amount computed at the rates specified in the SCC. The aggregate amount of such liquidated damages shall in no event exceed the amount specified as "Maximum" in the SCC. Once the "Maximum" is reached, the Employer may consider termination of the Contract, pursuant to GCC Sub-Clause 42.2.2.

Such payment shall completely satisfy the Contractor's obligation to attain Completion of the Facilities or the relevant part thereof within the Time for Completion or any extension thereof under GCC Clause 40 (Extension of Time for Completion). The Contractor shall have no further liability whatsoever to the Employer in respect thereof.

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.

Save for liquidated damages payable under this GCC Sub-Clause 26.2, the failure by the Contractor to attain any milestone or other act, matter or thing by any date specified in SCC and/or Letter of Award and/or other program of work prepared pursuant to GCC Clause 18 (Program of Performance) shall not render the Contractor liable for any loss or damage thereby suffered by the Employer.

- 26.3 No bonus will be given for earlier completion of the facilities as part thereof.

27. Defect Liability

- 27.1 The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering,

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materials and workmanship of the Plant and Equipment supplied and of the work executed.

- 27.2 The Defect Liability Period shall be twelve (12) months from the date of Completion of the Facilities (or any part thereof), unless specified otherwise in the SCC.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant and Equipment supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good (as the Contractor shall, at its discretion, determine) such defect as well as any damage to the Facilities caused by such defect. The Contractor shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:

- (a) improper operation or maintenance of the Facilities by the Employer
- (b) operation of the Facilities outside specifications provided in the Contract
- (c) normal wear and tear.

- 27.3 The Contractor's obligations under this GCC Clause 27 shall not apply to

- (a) any materials that are supplied by the Employer under GCC Sub-Clause 21.2 (Employer-Supplied Plant, Equipment and Materials), are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein
- (b) any designs, specifications or other data designed, supplied or specified by or on behalf of the Employer or any matters for which the Contractor has disclaimed responsibility herein
- (c) any other materials supplied or any other work executed by or on behalf of the Employer, except for

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the work executed by the Employer under GCC Sub-Clause 27.7.

27.4 The Employer shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Employer shall afford all reasonable opportunity for the Contractor to inspect any such defect.

27.5 The Employer shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this GCC Clause 27.

The Contractor may, with the consent of the Employer, 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.

27.6 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 in character shall in any case be not less than what has already been agreed by the Employer and the Contractor for the original equipment/part of the Facilities.

27.7 If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the Employer may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Employer in connection therewith shall be paid to the Employer by the Contractor or may be deducted by the Employer from any monies due to the Contractor or claimed under the Performance Securities.

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27.8 If the Facilities or any part thereof cannot be used by reason of such defect the Defect Liability Period 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. Upon correction of the defects in the Facilities or any part thereof by repair/replacement, such repair/replacement shall have the Defect Liability Period extended by a period of twelve (12) month from the time such replacement/repair of the Facilities or any part thereof has been completed.

27.8.1 At the end of the Defect Liability Period, the contractor liability ceases except for latent defects. The contractor's liability for latent defects warranty shall be limited to a period of five (5) years from the end of Defect Liability Period of the respective plant and equipment including spares. For the purpose of the this clause, the latent defects shall be the defects inherently lying within the material or arising out of design deficiency which do not manifest themselves during the Defect Liability Period in this GCC clause 27, but later.

27.9 Except as provided in GCC Clauses 27 and 33 (Loss of or Damage to Property / Accident or Injury to Workers /Indemnification), the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contract or at law, in respect of defects in the Facilities or any part thereof, the Plant and Equipment, design or engineering or work executed that appear after Completion of the Facilities or any part thereof, except where such defects are the result of the gross negligence, fraud, criminal or willful action of the Contractor.

27.10 In addition, the Contractor shall also provide an extended warranty for any such component of the Facilities and during the period of time as may be specified in the SCC / Technical Specifications. Such obligation shall be in addition to the defect liability specified under GCC Sub-Clause 27.2.

28. Functional Guarantees

28.1 The Contractor guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees specified under Section-VI (Technical

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Specification), subject to and upon the conditions therein specified.

- 28.2 If, for reasons attributable to the Contractor, the guaranteed level of the Functional Guarantees specified under of Section-VI (Technical Specification) are not met either in whole or in part, the Contractor shall, within a mutually agreed time, at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet such Guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall seek the Employer's consent to repeat the Guarantee Test. If the guaranteed level of specified Functional Guarantees parameter(s) are still not specified under Section-VI (Technical Specification), then the Employer will accept the equipment/system/plant after levy of liquidated damages in accordance with the provisions specified of Section-VI (Technical Specification). However, if the level of the specified Functional Guarantee parameters, as demonstrated even during repeat of the Guarantee Test(s), are outside the acceptable shortfall limit as specified under of Section-VI (Technical Specification), the Employer may at its option, either
- (a) Reject the Equipment and recover the payments already made, or
 - (b) Terminate the Contract pursuant to GCC Sub-Clause 42.2.2 and recover the payments already made, or
 - (c) Accept the equipment after levy of liquidated damages in accordance with the provisions specified under Section-VI (Technical Specification) to the Contract Agreement.
- 28.3 In case the Employer exercises its option to accept the equipment after levy of liquidated damages, the payment of liquidated damages under GCC Sub-Clause 28.2, up to the limitation of liability specified in Section-VI (Technical Specification), shall completely satisfy the Contractor's guarantees under GCC Sub- Clause 28.2, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue

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the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.

28.4 DELETED

29. Patent Indemnity

29.1 The Contractor shall, subject to the Employer's compliance with GCC Sub-Clause 29.2, 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 at the date of the Contract by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in the country where the Site is located; and (b) the sale of the products produced by the Facilities in any country.

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.

29.2 If any proceedings are brought or any claim is made against the Employer / Recipient Country arising out of the matters referred to in GCC Sub-Clause 29.1, 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. Unless the Contractor has so failed to notify the Employer within the

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twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

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 reasonable expenses incurred in so doing.

- 29.3 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 or designed by or on behalf of the Employer.

30. Limitation of Liability

30.1 Except in cases of criminal negligence or willful misconduct,

- (a) neither Party shall be liable to the other Party, 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, which may be suffered by the other Party in connection with the Contract, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and
- (b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to any obligation of the Contractor to indemnify the Employer with respect to patent infringement.

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- (c) the aggregate liability of the Employer to the Contractor except for GCC sub-clause 29.3, whether under the Contract, in tort or otherwise, at any point of time during the execution/performance of the Contract, shall not exceed the 'total Contract Price less payments already released to the Contractor'.

G. Risk Distribution

31. Transfer of Ownership

- 31.1 Ownership of the Plant and Equipment (including spare parts) shall be transferred to the Employer/ Recipient Country when the Plant and Equipment are Loaded on to the mode of transport to be used to convey the Plant and Equipment from the works to the site and upon endorsement of the despatch documents in favour of the Employer/Recipient Country.
- 31.2 Ownership of the Contractor's Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.
- 31.3 Ownership of any Plant and Equipment in excess of the requirements for the Facilities (i.e. surplus material) shall revert to the Contractor upon Completion of the Facilities and Guarantee Test or at such earlier time when the Employer and the Contractor agree that the Plant and Equipment in question are no longer required for the Facilities, provided quantity of any Plant and Equipment specifically stipulated in the Contract shall be the property of the Employer whether or not incorporated in the Facilities. The Contractor shall remove from the site such surplus material brought by him in pursuance of the Contract, subject to the Contractor producing the necessary clearance from the relevant authorities, if required by law, in respect of re-export or disposal of the surplus material locally. The liability for the payment of the applicable taxes/duties, if any, on the surplus material so re- exported and/or disposed locally shall be that of the Contractor.

The Contractor shall also indemnify to keep the Employer/Recipient Country harmless from any act of omission or negligence on the part of the Contractor in

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following the statutory requirements with regard to removal/disposal of surplus material. The **Indemnity-cum-Undertaking Agreement** shall be furnished by contractor as per proforma enclosed in Section-VII (Part 3 of 3 - Forms and Procedures). Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the surplus material to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer.

31.4 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 GCC Clause 32 (Care of Facilities) hereof until Completion of the Facilities or the part thereof in which such Plant and Equipment are incorporated.

31.5 In case of Contract entered into between the Employer and the Contractor as per GCC Sub-Clause 3.6 or where the Employer hands over his equipment/plant to the Contractor for executing the Contract, then the Contractor shall at the time of taking delivery of the Equipment through Bill of Lading or other dispatch documents furnish Trust Receipt for Plant, Equipment and Materials and also execute an Indemnity Bond in favor of the Employer in the form acceptable to Employer for keeping the equipment in safe custody and to utilize the same exclusively for the purpose of the said Contract. Proforma for the Trust Receipt and **Indemnity-cum-Undertaking Agreement** is enclosed under Section-VII (Forms and Procedures). The Employer shall also issue a separate Authorization Letter to the Contractor to enable him to take physical delivery of plant, equipment and materials from the Employer as per proforma enclosed under Section-VII (Forms and Procedures).

32. Care of Facilities

32.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities pursuant to GCC Clause 24 (Completion of the Facilities) or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, 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

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such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to GCC Clause 27 (Defect Liability). 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) and (c) of GCC Sub-Clauses 32.2 and 38.1.

32.2 If any loss or damage occurs to the Facilities or any part thereof or to the Contractor's temporary facilities by reason of

- (a) (insofar as they relate to the country where the Site is located) nuclear reaction, nuclear radiation, radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks, taken out under GCC Clause 34 (Insurance) hereof
- (b) any use or occupation by the Employer or any third party (other than a Subcontractor) authorized by the Employer of any part of the Facilities
- (c) any use of or reliance upon any design, data or specification provided or designated 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, and will pay to the Contractor the replacement value of all temporary facilities and all parts thereof 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 GCC

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Clause 39 (Change in the Facilities). If the Employer does not request the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Employer shall either request a change in accordance with GCC Clause 39 (Change in the Facilities), 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 shall terminate the Contract pursuant to GCC Sub-Clause 42.1 (Termination for Employer's Convenience) hereof, except that the Contractor shall have no entitlement to profit under paragraph (e) of GCC Sub-Clause 42.1.3 in respect of any unexecuted Facilities as at the date of termination.

32.3 The Contractor shall be liable for any loss of or damage to any Contractor's Equipment, or any other property of the Contractor used or intended to be used for purposes of the Facilities, except (i) as mentioned in GCC Sub-Clause 32.2 (with respect to the Contractor's temporary facilities), and (ii) where such loss or damage arises by reason of any of the matters specified in GCC Sub-Clauses 32.2(b) and (c) and 38.1.

32.4 With respect to any loss or damage caused to the Facilities or any part thereof or to the Contractor's Equipment by reason of any of the matters specified in GCC Sub-Clause 38.1, the provisions of GCC Sub-Clause 38.3 shall apply.

33. **Loss of or Damage to Property; Accident or Injury to workers; Indemnification**

33.1 Subject to GCC Sub-Clause 33.3, the Contractor shall 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, 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, officers or agents,

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except any injury, death or property damage caused by the negligence of the Employer, its contractors, employees, officers or agents.

- 33.2 If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under GCC Sub- Clause 33.1, 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. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

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 reasonable expenses incurred in so doing.

- 33.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from any liability for loss of or damage to property of the Employer, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 34 (Insurances), provided that such fire, explosion or other perils were not caused by any act or failure of the Contractor.

- 33.4 The party entitled to the benefit of an indemnity under this GCC Clause 33 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

34. Insurance

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34.1 To the extent specified in SCC, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the SCC. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, who should not unreasonably withhold such approval.

(a) **Cargo Insurance During Transport**

Covering loss or damage occurring while in transit from the Contractor's or Subcontractor's works or stores until arrival at the Site, to the Plant and Equipment (including spare parts therefor) and to the Contractor's Equipment.

(b) **Installation All Risks Insurance**

Covering physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the Defect Liability Period while the Contractor is on the Site for the purpose of performing its obligations during the Defect Liability Period.

(c) **Third Party Liability Insurance**

Covering bodily injury or death suffered by third parties (including the Employer's personnel) and loss of or damage to property occurring in connection with the supply and installation of the Facilities.

(d) **Automobile Liability Insurance**

Covering use of all vehicles used by the Contractor or its Subcontractors (whether or not owned by them) in connection with the execution of the Contract.

(e) **Workers' Compensation**

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

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(f) **Employer's Liability**

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

(g) **Other Insurances**

Such other insurances as may be specifically agreed upon by the parties hereto as listed in the SCC / Letter of Award.

- 34.2 The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1, except for the Third Party Liability, Workers' Compensation and Employer's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1 except for the Cargo Insurance During Transport, Workers' Compensation and Employer's Liability Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.
- 34.3 The Contractor shall, in accordance with the provisions of SCC, deliver to the Employer certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect. The certificates shall provide that no less than twenty-one (21) days' notice shall be given to the Employer by insurers prior to cancellation or material modification of a policy.
- 34.4 The 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 Subcontractors are covered by the policies taken out by the Contractor.
- 34.5 The Employer shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in SCC.

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- 34.6 If the Contractor fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause 34.1, the Employer may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Employer shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor.
- 34.7 Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 34, and all monies payable by any insurers shall be paid to the Contractor as per the procedure outlined in GCC Sub-Clause 34.8 below. The Employer shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Employer's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Employer. With respect to insurance claims in which the Contractor's interest is involved, the Employer shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.
- 34.8 In respect of insurance proceeds/claim settlements relating to claims referred by the Contractor, the Employer shall give from time, written authorization to the under writer(s) to directly pay such proceeds/settlements to the contractor as are in accordance with the provisions hereunder:
- (i) Wherever total damages/loss of equipment/material, would occur, the Contractor will be entitled to payment of all payments received from the underwriters except the following amounts:
 - (a) The amount paid to the Contractor under the Contract in respect of equipment/material damaged/ lost (excluding the pro-rata initial advance) but including the entire amount of escalation, if any, already paid to the Contractor.
 - (b) Taxes and duties which have already been paid by the Employer.

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In the event the claim money settled, is less than the total of the amount in a & b above, then the entire claim money settled will be retained by the Employer and the Contractor will forthwith pay the Employer the short fall amount between the claim money and the total of amounts as per a & b mentioned above.

Subsequent payments, if any, due under the Contract shall be regulated by the relevant terms of payment.

- (ii) In case of partial damage to any equipment/material during any stage, the Contractor upon rectification of the damaged equipment to the satisfaction of the Employer shall be paid to the extent of full claims settled by the underwriters.

35. **Not used**

36. **Change in Laws and Regulations**

- 36.1 If, after the date seven (7) days prior to the date of Bid submission, in the country where the Site is located, 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 and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. However, these adjustment shall not be applicable on procurement of raw materials, intermediary components etc. by the Contractor. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the SCC.

37. **Force Majeure**

- 37.1 "Force Majeure" shall mean any event beyond the reasonable control of the Employer or of the Contractor, as the case may

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be, and which is unavoidable notwithstanding the reasonable care of the party affected.

- 37.2 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 fourteen (14) days after the occurrence of such event.
- 37.3 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 GCC Clause 40 (Extension of Time for Completion).
- 37.4 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 GCC Sub-Clauses 37.6 and 38.5.
- 37.5 No delay or nonperformance by either party hereto caused by the occurrence of any event of Force Majeure shall
- (a) constitute a default or breach of the Contract
 - (b) (subject to GCC Sub-Clauses 32.2, 38.3 and 38.4) 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.
- 37.6 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the currency of the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which the dispute shall be resolved in accordance with GCC Clause 6.

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38. War Risks

37.7 Notwithstanding GCC Sub-Clause 37.5, Force Majeure shall not apply to any obligation of the Employer to make payments to the Contractor herein.

38.1 "War Risks" shall mean any of the following events occurring or existing in or near the country (or countries) where the Site is located:

- (a) war, hostilities or warlike operations (whether a state of war is 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, and
- (c) any explosion or impact of any mine, bomb, shell, grenade or other projectile, missile, munitions or explosive of war.

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

- (a) destruction of or damage to Facilities, Plant & Equipment, or any part thereof
- (b) destruction of or damage to property of the Employer or any third party
- (c) 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.

38.3 If the Facilities or any Plant and Equipment or Contractor's Equipment or any other property of the Contractor used or intended to be used for the purposes of the Facilities shall sustain destruction or damage by reason of any War Risks, the Employer shall pay the Contractor for

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- (a) any part of the Facilities or the Plant and Equipment so destroyed or damaged (to the extent not already paid for by the Employer)
- (b) replacing or making good any Contractor's Equipment or other property of the Contractor so destroyed or damaged so far as may be required by the Employer, and as may be necessary for completion of the Facilities,
- (c) 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 GCC Clause 39 (Change in the Facilities), 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 GCC Sub-Clause 42.1 (Termination for Employer's Convenience).

38.4 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.

38.5 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 single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of any War Risks, the parties will

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attempt to develop a mutually satisfactory solution, failing which the dispute will be resolved in accordance with GCC Clause 6.

- 38.6 In the event of termination pursuant to GCC Sub-Clauses 38.3, the rights and obligations of the Employer and the Contractor shall be specified in GCC Sub-Clauses 42.1.2 and 42.1.3, except that the Contractor shall have no entitlement to profit under paragraph (e) of GCC Sub-Clause 42.1.3 in respect of any unexecuted Facilities as of the date of termination.

H. Change in Contract Elements

39. Change In The Facilities

39.1 Introducing a Change

- 39.1.1 Subject to GCC 39.2.5 & 39.2.7, the Employer shall have the right to propose, and subsequently require, that the Project Manager 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 the Change envisaged with the nature of the Facilities as specified in the Contract.
- 39.1.2 The Contractor may from time to time during its performance of the Contract propose to the Employer (with a copy to the Project Manager) any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The Employer may at its discretion approve or reject any Change proposed by the Contractor.
- 39.1.3 Notwithstanding GCC Sub-Clauses 39.1.1 and 39.1.2, 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.

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39.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Sub-Clauses 39.2 and 39.3.

39.2 Changes Originating from Employer

39.2.1 If the Employer proposes a Change pursuant to GCC Sub-Clause 39.1.1, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Project Manager 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)
- (e) effect on any other provisions of the Contract.

39.2.2 The pricing of any change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If the rates and prices of any change are not available in the Contract, the parties thereto shall agree on specific rates for the variation of the change.

39.2.3 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set forth in the Letter of Award by more than fifteen (15) percent, the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Employer accepts the Contractor's objection, the Employer and the Contractor shall agree on specific rates for valuation of the change.

39.2.4 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained including agreement on rates if such rates are not available in the Contract or if the limit of 15% set forth in Clause 39.2.3 has been exceeded. Within fourteen (14) days

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after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.

If the Employer is unable to reach a decision within fourteen (14) days, it shall notify the Contractor with details of when the Contractor can expect a decision.

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.

- 39.2.5 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 sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred as per GCC para 6.0.

39.3 Changes Originating from Contractor

- 39.3.1 If the Contractor proposes a Change pursuant to GCC Sub-Clause 39.1.2, the Contractor shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 39.2.1.

Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Sub-Clauses 39.2.4 and 39.2.5.

40. Extension of Time for Completion

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40.1 The Time(s) for Completion specified in the SCC shall be extended if the Contractor is 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 GCC Clause 39 (Change in the Facilities)
- (b) any occurrence of Force Majeure as provided in GCC Clause 37 (Force Majeure), unforeseen conditions as provided in GCC Clause 35 (Unforeseen Conditions), or other occurrence of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clause 32.2.
- (c) any suspension order given by the Employer under GCC Clause 41 (Suspension) hereof or reduction in the rate of progress pursuant to GCC Sub-Clause 41.2 or
- (d) any changes in laws and regulations as provided in GCC Clause 36 (Change in Laws and Regulations) or
- (e) any default or breach of the Contract by the Employer specifically including failure to supply the items under Scope of Works and Supply by the Employer mentioned in Technical Specifications, or any activity, act or omission of any other contractors employed by the Employer
- (f) any other matter specifically mentioned in the Contract;

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.

40.2 Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager 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

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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 as per GCC para 6.0

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

40.4 Documents for consideration of Time Extension

The Contractor shall be required to attend all weekly site progress review meetings organised by the 'Project Manager' or his authorized representative. The deliberations in the meetings shall interalia include the weekly program, progress of work (including details of manpower, tools and plants deployed by the Contractor vis-à-vis agreed schedule), inputs to be provided by Employer, delays, if any and recovery program, specific hindrances to work and work instructions by Employer. The minutes of the weekly meetings shall be recorded in triplicate in a numbered register available with the 'Project Manager' or his authorized representative. These recordings shall be jointly signed by the 'Project Manager' or his authorized representative and the Contractor and one copy of the signed records shall be handed over to the Contractor.

The following documents shall form the principal basis for consideration of Time Extension pursuant to GCC clause 40 with or without levy of liquidated damages pursuant to GCC clause 26 and settlement of extra claims during the execution of contract:

1. The joint recordings in the the joint recordings in "Hindrance Register" and "Weekly Review Register".
2. Records of Technical Coordination Meetings.
3. Records of Contract Review meetings.
4. Written notices issued by the "Project Manager" or his authorized representative to Contractor in the relevant period.

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41. Suspension

41.1 The Employer/ Project Manager 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 Project Manager/ Employer.

If, by virtue of a suspension order given by the Project Manager/ Employer, 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 Project Manager requiring that the Employer shall, within twenty-eight (28) days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC Clause 39 (Change in the Facilities), excluding the performance of the suspended obligations from the Contract.

If the Employer fails to do so within such period, the Contractor may, by a further notice to the Project Manager, elect to treat the suspension, where it affects a part only of the Facilities, as a deletion of such part in accordance with GCC Clause 39 (Change in the Facilities) or, where it affects the whole of the Facilities, as termination of the Contract under GCC Sub-Clause 42.1 (Termination for Employer's Convenience).

41.2 If

(a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to Terms and Procedures of Payment mentioned in SCC, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of

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such sum, requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor's notice or

- (b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas in accordance with GCC Sub-Clause 10.2, or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities; then the Contractor may by fourteen (14) days' notice to the Employer suspend performance of all or any of its obligations under the Contract, or reduce the rate of progress.

41.3 If the Contractor's performance of its obligations is suspended or the rate of progress is reduced pursuant to this GCC Clause 41, then the Time for Completion shall be extended in accordance with GCC Sub-Clause 40.1, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension or reduction shall be paid by the Employer to the Contractor in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Contractor's default or breach of the Contract.

The Bank Guarantee and Insurance Charges for the extended period on account of delays attributable to the Employer shall be reimbursed at the following rates:

Rate applicable for reimbursement of BG Charges: 0.25% p.a. + GST, or actual, whichever is lower, subject to documentary evidence.

Rate applicable for Insurance Charges:

- 1) **Basic Rates***

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Sl No.	Extended Period	Rate
(i)	upto 6 months	0.4372 per thousand of Sum Insured
(ii)	exceeding 6 months but not exceeding 9 months	0.5406 per thousand of Sum Insured
(iii)	exceeding 9 months but not exceeding 12 months	0.6425 per thousand of Sum Insured
(iv)	exceeding 12 months but not exceeding 15 months	0.9743 per thousand of Sum Insured
(v)	exceeding 15 months but not exceeding 18 months	1.0762 per thousand of Sum Insured
(vi)	exceeding 18 months but not exceeding 21 months	1.1780 per thousand of Sum Insured
(vii)	exceeding 21 months but not exceeding 24 months	1.2799 per thousand of Sum Insured
(viii)	exceeding 24 months but not exceeding 30 months	1.7123 per thousand of Sum Insured
(ix)	exceeding 30 months but not exceeding 36 months	1.9148 per thousand of Sum Insured
(x)	exceeding 36 months but not exceeding 42 months	2.3473 per thousand of Sum Insured
(xi)	exceeding 42 months but not exceeding 48 months	2.5497 per thousand of Sum Insured
(xii)	exceeding 48 months	Insurance charges shall be mutually agreed with the contractor.

*Notes:

- (i) These rates are applicable for standard deductibles which is package specific.

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- (ii) The extension shall be done on the same terms and conditions as that of the original policy.
- (iii) The extension referred herein shall be the extension of insurance policy period and insurance charges shall be calculated as under: Say, extension is of 12 months, then insurance charges shall be reimbursed @ Rs 0.64 per thousand of Sum Insured; if extension is for 24 months then insurance charges shall be reimbursed @ Rs 0.96 per thousand of Sum Insured; and so on.
- (iv) The Insurance charges shall be reimbursable on the rates as above or actual, whichever is lower, subject to the documentary evidence.
- (v) Taxes shall be paid over and above the rates as indicated.

41.4 During the period of suspension, the Contractor shall not remove from the Site any Plant and Equipment, any part of the Facilities or any Contractor's Equipment, without the prior written consent of the Employer.

42. Termination

42.1 Termination for Employer's Convenience

42.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 42.1.

42.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 42.1.1, 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'

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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 GCC Sub-Clause 42.1.3, 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
 - (iii) deliver to the Employer all non-proprietary drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

42.1.3 In the event of termination of the Contract under GCC Sub-Clause 42.1.1, the Employer shall pay to the Contractor the following amounts:

- (a) the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination
- (b) the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the Site and in the repatriation of the Contractor's and its Subcontractors' personnel
- (c) any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges
- (d) costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe

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condition pursuant to paragraph (a) of GCC Sub-Clause 42.1.2

- (e) the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.

42.2 Termination for Contractor's Default

42.2.1 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 GCC Sub-Clause 42.2:

- (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 GCC Clause 43 (Assignment).
- (c) if the Contractor, in the judgement of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Sub-Clause:

“corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the

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Employer and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.

42.2.2 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 (other than pursuant to GCC Sub-Clause 41.2) 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 to execute and complete the Facilities in the manner specified in the program furnished under GCC Clause 18 (Program of Performance) at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended 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 GCC Sub-Clause 42.2.

42.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 42.2.1 or 42.2.2, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,

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- (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) 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 Works 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.

42.2.4 The Employer may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third party. The Employer may, to the exclusion of any right of the Contractor over the same, take over and use with the payment of a fair rental rate to the Contractor, with all the maintenance costs to the account of the Employer and with an indemnification by the Employer for all liability including damage or injury to persons arising out of the Employer's use of such equipment, 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 notice. The Contractor shall thereafter

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without delay and at its cost remove or arrange removal of the same from the Site.

42.2.5 Subject to GCC Sub-Clause 42.2.6, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities executed as at the date of termination, the value of any unused or partially used Plant and Equipment on the Site, 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 GCC Sub-Clause 42.2.3. 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.

42.2.6 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 GCC Sub-Clause 42.2.5, 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 GCC Sub-Clause 42.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due to the Contractor under GCC Sub-Clause 42.2.5, the Employer shall pay the balance to the Contractor.

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

42.3 Termination by Contractor

42.3.1 If

(a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to Terms and Procedures of Payment mentioned in SCC, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of

GENERAL CONDITION OF CONTRACT (GCC)

such sum, requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor's notice, or

- (b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities which the Employer is required to obtain as per provision of the Contract or as per relevant applicable laws of the country, then the Contractor may give a notice to the Employer thereof, and if the Employer has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Contractor is still unable to carry out any of its obligations under the Contract for any reason attributable to the Employer within twenty-eight (28) days of the said notice, the Contractor may by a further notice to the Employer referring to this GCC Sub-Clause 42.3.1, forthwith terminate the Contract.

42.3.2 The Contractor may terminate the Contract forthwith by giving a notice to the Employer to that effect, referring to this GCC Sub-Clause 42.3.2, if the Employer becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if 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 Employer takes or suffers any other analogous action in consequence of debt.

42.3.3 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, then the Contractor shall immediately

GENERAL CONDITION OF CONTRACT (GCC)

- (a) cease all further work, except for such work as may be necessary for the 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)
- (c) remove all Contractor's Equipment from the Site and repatriate the Contractor's and its Subcontractor's personnel from the Site
- (d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 42.3.4, 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 of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors
 - (iii) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

42.3.4 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, the Employer shall pay to the Contractor all payments specified in GCC Sub-Clause 42.1.3 and reasonable compensation for all loss or damage sustained by the Contractor arising out of, in connection with or in consequence of such termination.

42.3.5 Termination by the Contractor pursuant to this GCC Sub-Clause 42.3 is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights conferred by GCC Sub-Clause 42.3.

GENERAL CONDITION OF CONTRACT (GCC)

42.4 In this GCC Clause 42, the expression "Facilities executed" shall include all work executed, Installation Services provided, any or all Plant and Equipment 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.

42.5 In this GCC Clause 42, in calculating any monies 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 Terms and Procedures of Payment mentioned in SCC.

43. Assignment

43.1 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 thereunder, except that the Contractor shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

44. Bankruptcy

44.1 If the Contractor shall become bankrupt or have a receiving order made against him or compound with his creditors, or being a corporation commence to be wound up, not being a voluntary winding up for the purpose only of amalgamation / reconstruction, or carry on its business under a receiver for the benefit of its creditors or any of them, the Owner will be at liberty:

- (a) to terminate the contract forthwith by notice in writing to the liquidator or receiver or to any person in whom the contract may become vested & to act in the manner provided in GCC clause 42 entitled "Termination" as though the last mentioned notice has been the notice referred to in such clause and the equipment and materials have been taken out of the contractor's hands.
- (b) to give such liquidator, receiver or other person, the option of carrying out the contract subject to his providing a guarantee, for the due and faithful

GENERAL CONDITION OF CONTRACT (GCC)

performance of the contract up to an amount to be determined by the Owner.

45. Corrupt and Fraudulent Practices

45.1 The Employer requires that Bidders, Contractors and Suppliers observe the highest standard of ethics during the procurement and execution of the contracts. In pursuance of this policy, the Employer:

- (a) Defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition;
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing a contract of the Employer.

46 No Claim for interest or damage

46.1 Interest on money due to the contractor:

GENERAL CONDITION OF CONTRACT (GCC)

Contractor shall not be entitled to any interest or damage in case of any delay on the part of the Employer to pay the amount due upon measurement or as per Contract or otherwise. Contractor shall also not be entitled to interest upon any guarantee/ security/ retention money or payments in arrears or upon any balance which may on the final settlement of his account be due to him.

46.2 No claim for interest or damage:

No claim for interest or damage will be entertained or be payable by the Employer in respect of any amount or balance which may be lying with the Employer or may become due upon settlement/adjudication of any dispute, difference or misunderstanding between the parties by way of arbitration or court proceedings or otherwise or in respect of any delay or omission on the part of the Employer in making intermediate or final payment or in respect of any amount/damage which may be claimed through arbitration or court proceedings or in any other respect whatsoever.

47 Procedure of Contract Closing

Stage Closure of Contract

- 47.1 The Stage Closure of the Contract shall be effected after successful completion of Guarantee Test in accordance with GCC Clause 25.0. Subsequent to successful completion of Guarantee Test, the Contractor shall be responsible for completion of all pending obligations within the stipulated timelines as mentioned hereunder:

S. No	Contractor's Obligation	Timelines
01	Any inputs regarding Scope Change in accordance with GCC Clause 39.0 titled "Change in Facilities"	Within 01 month from the date of successful completion of Guarantee Test*
02	Submission of pending Engineering Documents/Drawings including O&M Manuals.	Within 01 month from the date of successful completion of Guarantee Test*
03	Contractor's compliance to all the pending points recorded in writing by the	Within 01 month from the date of successful completion of

GENERAL CONDITION OF CONTRACT (GCC)

S. No	Contractor's Obligation	Timelines
	Employer during Performance Guarantee Test.	Guarantee Test*
04	Any other obligations of the Contractor set forth in the Contract	Within 01 month from the date of successful completion of Guarantee Test.*

*In case Guarantee Test is not applicable in the Package, it shall be the last obligation as specified in the Work Schedule.

47.2 The Contractor shall ensure that all obligations pertaining to statutory requirement and labour payments set forth in the contract are completed and the compliance of the same shall be furnished by the Contractor to the Employer in the form of certificate as per the proforma enclosed at Section-VII (Forms and Procedures) – Forms for Stage Closing Activities not later than two (02) months from the date of completion of Guarantee Test.

47.3 Upon successful fulfilment of all the obligation of the Contractor pursuant to GCC Sub-Clause 57.1 and 57.2, the Employer shall require the Contractor to furnish a “No Demand Certificate” as per the format enclosed at Section-VII (Forms and Procedures) – Forms for Stage Closing Activities.

Final Closure of Contract

47.4 The final closing of the contract shall be effected after the warranty period / Defect Liability Period including extended warranty period if specified in SCC is successfully completed and the Performance Bank Guarantees including any Extended Warranty Security if specified in SCC of the Contractor is returned / discharged by the Employer to the Contractor.

SECTION – V

SPECIAL CONDITION OF CONTRACT (SCC)

Special conditions (SCC) No.	GCC Clause Ref. (if any)	Special Conditions								
<div>SECTION - V</div> <div>SPECIAL CONDITIONS OF CONTRACT</div> <div>The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Wherever there is a conflict, the provisions herein shall prevail over those in the GCC. The corresponding clause number of the GCC is indicated in parentheses.</div> <div>NAME OF PACKAGE: Supply, Installation, Commissioning of Solar Cold Storage at Senegal, Djibouti, Sudan and Seychelles</div>										
1.	Definitions (GCC Clause 1)	<div>Name and Address of the Employer:</div> <div>International Solar Alliance (ISA) Surya Bhawan, National Institute of Solar Energy Campus, Gwal Pahari, Faridabad-Gurugram Road, Gurugram, Haryana – 122003, India</div> <div>Details of the Recipient Country and Projects:</div> <table><tr><th colspan="2">Details of project Located in Senegal</th></tr><tr><td>Name of Project</td><td>Supply, Installation, Commissioning of Solar Cold Storage (5 MT) at Senegal</td></tr><tr><td>Project Location</td><td>Louga section of Niyaes region and 200 kms away from the port of Dakar (Capital of Senegal)</td></tr><tr><td>Recipient Country (Name and Address)</td><td>Aïssatou D. SONKO Responsable Coopération Direction de la Promotion et de la Coopération Agence Nationale pour les Energies Renouvelables 120 Cité Asecna Liberté 6 Extension-Dakar Tél. : +221 33 869 55 04/ Mob. : +221 77 790 36 21</td></tr></table>	Details of project Located in Senegal		Name of Project	Supply, Installation, Commissioning of Solar Cold Storage (5 MT) at Senegal	Project Location	Louga section of Niyaes region and 200 kms away from the port of Dakar (Capital of Senegal)	Recipient Country (Name and Address)	Aïssatou D. SONKO Responsable Coopération Direction de la Promotion et de la Coopération Agence Nationale pour les Energies Renouvelables 120 Cité Asecna Liberté 6 Extension-Dakar Tél. : +221 33 869 55 04/ Mob. : +221 77 790 36 21
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Special conditions (SCC) No.	GCC Clause Ref. (if any)	Special Conditions																				
		<table><tr><td></td><td>Email 1 : aissatou.sonko@aner.sn Email 2 : aissatoudsonko@hotmail.com</td></tr></table> <table><tr><th colspan="2">Details of project Located in Djibouti</th></tr><tr><td>Name of Project</td><td>Supply, Installation, Commissioning of Solar Cold Storage (2 x 2MT) at Djibouti</td></tr><tr><td>Project Location</td><td>Omar Jaga'a in ARTA prefecture and 67 kms away from the capital city Village of Dougoum, Region of Tadjourah</td></tr><tr><td>Recipient Country (Name and Address)</td><td>M.Souleiman ELMI IDRISSE Engineer in Electrical Energy System Head of Service of Rural Électrification ,Direction of Energy Ministry of Energy, in charge of Natural Resources, Republic of DJIBOUTI Mob: (+253) 77 87 04 60 Phone: (+253) 21 34 60 10 BP: 10010 Mail id: seikasoulami@gmail.com</td></tr></table> <table><tr><th colspan="2">Details of project Located in Sudan</th></tr><tr><td>Name of Project</td><td>Supply, Installation, Commissioning of Solar Cold Storage (5 MT) in Sudan</td></tr><tr><td>Project Location</td><td>Assunaytah, West kordofan Stat which is about (639) km from Khartoum capital of Sudan</td></tr><tr><td>Recipient Country (Name and Address)</td><td>Eng. Zeinab Mohamed Hassan Mahgoub Sudan NFP - ISA Fellow-IITD First Batch Renewable Energy Directorate, Senior Engineer Sudanese Holding Company, Sudan Whatsapp : +91-7289063983 Mob : +49-918315141</td></tr></table> <table><tr><th colspan="2">Details of project Located in Seychelles</th></tr></table>		Email 1 : aissatou.sonko@aner.sn Email 2 : aissatoudsonko@hotmail.com	Details of project Located in Djibouti		Name of Project	Supply, Installation, Commissioning of Solar Cold Storage (2 x 2MT) at Djibouti	Project Location	Omar Jaga'a in ARTA prefecture and 67 kms away from the capital city Village of Dougoum, Region of Tadjourah	Recipient Country (Name and Address)	M.Souleiman ELMI IDRISSE Engineer in Electrical Energy System Head of Service of Rural Électrification ,Direction of Energy Ministry of Energy, in charge of Natural Resources, Republic of DJIBOUTI Mob: (+253) 77 87 04 60 Phone: (+253) 21 34 60 10 BP: 10010 Mail id: seikasoulami@gmail.com	Details of project Located in Sudan		Name of Project	Supply, Installation, Commissioning of Solar Cold Storage (5 MT) in Sudan	Project Location	Assunaytah, West kordofan Stat which is about (639) km from Khartoum capital of Sudan	Recipient Country (Name and Address)	Eng. Zeinab Mohamed Hassan Mahgoub Sudan NFP - ISA Fellow-IITD First Batch Renewable Energy Directorate, Senior Engineer Sudanese Holding Company, Sudan Whatsapp : +91-7289063983 Mob : +49-918315141	Details of project Located in Seychelles	
	Email 1 : aissatou.sonko@aner.sn Email 2 : aissatoudsonko@hotmail.com																					
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Special conditions (SCC) No.	GCC Clause Ref. (if any)	Special Conditions
2.	Order of Precedence	<p>Address of the International Solar Alliance Secretariat, Surya Bhawan, National Institute of Solar Energy Campus, Gwal Pahari, Faridabad-Gurugram Road, Gurugram, Haryana – 122003, India</p> <p>The following documents shall constitute the Contract between the Employer and the contractor, and each shall be read construed as an integral part of the contract:</p> <ul style="list-style-type: none"> (a) Letter of Award and appendices (b) Special Conditions of contract (c) General Conditions of contract (d) Technical Specifications (e) The Bid and Price Schedules submitted by the contractor (f) Procedures (as listed) <p>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 above.</p>
3	Time for Commencement and Completion (GCC Clause 8)	
	GCC 8.2	Time schedule for completion of Facilities shall be five (05) months from the date of LOA.
4	GCC 11.2	The Contract Price shall remain FIRM during entire period of contract.
5.	Terms of Payment	

Special conditions (SCC) No.	GCC Clause Ref. (if any)	Special Conditions
6	(GCC 12)	The Terms and Procedures of Payment shall be as enclosed at Annexure-I to SCC.
6.1	GCC 13.3.1	<p>Contract Performance Security</p> <p>Add new para under GCC Clause 13.3.1 as below:</p> <p>Further, the Contractor shall, within ninety (90) days of the completion of defect liability period, provide security towards extended warrantee as per GCC 27.10, for five percent (5%) of the total Contract Price, with an initial validity up to ninety (90) days beyond the end of extended warrantee Period. However, in case of delay in completion of the extended warranty period, the validity of above bank guarantee shall be extended by the period of such delay.</p>
6.2	GCC 13.3.3	<p>Add new GCC Clause 13.3.3 as below:</p> <p>The Contractor also has the option for Security Deposit instead of Bank Guarantees by making a request to employer within thirty (30) days of the Letter of Award. In such case, the Employer shall at the time of making any payment to him for the work done under the Contract deduct towards the Contract Performance Security an amount equivalent to 20% of the gross bill amount accepted for payment until the Contract Performance Security so deducted becomes equal to 10% of the Contract Price. The Contractor at any time during currency of contract may convert the security deposit amount into a Bank Guarantee.</p>
6.3	GCC 13.3.4	<p>Add GCC Clause 13.3.4 as below:</p> <p>Contract performance security shall be released to the contractor after completion of 90 days beyond defect liability period (or extension thereof) subject to submission and acceptance of Security towards extended warrantee. Security towards extended warrantee shall be released to the contractor after completion of extended warranty (or extension thereof) as per GCC clause 27.10.</p> <p>In case contractor has opted for Security deposit instead of Bank Guarantee as per GCC clause 13.3.3, 50% of the security deposit shall be released after completion of 90 days beyond</p>

Special conditions (SCC) No.	GCC Clause Ref. (if any)	Special Conditions
7.	GCC 13.4	<p>defect liability period (or extension thereof) and balance 50% after completion of extended warranty (or extension thereof) as per GCC clause 27.10</p> <p>Add GCC Clause 13.4 as below:</p> <p>a) All BGs should be from the Bank as per the list of Banks enclosed at Annexure-2 to SCC.</p> <p>b) All BGs except BG issued by a Bank outside India, shall be received from issuing Bank directly through post/ courier, by Unified Treasury, Dadri at below mentioned address:</p> <p style="text-align: center;">Unified Treasury (BG Group) Administrative Building, NCPS, Dadri NTPC Limited, PO. Vidyut Nagar Distt: Gautam Budh Nagar, Uttar Pradesh- 201008</p> <p>A BG issued by a Bank outside India needs to be submitted by the Bidder directly to the PMC as defined in SCC. The BG also needs to bear stamp duty of appropriate value applicable to the place in PMC where BG is to be submitted. The BG may be got adjudicated by the PMC from Collector of Stamps, within 3 months of arrival of BG in India. Expenses incurred in this regard shall be adjusted from the payment due to the contractor.</p> <p>c) A soft copy of the BG is mandatorily required to be mailed to Unified Treasury Group at ubg@ntpc.co.in by the issuing Bank.</p> <p>d) Confirmation of BGs through Structured Financial Messaging System (SFMS)/SWIFT While issuing the physical BGs, the Bidder's Bank shall also send electronic message through secure SFMS (in case of BGs issued from within India) or SWIFT (in case of BGs issued from outside India) to Employer's Beneficiary Bank whose details are provided herein below:</p> <ul style="list-style-type: none"> • Bank Name: ICICI Bank Limited • Branch: CONNAUGHT PLACE BRANCH

Special conditions (SCC) No.	GCC Clause Ref. (if any)	Special Conditions
8.	Completion Time Guarantee (GCC Clause 26) GCC 26.2	<ul style="list-style-type: none"> Bank Address: 9A, PHELPS BUILDING, INNER CIRCLE, NEW DELHI- 110001 IFSC Code: ICIC0000007 <p>BG issuing/amending bank must send the BG advice in the form of message format via SFMS (Structured Financial Messaging System) as provided by RBI. The format of the message for confirmation of the BG shall be as below:</p> <p>BG advising message: IFN 760COV/ IFN 767COV via SFMS Field Number: Particulars (to be mentioned in Row 1) 7037: NTPCBG (unique identifier)</p> <p>e) All Bank Guarantees should be enforceable for minimum ninety (90 days) after expiry of its validity.</p> <p>f) Extension of all BGs should be on Stamp paper of same value as that of the original BG. Minimum extension of any BG should be three months.</p> <p>Applicable rate for liquidated damages</p> <p>(A) Liquidated Damages for Delay in Commissioning shall be as under:</p> <p>If the Contractor fails to successfully achieve commissioning of the Project within five (05) months from the date of LOA as per time schedule specified in the Bidding Documents, the Contractor shall pay to the Employer as Liquidated Damages and not as penalty, a sum calculated as follows:</p> <p><i>“½ % (half percent) of the contract price per week subject to a maximum of 3 % (three Percent) of the total Contract Price.”</i></p> <p>(B) Liquidity Damage for System Breakdown:</p>

Special conditions (SCC) No.	GCC Clause Ref. (if any)	Special Conditions
9.	GCC Clause 27.10	<p>The contractor shall ensure that the system can be made functional within ten days from the communication in writing/email of breakdown of the system during the standard warrantee and extended period. If the contractor is not able to address the issue within the timeframe due to reasons attributable to contractor, damages and not as penalty shall be recovered at USD 50 for each day of delay per incident after abovementioned timeframe of 10 days. The recovery shall be subject to a maximum of 5 % (Five Percent) of the total Contract Price.</p> <p>(C) Total liquidity damage as mentioned in (A) and (B) above shall be subject to a ceiling of maximum of 5 % (Five Percent) of the total Contract Price.</p> <p>In addition, the Contractor shall also provide an extended warranty of two (02) years for the complete facilities as specified in the Technical Specifications. Such obligation shall be in addition to the defect liability specified under GCC Sub-Clause 27.2.</p>
10.	Insurance GCC 34.1	<p>In accordance with the provisions of GCC Clause 34, the Contractor shall at his expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth in Sl. No. I) of Annexure-3 to SCC in the sums and with the deductibles and other conditions specified therein</p>
10.1	GCC 34.5	<p>The Employer shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in Sl. No. II) of Annexure-3 to SCC.</p>
11.	General	<p>In particular it is expressly understood and agreed that the Government 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 PMC is an Independent legal entity. The Contractor expressly agrees, acknowledges and understands that the PMC is not an Agent, Representative or Delegate of the Govt. of India. It is further understood and</p>

Special conditions (SCC) No.	GCC Clause Ref. (if any)	Special Conditions
12.	GCC 19	<p>agreed that the Government 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 expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this Contract between Employer and contractor and covenants not to sue the Government of India as to any manner, claim, cause of action or thing whatsoever arising of or under this Agreement between Employer and contractor.</p> <p>Subcontracting</p> <p>Add GCC Clause 19.3 as below:</p> <p>After award of the contract, the contractor shall submit details of all major items of supply or services that it proposes to purchase or sublet along with details such as name and nationality of the proposed Subcontractor and vendor, for each of those items and services.</p> <p>The Employer reserves the right to accept/reject any proposed Subcontractor/ Vendor.</p> <p>After discussion between the Employer and the Contractor, listing of the approved Subcontractor(s) / Vendor(s) for each item shall be completed.</p>

TERMS AND PROCEDURES OF PAYMENT

In accordance with the provisions of GCC Clause 12 (Terms of Payment), the Employer shall pay the Contractor in the following manner and at the following times, on the basis of the Price Schedules. Payments will be made in the currencies quoted by the Bidder unless otherwise agreed between the parties.

TERMS OF PAYMENT

1. Forty percent (40%) of the total contract price shall be paid on:
 - a. Un-conditional acceptance of Letter of Award by the Contractor
 - b. Submission by the Contractor of an unconditional Bank Guarantee(s) towards Performance Security(s) initially valid up to ninety (90) days after the end of standard warranty period of all equipment covered under Contract Or consent for deduction of Security Deposit (SD) , at the time of making payments to contractor for the work done under the Contract, towards the Performance Security an amount equivalent to 20% of the every bill(s) subject to ceiling of 10% of the Contract Price.,

and
 - c. Dispatch of all plant and equipment including mandatory spares identified in the contract and on production of invoices and satisfactory evidence of shipment which shall be original Bill of Lading /Goods Receipt/ LR /Rail Receipt including Pre - Dispatch Clearance Certificate (if mentioned in Technical Specification) issued by the Employer. In this regard, the Contractor shall prepare and submit to the Employer for approval, a complete Bill of Quantities of all plant and equipment including mandatory spares to be supplied to fulfill the obligations identified in the contract. Any payment under the Contract shall be made only after the Contractor's price break-up (if applicable) is approved by the Employer.
2. Twenty percent (20%) of the total contract price shall be paid on receipt of all plant and equipment including mandatory spares identified in the contract and physical verification & certification by the Employer of having the equipment received and stored at site.
3. Thirty percent (30%) of the total contract price shall be paid on Completion of the Facilities including all associated auxiliaries and ancillary works and issuance of Completion Certificate by the Employer.
4. Ten percent (10%) of the total contract price shall be paid on successful completion of acceptance test as per parameters specified in the Technical Specifications and issuance of Operational Acceptance Certificate by the Employer.

Notes:

All payments shall be disbursed upon successful completion of individual milestone as specified above. The Request for Disbursement shall be submitted to the Project Manager duly signed by the Authorized Signatory from Recipient Country. Further, any request for disbursement of the Grant or any part thereof will be accompanied by a Utilization Certificate. The Utilization Certificate will be issued by the supreme audit institution of Recipient Country or by the Ministry / Department in charge of Finance in Recipient Country in the absence of a dedicated audit institution and will be submitted along with sufficient evidence of project/work completion to the satisfaction of ISA for the release of the Grant or any part thereof.

1. Application for Payment

- 1.1 The Contractor shall submit application for the payment in the to the Project Manager along with all necessary documents.
- 1.2 Each such application shall state the amount claimed and shall set forth in details the order of the Payment Schedule, particulars of the Facilities / milestones executed, including Facilities executed at Site and of the equipment shipped/brought on to the Site pursuant to the Contract upto the date mentioned in the application and for the period covered since the preceding certificate, if any.
- 1.3 Every interim payment certificate shall certify the milestones executed upto the date mentioned in the application for the payment certificate, provided that no sum shall be included in any interim payment certificate in respect of the Facilities that according to the decision of the Project Manager, does not comply with the Contract or has been performed at the date of certificate prematurely.

2. Due Dates for Payment

- 2.1 Employer will make progressive payments as and when the payment is due as per the Terms of Payment. Progressive payment will become due and payable by the Employer within Thirty (30) days from the date of recommendation by Project Manager based on the receipt of Contractor's bill/ invoice/ debit note, provided that the documents submitted are complete in all respects.
- 2.2 In cases of any discrepancy observed by the Project Manager in Contractor's bill, clarifications shall be sought in writing by the Project Manager within ten (10) days from the date of receipt of Contractor's bill/invoice/debit note by the Project Manager. The Contractor shall be required to submit the requisite clarifications within ten (10) days from the date of issuance of queries by the Project Manager. In case, no mutual agreement is reached between the Project Manager and the Contractor on any part of the bill/invoice, within ten (10) days of submission of clarification by the Contractor, the Contractor shall issue a revised bill/invoice. Payment against agreed and admissible part shall be processed as per payment procedure within ten (10) days after receipt of the revised bill/invoice. The bill/invoice for the balance amount under question may be separately submitted for consideration of the Project Manager after resolution of issues of payment by the Project Manager. In case of non- submission of satisfactory clarification by the Contractor within the stipulated period, Project Manager shall not be liable for the delay in making payment. If the bill submitted by Contractor is incorrect and has gross discrepancies, the bill shall be summarily rejected and returned to the Contractor. In the event of dispute, the same shall be settled as per GCC Clause (Settlement of Disputes).

3. Mode of Payment

All the payments shall be made directly to the Contractor by the Employer based on the Project Manager recommendations.

Based on the authorization from the contractor, Employer may also consider the direct payment to the sub-contractor(s)/ Sub-vendor(s) from the due payments to the contractor.

**LIST OF BANKS ACCEPTABLE FOR SUBMISSION
OF BANK GUARANTEE (As per PMC country)**

SCHEDULED COMMERCIAL BANKS

A STATE BANK OF INDIA

B NATIONALISED BANKS

1. Allahabad Bank
2. Andhra Bank
3. Bank of India
4. Bank of Maharashtra
5. Canara Bank
6. Central Bank of India
7. Corporation Bank
8. Dena Bank
9. Indian Bank
10. Indian Overseas Bank
11. Oriental Bank of Commerce
12. Punjab National Bank
13. Punjab & Sind Bank
14. Syndicate Bank
15. Union Bank of India
16. United Bank of India
17. UCO Bank
18. Vijaya Bank
19. Bank of Baroda

C SCHEDULED PRIVATE BANKS (INDIAN BANKS)

- | | |
|-----|------------------------------|
| | |
| 1. | Catholic Syrian Bank |
| 2. | City Union Bank |
| 3. | Dhanlaxmi Bank Ltd. |
| 4. | Federal Bank Ltd |
| 5. | Jammu & Kashmir Bank Ltd |
| 6. | Karnataka Bank Ltd |
| 7. | Karur Vysya Bank Ltd |
| 8. | Lakshmi Vilas Bank Ltd |
| 9. | Nainital Bank Ltd |
| 10. | Kotak Mahindra Bank |
| 11. | RBL Bank Limited |
| 12. | South Indian Bank Ltd |
| 13. | Tamilnad Mercantile Bank Ltd |
| 14. | ING Vysya Bank Ltd |
| 15. | Axis Bank Ltd. |
| 16. | IndusInd Bank Ltd |
| 17. | ICICI Bank |
| 18. | HDFC Bank Ltd. |
| 19. | DCB Bank Ltd |
| 20. | Yes Bank Ltd |
| 21. | IDFC Bank Limited |
| 22. | Bandhan Bank Limited |

D SCHEDULED PRIVATE BANKS (FOREIGN BANKS)

1. Abu Dhabi Commercial Bank PJSC
2. Bank of America NA
3. Bank of Bahrain & Kuwait B.S.C.
4. Mashreq Bank p.s.c.
5. Bank of Nova Scotia
6. Crédit Agricole Corporate and Investment Bank
7. BNP Paribas
8. Barclays Bank
9. Citi Bank N.A.
10. Deutsche Bank A.G.
11. The HongKong Shanghai Banking Corporation Ltd
12. Societe Generale
13. Sonali Bank Ltd.
14. Standard Chartered Bank
15. J.P. Morgan Chase Bank, National Association
16. State Bank of Mauritius Ltd.
17. DBS Bank Ltd.
18. Bank of Ceylon
19. PT Bank Maybank Indonesia TBK
20. A B Bank
21. Shinhan Bank.
22. CTBC Bank Co. Ltd.
23. Mizuho Bank Ltd
24. Krung Thai Bank Public Company Ltd.

25. The Bank of Tokyo-Mitsubishi UFJ Limited.
26. Austalia & Newzealand Banking Group Limited
27. Sumitomo Mitsui Banking Corporation
28. American Express Banking Corporation
29. Credit Suisse A.G.
30. FirstRand Bank Ltd.
31. Industrial & Commercial Bank of China Ltd.
32. JSC VTB Bank
33. National Australia Bank
34. Cooperatieve Rabobank U.A.
35. Sberbank
36. United Overseas Bank Ltd.
37. Westpac Banking Corporation
38. Woori Bank
39. The Royal Bank of Scotland plc
40. Doha Bank Qsc
41. Industrial Bank of Korea
42. KEB Hana Bank
43. First Abu Dhabi Bank PJSC
44. Emirates NBD Bank (P.J.S.C.)
45. Qatar National Bank SAQ

E OTHER PUBLIC SECTOR BANKS

1. IDBI Bank Ltd

*In case, Bank Guarantee is getting issued from State Bank of India, Bidder to take note of NTPC letter ref. NTPC/FC/CS/BG/01 dated 03.09.2014 and SBI letter ref. CAG-I/AMT-1/2014-15/370 dated 04.09.2014 enclosed herewith.



एन टी पी सी लिमिटेड
(भारत सरकार का उद्यम)

NTPC Limited
(A Govt. of India Enterprise)

केन्द्रीय कार्यालय/Corporate Centre

Date : 03rd September 2014

Ref. No.: NTPC/FC/CS/BG/01

Deputy General Manager,
State Bank of India,
CAG Branch,
12 th floor, Jawahar Vyapar Bhavan, 1, Tolstoy Marg,
New Delhi 110 001

Kind Atten: Sh. Sandeep Mishra

Sub: Format of the Bank Guarantee (BG) issued by State Bank of India – reg.

Dear Sir,

NTPC Limited is India's largest Power Company and a 'Maharatna PSU' with a significant presence in the entire value chain of power generation business. The procurement process of NTPC requires its participating Bidders to submit Bank Guarantees (BGs) as Bid security/other securities in a fixed format provided by NTPC.

It has been observed recently that BGs issued by various branches of State Bank of India are inserting the following additional clause.

QUOTE

Notwithstanding anything contrary contained in any law for the time being in force or banking practice, this guarantee shall not be assignable or transferable by the beneficiary. Notice or invocation by any person such as assignee, transferee of agent of beneficiary shall not be entertained by the bank. Any invocation of guarantee can be made only by the beneficiary directly.

UNQUOTE

The inclusion of the aforesaid clause in the BGs restricts the rights of NTPC under the BG and it may not be possible for NTPC to accept the aforesaid clause in the BGs submitted to us by our Bidders. It may also be mentioned that incorporation of the above additional clause in the BG results in the BG being returned by NTPC and consequently rejection of the bids of parties that have submitted such BGs.

In view of the above, it is requested that please take up at appropriate levels so that suitable instructions are issued to all your branches not to incorporate any such additional clause and henceforth BGs may be issued strictly as per NTPC format only.

Kindly acknowledge the receipt of this letter

Yours faithfully,

(K.P.Gupta)
General Manager (Finance)

Copy for Kind information: ED(CC&M) for kind info of u.s.

एन टी पी सी भवन स्कोप कॉम्प्लेक्स, 7, इंस्टीट्यूशनल एरिया, लोधी रोड, नई दिल्ली-110003 टेल/Tel.: 24360100, फैक्स/Fax: 011-24361018
NTPC Bhawan, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003, वेबसाइट/Website: www.ntpc.co.in



भारतीय स्टेट बैंक
State Bank of India

कॉरपोरेट लेखा समूह शाखा, जवाहर व्यापार भवन,
11-12 वां तल, 1, टॉलस्टोय मार्ग, नई दिल्ली-110 001
Corporate Accounts Group Branch, Jawahar Vyapar Bhawan,
11th & 12th Floor, 1, Tolstoy Marg, New Delhi-110 001

Tel. : 23374525, 23374505, 23374541 (AMT-1), 23353022 (DGM & COO), 23701043, 23359506 (A & A), 23352995 (CS), 23352968 (IB)
Fax : 23353101 (Sectt.), 23352793 (CS), 23353029 (IB)

Shri K.P. Gupta,
General Manager (Finance),
NTPC Limited
Scope Complex, 7, Institutional Area,
Lodhi Road,
New Delhi: 110 003.

CAG-I/AMT-1/2014-15/370

04.09.2014

Dear Sir,

Format of the Bank Guarantee (BG) issued by State Bank of India

We refer to your letter dated 3rd September 2014 wherein you have requested for excluding bidders/vendors of NTPC from insertion of additional Clause restraining assignment/transferability of BG.

Looking at our relationship with NTPC, as a very special case, we have since obtained waiver from our Authorities for excluding NTPC from insertion of the referred clause for BGs issued in your favour.

We are taking steps to issue suitable instructions to our offices for exclusion of this clause for BGs issued in favour of NTPC. In case any bidder or vendor submits to you a Bank Guarantee issued by any of our Branches containing the additional clause as mentioned above, request you to please bring it to our notice and advise us so that we can take-up with the concerned Branch for excluding it.

This is for your information and necessary action please.

Yours faithfully,


(Sandeep Mishra)

Deputy General Manager &
Relationship Manager, AMT-1

(I) Insurance to be taken by the Contractor :

In accordance with the provisions of GCC Clause 34, the Contractor shall at his expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified herein. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, such approval not to be unreasonably withheld.

Insurance	Amount insured	Deductible	Conditions
A. Marine Cargo	(i) 110% of CIF value in case of Plant and Equipment including all spare parts and Type Tests Charges to be supplied from abroad/110% of Ex-works value in case of plant & equipment and Type Tests Charges including all spare parts manufactured within the Recipient's Country. (ii) Applicable taxes and duties (iii) Escalation 5% on (i) & (ii)	Not applicable	(i) Employer to be named as coinsured (ii) Open policy (iii) All risk institute cargo clause 'A' (iv) War, SRCC, terrorism. (v) Institute replacement clause, special replacement clause (Air duty) and deferred unpacking clause (vi) Insurers right of subrogation against all parties (excluding carrier) waived. (vii) Warehouse to warehouse basis.
B. Installation all risk	(i) 110% of CIF value plus 110% of Ex-works value of plant & equipment including Type Test Charges (ii) Applicable taxes and duties (iii) Cost of indigenous procurement and free issue materials (iv) 10% escalation on (i) (ii) & (iii) (v) Cost of erection works	Minimum as per insurance policy	(i) Installation risk, RSMTD, (ii) Air freight cover. (iii) Extra charge cover. (iv) Maintenance cover (v) Contractor's plant & machinery - Rs. 100 lakhs. (vi) Cross liability. (vii) Additional custom duty for imported machine (if any) for adequate value. (viii) Employer & Contractor's Sub-Contractor to be named as co-insured.
C. Third Party liability (Extension of MCE/EAR Policy)	For any one occurrence Rs. 50.00 lakhs	Nil	(i) Contractors, sub-contractors to be named as co-insured.

Insurance	Amount insured	Deductible	Conditions
D. Automobile liability			
(i) M.V. policy for motor vehicles, private cars & commercial vehicles		-----	As per local M.V. Act.
(ii) CPM policy for heavy construction equipment	Anything above Rs.100 lakhs covered under erection all risk policy		
E. Workmen's Compensation	-----	As per statute	-----
F. Employer's liability	-----	As per statute	Cumulative to workmen's compensation to cover liability not covered thereby.
G. Group personal insurance, for contractor's & sub-contractor's employees			

Note :

- The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC 34.1 except for Third Party Liability, Workman's Compensation and Employer's Liability Insurances and the Contractor's Sub-Contractors shall be named as co-insured under all insurances policies taken out by the Contractor pursuant to GCC 34.1, except for the Cargo insurance during transport, Workman's Compensation and Employer's Liability Insurances. All insurers rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.
- Notwithstanding the insurance requirements mentioned above, it would be the Contractor's responsibility to take adequate insurance cover as may be pertinent to protect his interest and interest of the Employer. If at any point of time during execution of the Contract, the insurance policies are found to be inadequate, the Contractor shall take fresh insurance policies meeting aforesaid requirements. The Employer reserves the right to make suitable recovery from the Contractor, if any.

Upon grant of extension of time for completion by Employer; the Contractor shall promptly furnish documentary evidence to Project Manager towards extension of insurance policies for the period of time extension.

3. Any loss or damage to the plant and equipment during handling, transportation, storage, installation, commissioning, and all activities to be performed till the "Completion of Facilities" shall be to the account of the contractor. The contractor shall be responsible for preference of all claims and make good the damages or loss by way of repairs and/or replacement of plant and equipment damaged or lost. Notwithstanding the extent of insurances cover and the amount of claim available from the underwriter, the contractor shall be liable to make good the full replacement/rectification of all the equipment/materials and to ensure their availability as per project requirement without additional financial liability to the Employer.

The insurance should be in freely convertible currency and insurance policy to be taken should be on replacement value basis and/or incorporating appropriate insurance clause.

The Contractor shall follow local acts and laws as may be prevalent for insurance.

II) Insurances to be taken by the Employer.

The Employer shall take the insurance for its own employees, its stores and its machinery.

BIDDING DOCUMENTS

SECTION – VII BOOK 1 OF 3

**Bid Form & Attachments
(Techno-Commercial Bid)**

(This document is meant for the exclusive purpose of bidding against this Bid Document No. / Specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued).

BID FORM

To
PMC

1.0 Having examined the Bidding Documents including subsequent amendments and clarifications if any, the receipt of which is hereby acknowledged, we the undersigned, hereby furnish our Techno-Commercial Bid.

2.0 **Attachments to the Techno Commercial Bid form:**

In line with the requirement of the Bidding Documents we are enclosing all relevant information as Attachments

3.0 **CONSTRUCTION OF THE CONTRACT**

We declare that we have studied bid documents relating to mode of contracting and we are making this proposal with a stipulation that you shall award us contract in the form of Letter of Award(s) (LOA) as per provisions of the bidding documents. Issue of LOA shall constitute formation of Contracts.

4.1 **COMPLIANCE TO THE PROVISION OF THE BIDDING DOCUMENTS**

4.2 We have read all the provision of the Bidding Documents and confirm that notwithstanding anything stated elsewhere in our bid to the contrary, the provisions of the Bidding Documents are acceptable to us and we further confirm that we have not taken any deviation to provision of the Bidding Documents anywhere in our bid.

We have furnished our compliance to the provisions of the Bidding Documents and its subsequent Amendment(s)/ Clarification(s)/ Addenda/ Errata by accepting the following condition at the e-tender portal:

“ Do you certify compliance to all provisions of Bid Doc?”

Acceptance of above at the e-tender portal shall be considered as our confirmation that any deviation, variation or additional condition etc. or any mention, contrary to the provisions of Bidding Documents and its subsequent Amendment(s)/ Clarification(s) /Addenda/Errata (if any) found anywhere in our bid proposal implicit or explicit shall stand unconditionally withdrawn, without any cost implication whatsoever to the Employer, failing which our bid security shall be forfeited.

4.3 We further declare that additional conditions, variations, deviations to the provisions of Bidding Documents and its subsequent Amendments/Clarifications/Addenda/Errata, if any, found in our bid, shall not be given effect to.

4.4 We have furnished our compliance on “Qualifying Requirements” of Employer by accepting the following conditions at the e-tender portal:

“Do you certify full compliance on Qualifying Requirements?”

5.0 We undertake, if our bid is accepted, to commence work on the Facilities immediately upon issue of Letter of Award to us and to achieve Completion of Facilities within the time specified in the Bidding Documents and provide standard warranty.

6.0 If our bid is accepted, we undertake to provide Contract Performance Securities in the form

and amounts and within the times specified in the Bidding Documents Or as per provisions of the bidding documents, we shall communicate to choose option of Security Deposit.

- 7.0 We agree to abide by our this Techno-Commercial bid including the Price Bid during the period of its validity for a period 180 days from the date of opening of Techno-Commercial Bids as stipulated in the Bidding Documents, unless extended by us on your request and it shall remain binding upon us and may be accepted by you at any time before expiration of that period.
- 8.0 We understand that you are not bound to accept our bid or any other bid you may receive.
- 9.0 We, hereby, declare that only the persons or firms interested in this proposal as principals are named here and that no other persons or firms other than those mentioned herein have any interest in this proposal or in the Contract to be entered into, if the award is made on us, that this proposal is made without any connection with any other person, firm or party likewise submitting a proposal, is in all respects for and in good faith, without collusion or fraud.

Dated this.....day of20.....

Thanking you,

Yours faithfully,

Date :

(Signature).....

Place :

(Name).....

(Designation).....

Business Address :_____

Email id:

Mobile No. :

Phone No.:

BID SECURITY

NOT APPLICABLE

POWER OF ATTORNEY

BIDDER TO ATTACH THE POWER OF ATTORNEY IN ACCORDANCE WITH CLAUSE 8.2. (b) OF ITB

(BOARD RESOLUTION IN FAVOUR OF AUTHORIZED SIGNATORY ALSO TO BE ENCLOSED)

A Power of Attorney (POA) indicating that the person(s) signing the bid has/have the authority to sign the bid and thus that the bid is binding upon bidder during the full period of its validity in accordance with the ITB. **Bidders may note that no prescribed proforma has been enclosed for POA.**

Copy of POA to be furnished/ submitted at the e-tender portal. **Bidders may note that Employer may at any time ask for original physical copy of POA.**

ATTACHMENT - 3A-1**(Details Pertaining to Technical Qualification of the Bidder)**

(A) To Satisfy the requirements specified in Clause 1.1 of the Qualifying Requirements, under Item No 3.0 of Bid Data Sheet, we give below the following details:

We, declare that we have supplied, installed/got installed and commissioned Solar cold storage of total cumulative capacity of 25 MT. The reference plants of a cumulative minimum capacity of 10 MT is in successful operation for at least one-year from the date of commissioning prior to the techno-commercial bid opening date.

Details of reference plants to meet the qualification requirements are mentioned below:

Sl.No.	Description of work	Name of Client with full address, Email & Tel. No.	Name of the Plant with its location	Capacity of the plant (MT) (Minimum capacity 2 MT)	Date of Commissioning	Period of Successful Operation (in months)
Plant 1						
Plant 2						
Plant 3						
Plant 4						
Plant 5						
Plant 6						
Plant 7						
..						
..						

Continuation sheets of like size and format may be used and annexed to this Attachment if required.

We further confirm that notwithstanding anything stated above, the PMC/Employer reserves the right to undertake a physical assessment of the capacity and capabilities including financial capacity and capability of the Bidder to perform the Contract, should the circumstances warrant such assessment in the overall interest of the Employer.

Note:

1. The reference plants as per QR clause 1.1 should consist of system of minimum 2MT capacity at a single location for a client.
2. We have submitted certificate of successful completion and operation, as per Technical Criteria 1.1, from the Owner
3. We are a legal entity, duly incorporated/registered under the laws of our country of domicile in one of the member/signatory countries of ISA as on the date of techno-commercial bid submission. Supporting documents in this regard are enclosed.
3. The reference plants / installations whose details have been declared as per the specified format in this Attachment-3 above shall only be considered to ascertain the bidder's compliance to Qualifying Requirement (QR).
4. The PMC at its discretion may seek clarification and / or documentary evidence only for the reference plants / installations as mentioned above. However, no change or substitution of the reference plants by new / additional plant for conforming to the specified Qualifying Requirement shall be sought, offered or permitted.
5. Bidder to ensure that certificate issued by the client covers / includes all parameters of QR.
6. As specified in the BDS 3.0, we have submitted Appendix-I to Attachment-3A1/ Appendix-II to Attachment-3A1 for Authentication of veracity of documents submitted.

Name and Signature of Bidder

Appendix-I to Attachment-3A1

Undertaking from Independent Statutory Auditor

(On letter head digitally signed by a person duly authorized to Sign on behalf of the Statutory Auditor)

Bid Ref. No:

DATE:

To,
NTPC Ltd.

.....

Subject: Authentication of veracity of documents submitted by M/s in support of meeting the Qualifying Requirements

Ref: IFB/Tender no.
Name of the Package/ Tender:

Dear Sir,

M/s. (hereinafter called Bidder) having Registered office at..... intend to participate in above referred tender of NTPC Ltd.

We, M/s has been appointed as Statutory Auditor for the Bidder i.e. M/s (Relevant documents on our appointment attached)

The tender condition stipulates that the bidder shall submit supporting Documents pertaining to Technical Qualifying Requirement duly verified and certified by Statutory Auditor.

In this regard, it is hereby confirmed that we have examined the following documents, which are also attached with this letter. The same has been verified from the Original Documents and/ or Client for authenticity.

We hereby confirm that the following documents are found to be genuine and authentic.

1. Doc ref. no. dated (name of Documents)
2. Doc ref. no. dated (name of Documents)
3.

All the aforesaid documents have been duly signed and stamped and/ or digitally signed by us as a certificate of authenticity.

*Further, we have examined the books of accounts, records, and other relevant documents, along with other necessary information and explanations furnished by M/s. (bidder) and hereby certify following:

.....

This certificate is issued at the request of M/s (Bidder) for the purpose of participating in tender/s.

Thanking you,

.....

** Strike off, whichever is not applicable.*

Appendix-II to Attachment- 3A1

Undertaking from Third Party Inspection Agency

(on letter head digitally signed by a person duly authorized to Sign on behalf of the TPIA)

Ref.: _____ Date: _____

To,
NTPC Ltd.

.....Dear

Sir,

Subject: Authentication of veracity of documents submitted by M/s in support of meeting the Qualifying Requirements

Ref : IFB/Tender no.
Name of the Package/ Tender:

M/s. (hereinafter called Bidder) having Registered office at intend to participate in above referred tender of NTPC Ltd.

The tender condition stipulates that the bidder shall submit supporting Documents pertaining to Qualifying Requirement duly verified and certified by a specified independent Third Party Inspection Agency as per the list mentioned in the bidding documents.

In this regard, it is hereby confirmed that we have examined the following documents, which are also attached with this letter. The same has been verified from the Original Documents and / or Client for authenticity.

We hereby confirm that the following documents are found to be genuine and authentic.

1. Doc ref. no. dated (name of Documents)
2. Doc ref. no. dated (name of Documents) 3.

All the aforesaid documents has been digitally signed by us as a certificate of authenticity.

We further confirm that we neither have any vested interest in aforesaid tender nor have any conflict of interest in respect of above tender.

This certificate is issued at the request of M/s (Bidder) for the purpose of participating in the subject tender/s.

Thanking you,

** Strike off, whichever is not applicable.*

(Financial Data pertaining to Financial Qualification of the Bidder)

A* To satisfy the requirements specified in financial QR, We give below the following details:

In terms of **Clause 2.1(a) of the Qualifying Requirements**, under Item No. 3. of Bid Data Sheets, we confirm that our average annual turnover during the preceding three financial years as on date of Techno-commercial bid opening is **not less than USD 1,00,000/-** In support of above, we are enclosing Audited Financial Statements.

Sl. No.	Financial Year	Amount in USD
1.		
2.		
3.		
4.		
5.	Average Annual Turnover for the preceding three (3) Financial Years as on date of Techno-commercial Bid Opening.	
6.	We have enclosed Audited Financial Statements for preceding (3) Three Financial Years	Yes*/No*

In case where audited results for the last financial year as on the date of Techno-Commercial bid opening are not available, certification of financial statement from a practicing chartered accountant shall also be considered acceptable. In case, Certificate from practicing Chartered Accountant certifying its financial parameters is not submitted, the audited results of three consecutive financial years preceding the last financial year shall be considered for evaluating the financial parameters. Further a certificate would be required from the CEO/CFO as per the format enclosed (Refer Appendix-C) in the bidding documents stating that the financial results of the company are under audit as on the date of Techno-commercial bid opening and the certificate from the practicing Chartered Accountant certifying the financial parameters is not available.

*** Please Strike off whichever is not applicable.**

B.* For bidders not meeting the requirement of Clause 2.1(a) (Para 1) of Financial Qualifying Requirements on its own:

Since we do not satisfy the average annual turnover criteria, stipulated under Financial Criteria at Sub Clause 2.1 (Para 1) of QR on its own, **our Holding Company meet the stipulated turnover requirements as above i.e USD 1,00,000/-**, the Net Worth of Holding Company as on the last day of the preceding financial year is at least equal to or more than the paid- up share capital of the Holding Company.

In this case, the we hereby furnish along with Techno-Commercial Bid, a Letter of Undertaking from the Holding Company, supported by the Holding Company's Board Resolution, as per the format enclosed in the Bid documents, pledging unconditional and irrevocable financial support for the execution of the Contract by the us in case of award.

1. Name and Address of the Holding Company:.....

2. Annual Turnover of the Holding Company with following details:

Sl.No.	Financial Year	Amount in USD
1.		
2.		
3.		
4.	Average Annual Turnover of the Holding Company for the preceding three (3) Financial Years as on date of Techno- Commercial Bid Opening.	
5.	Net Worth of Holding Company as on the last day of the preceding financial year	
6.	Paid- up share capital of the Holding Company on the last day of the preceding financial year	
7.	Is Net Worth of Holding Company as on the last day of the preceding financial year is at least equal to or more than the paid-up share capital of the Holding Company (Yes*/No*)	
8.	We have enclosed Audited Financial Yes*/No* Statements for the last 3 financial years of the Holding Company	

-
9. A Letter of Undertaking from the Holding Company, supported by Board Resolution, pledging unconditional and irrevocable financial support for execution of the contract in case of award is enclosed as per the format at **Appendix-B** to this Attachment-3A-2. A power of attorney of the person signing on behalf of holding company is also enclosed at Annexure..... to this Attachment-3A-2.
-

*** Please Strike off whichever is not applicable.**

Note:

- (i) Net worth means the sum-total of the paid-up share capital and free reserves. Free reserves mean 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 provision 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,
- (ii) Other income is not considered for arriving at annual turnover.
- (iii) "Holding Company" and "Subsidiary" shall have the meaning ascribed to them as per Companies Act of domicile country of the bidder
- (iv) For value of reference projects required for clause 2.1(b) of the QR in foreign currency, the exchange rate as on seven (7) days prior to Techno Commercial Bid Opening date shall be used.
- (v) In case the Bidder is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the Bidder can be considered acceptable provided the Bidder further furnishes the following documents on substantiation of its qualification:
 - (a) In case where audited results for the last financial year as on the date of Techno Commercial Bid Opening are not available, the financial results certified by a practicing Chartered Accountant shall be considered acceptable. In case the Bidder is not able to submit the Certificate from a practicing Chartered Accountant certifying its financial parameters, the audited result of three consecutive financial years preceding the last financial year shall be considered for evaluating financial parameters. Further, a certificate would be required from the CEO/CFO as per the format enclosed in the bidding documents stating that the financial results of the company are under audit as on date of Techno Commercial Bid Opening and the Certificate from a practicing Chartered Accountant certifying the financial parameters is not available.
 - (b) Certificate from the CEO/ CFO of the Holding Company, as per the format enclosed in the bidding documents, stating that the unaudited unconsolidated financial statements form part of the consolidated financial statement of the Holding Company.
 - (c) Copies of the unaudited unconsolidated financial statements of the Bidder along with copies of the audited consolidated financial statements of its Holding Company

**PROFORMA OF CERTIFICATE FROM THE CEO/CFO OF THE HOLDING
COMPANY IN ACCORDANCE WITH FINANCIAL CRITERIA**

(To be submitted by Bidder alongwith the Techno-Commercial Bid)

Ref. :

Date:

To
PMC

Dear Sirs,

1.0 I, Mr. (CEO of the Company / CFO of the Company)* declare that
M/s. (Name of the Holding Company) is the Holding Company of
M/s. (Name of the Bidder).

2.0 I hereby confirm and undertake that the unaudited unconsolidated financial statements
submitted in respect of the bidder as part of the bid reference no.
dated have been considered for the purposes of the finalisation of
Consolidated Financial Statements of the Holding Company as part of the Annual
Reports.

3.0 I further, certify that the figures in the unaudited unconsolidated financial statements are
true and correct and same have been duly reflected in the audited consolidated financial
statements and / or Annual Report of the Holding Company.

Yours faithfully

(Signature)

Date : (Name & Designation).....

Place : (Name of the Holding Company).....

Note : *Strike off whichever is not applicable.

APPENDIX-B TO ATTACHMENT – 3A-2

PROFORMA OF LETTER OF

UNDERTAKING

(TO BE FURNISHED ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

(To be executed by the Holding Company Supported by
Board Resolution and submitted by the Bidder alongwith the Techno-Commercial Bid,
Applicable to the Bidder for meeting the stipulated Financial QR)

Ref. :

Date :

To
PMC

Dear Sirs,

1.0 We, M/s..... declare that we are the holding company of M/s
..... (Name of the Bidder) and have controlling interest therein.

M/s. (Name of the Bidder) proposes to submit the bid for the
package (Name of the package) for (Name of
the Project) under bid reference no. dated and have
sought financial strength and support from us for meeting the stipulated Financial
Qualifying Requirement as per Clause No. 2.1(a) .

2.0 We hereby undertake that we hereby pledge our unconditional & irrevocable financial
support for the execution of the said package to M/s. (Name of the
Bidder), in case they are awarded the Contract for the said package, at the end of
the bidding process. We further agree that this undertaking shall be without prejudice to
the various liabilities that M/s (Name of Bidder) would be
required to undertake in terms of the Contract including the Performance Security as
well as other obligations of the Bidder/Contractor.

3.0 This undertaking is irrevocable and unconditional, and shall remain in force till the
successful execution and performance of the entire contract and/or till it is discharged
by Employer.

4.0 We are herewith enclosing a copy of the Board Resolution in support of this undertaking.

Yours faithfully

(Signature of Authorised Signatory
on behalf of the Holding
Company)

*** PROFORMA OF CERTIFICATE FROM THE CEO/CFO
IN ACCORDANCE WITH Clause 2.1(d) OF QR**

(To be submitted by Bidder along with the Techno-Commercial Bid)

Ref. :

Date:

To
PMC

Dear Sirs,

I, Mr. (CEO/ CFO of the Company) of (Name of the Company)
declare that the financial results of M/s. (Name of the Bidder) are under
audit as on (Date of Techno-commercial bid opening) and the Certificate from the
practicing Chartered Accountant certifying the financial parameters is also not available.

Yours

faithfully

(Signature)

Date : (Name & Designation).....

Place : (Name of the Company)

Note : *Strike off if not applicable

ATTACHMENT – 4

DELETED

TECHNICAL DATA SHEET

To,
PMC

Dear Sir/Madam,

We hereby furnish the following details with reference to the Data Sheet mentioned in the Technical Specifications of each projects for which we have quoted:

Additional Information included with the proposal

GENERAL DECLARATION

We, hereby confirm the following:

- (a)** Bankruptcy: We have not declared bankruptcy, not involved in bankruptcy or receivership proceedings, and there is no judgment or pending legal action against us that could impair our operations in the foreseeable future.
- (b)** History of Non-Performing Contracts- We, do not have any Non-performing contract due to our default during the last 3 years.

(Details of non performing contracts, if any may be enclosed at Annexure)
- ©** Litigation History- There is no consistent history of court/arbitral award decisions against us for the last 3 years.

(Details of litigation history, if any may be enclosed at Annexure)

.....

Name and Signature of bidder

BIDDING DOCUMENTS

SECTION – VII BOOK 2 OF 3

	SECTION-VII Book 2 of 3 BID FORMS FOR PRICE BID	PAGE 1 OF 3
--	--	----------------

Price Break-up of Mandatory Spares

1. Bidder shall be required to submit price break-up of Mandatory Spares as mentioned in the Technical Specifications.
2. These prices shall be included in the total lumpsum price of entire project.
3. Bidder shall be required to quote prices for mandatory spares for only those projects for which price quoted in the ' Commercial' section at the e-tender portal.
4. This Shall be Uploaded by bidder under 'Commercial section' at the e-tender portal

For Project at SENEGAL

Sl. No.	Item	Unit	Quantity	Price
1.	Solar panel of each type	No.	1	
2	DC cable of each type and rating as installed	Length	5%	
3.	Fuse of each type and rating used in system	Percentage	100%	
4.	Surge protection device of each type and rating used in the system	Percentage	100%	

For Project at DJIBOUTI

Sl. No.	Item	Unit	Quantity	Price
1.	Solar panel of each type	No.	1	
2	DC cable of each type and rating as installed	Length	5%	
3.	Fuse of each type and rating used in system	Percentage	100%	
4.	Surge protection device of each type and rating used in the system	Percentage	100%	

For Project at SUDAN

Sl. No.	Item	Unit	Quantity	Price
1.	Solar panel of each type	No.	1	
2	DC cable of each type and rating as installed	Length	5%	
3.	Fuse of each type and rating used in system	Percentage	100%	
4.	Surge protection device of each type and rating used in the system	Percentage	100%	

For Project at Seychelles

Sl. No.	Item	Unit	Quantity	Price
1.	Solar panel of each type	No.	1	
2	DC cable of each type and rating as installed	Length	5%	
3.	Fuse of each type and rating used in system	Percentage	100%	
4.	Surge protection device of each type and rating used in the system	Percentage	100%	

BIDDING DOCUMENTS

SECTION – VII
BOOK 3 OF 3

TABLE OF FORMS AND PROCEDURES

Section-VII (Book 3 of 3)

1. Forms of Letter of Award
2. Performance Security Form
3. Performance Security Form (Extended warranty period)
4. Form of Completion Certificate
5. Form of Operational Acceptance Certificate
6. Form of Trust Receipt
7. Forms of Indemnity-cum-Undertaking Agreements (2 Nos.)
8. Form of Authorization Letter
9. Form of Bank Guarantee Verification Check List
10. Form of Extension of Bank Guarantee
11. Form of Indemnity-cum-Undertaking Agreement (for Removal of Surplus Material and scraps)
12. Form of No-Demand Certificate

FORM OF 'LETTER OF AWARD'

NOTE : *INSTRUCTIONS INDICATED IN ITALICS IN THIS NOTIFICATION OF AWARD ARE TO BE TAKEN CARE OF BY THE ISSUING AUTHORITY.*

Ref. No. :

Date :

.....(Contractor's Name & Address).....
.....
.....
.....

Attn : Mr.....

Sub : Letter of Award of Contract for (Package Name)
..... as per Bidding Document No.....

Dear Sir,

1.0 This has reference to the following:

- (i) Our Notice Inviting Tender (IFB) No. dated
- (ii) Bidding Documents for the subject package issued to you comprising the following :

.....(List out all the Sections/Volumes of the Bidding Documents along with Tender Drawings etc. as issued to the bidder).....

Errata/Amendment No..... to..... *(Name of Section/Volume of the Bidding Documents to which Errata/Amendment pertains).....* issued to you

(Applicable only if any Errata/Amendment to the Bidding Documents has been issued subsequently)

- (iii) Clarifications No..... to..... furnished to you on the Bidding Documents based on the query raised by **you/one of the prospective bidders. (Use as applicable)**

(Applicable only if any clarification to the Bidding Documents has been issued subsequently)

(INCLUDE AS FURTHER SUB-PARAGRAPHS ANY OTHER CORRESPONDENCE MADE TO THE BIDDER AFTER ISSUANCE OF BIDDING DOCUMENTS UP TO THE DATE OF BID OPENING)

- (iv) Your Proposal for the subject package **and its modification (Delete if not applicable).**

- (v) Our email/letter No. dated..... regarding extension of validity of bid and that of the Bank Guarantee towards Bid Security.

(Applicable only if any extension has been sought subsequently)

(INCLUDE AS FURTHER SUB-PARAGRAPHS ANY OTHER CORRESPONDENCE MADE TO OR BY THE BIDDER AFTER BID OPENING)

2.0 We,on behalf of Employer, confirm having accepted your proposal submitted **and its modification. (Delete if not applicable)** read in conjunction with all the specifications, terms &

conditions of the Bidding Documents, **your subsequent letters (Use if relevant)** and award on you the Contract for the work of(**Indicate brief Scope of Work**)
..... of (**Name of Package**)
.....for (**Name of project**)..... as per Specification No.
:..... . The issuance of this Letter of award will constitute the formation of the contract.

- 3.0 The total Contract Price for the entire scope of work under the Contract shall be(**Specify the amount**).....
- 4.0 The Time of Completion of the Facilities shall be determined from the date of Letter of Award ("Effective Date") for a period as mentioned in SCC or its subsequent amendments, if any.
- 5.0 This Letter of Award is being issued to you in duplicate. We request you to return its duplicate copy duly signed and stamped on each page including all the enclosed Appendices, by the authorized signatory of your company as a proof of your acknowledgement.

Please take the necessary action to commence the work and confirm action.

Yours faithfully,
for and on behalf of Employer

(Authorised Signatory)

Encl. : As above.

**Performance Security Form
(Bank Guarantee format)**

(To be stamped in accordance with Stamp Act
if any, of the Country of the Issuing Bank)

Bank Guarantee No.....
Date.....

To,
The Employer

Dear Sirs,

In consideration of the *[Employer's Name]* (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s..... *[Contractor's Name]*..... with its Registered /Head Office at (hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a Contract by issue of Employer's Notification of Award No. dated..... and the same having been unequivocally accepted by the contractor, resulting into a Contract bearing No..... dated valued at for and the Contractor having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to(*).....% (..... percent) of the said value of the Contract to the Employer.

We*[Name & Address of the Bank]*.....having its Head Office at(hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, on demand any and all monies payable by the Contractor to the extent of(*)..... as aforesaid at any time up to(@)..... *[days/month/year]* without any demur, reservation, contest, recourse or protest and/or without any reference to the Contractor. Any such demand made by the Employer on the Bank shall be conclusive and binding notwithstanding any difference between the Employer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Employer and further agrees that the guarantee herein contained shall be enforceable till ninety (90) days after expiry of its validity.

The Employer shall have the fullest liberty, without affecting in any way the liability of the Bank under this guarantee, from time to time to extend the time for performance of the Contract by the Contractor. The Employer shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Bank shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

The Bank also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the

Contractor and notwithstanding any security or other guarantee that the Employer may have in relation to the Contractor's liabilities.

Notwithstanding anything contained hereinabove our liability under this guarantee is restricted to(*)..... and it shall remain in force upto and including(@)..... and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s[Contractor's Name]..... on whose behalf this guarantee has been given.

Dated this day of 20..... at.....

.....
(Signature)

.....
(Name)

.....
(Designation with
Bank Stamp)

Authorised Vide Power of
Attorney No.....

Date.....

- Notes :**
1. (*) This sum shall be **ten percent (10%)** of the Contract Price.
(@) This date will be ninety (90) days beyond the defect liability period as specified in the Contract.
 2. The BG should be on Non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state(s) where the BG is submitted or is to be acted upon or the rate prevailing in State where the BG is executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Contractor/Bank issuing the guarantee.
 3. While getting the Bank Guarantee issued, the Contractor is required to ensure compliance to the points mentioned in Form of Bank Guarantee Verification Check List. Further, the Contractor is required to fill up Bank Guarantee Verification Check List and enclose the same with the Bank Guarantee.
 4. The Bank Guarantee shall be from a Bank as per provisions of Section-V (SCC) of the Bidding Documents.
 5. In case, Bank Guarantee is getting issued from State Bank of India, Bidder to take note of NTPC letter ref. NTPC/FC/CS/BG/01 dated 03.09.2014 and SBI letter ref. CAG-I/AMT-1/2014-15/370 dated 04.09.2014 (attached with Section-III of Bidding Documents).
 6. BG to be forwarded to following address:
Unified Treasury (BG Group), Administrative Building, NCPS, Dadri
NTPC Limited, PO. Vidyut Nagar, Distt: Gautam Budh Nagar, Uttar Pradesh- 201008

**Performance Security Form
(Extended warranty period)**

(To be stamped in accordance with Stamp Act
if any, of the Country of the Issuing Bank)

Bank Guarantee No.....
Date.....

To,
[PMC's Name & Address]

Dear Sirs,

In consideration of the [project management consultant PMC's Name] (hereinafter referred to as the 'PMC' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s..... [Contractor's Name]..... with its Registered /Head Office at (hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a Contract by issue of PMC's Letter of Award No. dated..... and the same having been unequivocally accepted by the contractor, valued at for and the Contractor having agreed to provide a Guarantee for the faithful performance of the extended warranty for entire Contract equivalent to(*).....% (..... percent) of the said value of the Contract to the PMC.

We[Name & Address of the Bank].....having its Head Office at(hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the PMC, on demand any and all monies payable by the Contractor to the extent of(*)..... as aforesaid at any time up to(@)..... [days/month/year] without any demur, reservation, contest, recourse or protest and/or without any reference to the Contractor. Any such demand made by the PMC on the Bank shall be conclusive and binding notwithstanding any difference between the PMC and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Employer and further agrees that the guarantee herein contained shall be enforceable till ninety (90) days after expiry of its validity.

The PMC shall have the fullest liberty, without affecting in any way the liability of the Bank under this guarantee, from time to time to extend the time for performance of the Contract by the Contractor. The PMC shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the PMC and the Contractor or any other course or remedy or security available to the PMC. The Bank shall not be released of its obligations under these presents by any exercise by the PMC of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the PMC or any other indulgence shown by the PMC or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

The Bank also agrees that the PMC at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the PMC may have in relation to the Contractor's liabilities.

Notwithstanding anything contained hereinabove our liability under this guarantee is restricted to(*)..... and it shall remain in force upto and including(@)..... and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s[Contractor's Name]..... on whose behalf this guarantee has been given.

Dated this day of 20..... at.....

.....
(Signature)

.....
(Name)

.....
(Designation with Bank Stamp)

Authorised Vide Power of
Attorney No.....

Date.....

- Notes :**
1. (*) This sum shall be **five percent (5%)** of the Contract Price.
(@) This date will be ninety (90) days beyond the extended warranty period (two years) as specified in the Contract.
 2. The BG should be on Non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state(s) where the BG is submitted or is to be acted upon or the rate prevailing in State where the BG is executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Bidder/Bank issuing the guarantee.
 3. While getting the Bank Guarantee issued, the Contractor is required to ensure compliance to the points mentioned in Form of Bank Guarantee Verification Check List. Further, the Contractor is required to fill up Bank Guarantee Verification Check List and enclose the same with the Bank Guarantee.
 4. The Bank Guarantee shall be from a Bank as per provisions of Section-V (SCC) of the Bidding Documents.
 5. In case, Bank Guarantee is getting issued from State Bank of India, Bidder to take note of NTPC letter ref. NTPC/FC/CS/BG/01 dated 03.09.2014 and SBI letter ref. CAG-I/AMT-1/2014-15/370 dated 04.09.2014 (attached with Section-III of Bidding Documents).
 6. BG to be forwarded to following address:

Unified Treasury (BG Group), Administrative Building, NCPS, Dadri
NTPC Limited, PO. Vidyut Nagar, Distt: Gautam Budh Nagar, Uttar Pradesh- 201008

4. Form of Completion Certificate

Date : _____
Loan/Credit No : _____
IFB No : _____

[Name of Contract]

To: [Name and address of Contractor]

Dear Sirs,

Pursuant to GCC Clause 24 (Completion 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) complete 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 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 practicable.

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

Very truly yours,

Title
(Project Manager)

5. Form of Operational Acceptance Certificate

Date: _____
Loan/Credit No : _____
IFB No: _____

[Name of Contract]

To: *[Name and address of Contractor]*

Dear Sirs,

Pursuant to GCC Sub-Clause 25.3 (Operational 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 Functional Guarantees of the following part(s) of the Facilities were satisfactorily attained on the date specified below.

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

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.

Very truly yours,

Title
(Project Manager)

**6. FORM OF TRUST RECEIPT FOR PLANT,
EQUIPMENT AND MATERIALS RECEIVED**

We M/s *(Contractor's Name)*..... having our Principal
place of business athaving been awarded a Contract No.....
dated for *(Contract Name)*..... by *(Name of Employer)*
.....

We do hereby acknowledge the receipt of the Plant, Equipment and Materials as are fully described and mentioned under Documents of Title/RR/LR etc. and in the schedule annexed hereto, which shall form an integral part of this receipt as "Trustee" of *(Name of Employer)*. The aforesaid materials etc. so received by us shall be exclusively used in the successful performance of the aforesaid Contract and for no other purpose whatsoever. We undertake not to create any charge, lien or encumbrance over the aforesaid materials etc, in favour of any other person/institution(s)/Banks.

For M/s
(Contractor's Name)

Dated :

(AUTHORISED SIGNATORY)

**7. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT
FOR THE EQUIPMENTS
HANDED OVER BY THE EMPLOYER
FOR PERFORMANCE OF CONTRACT
(Entire Equipment Consignment in one lot)**

(On Non-Judicial Stamp Paper of appropriate value)

INDEMNITY-CUM-UNDERTAKING AGREEMENT

THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT is made this day of 20 between (*Contractor's Name*) a Company /Partnership Firm / Proprietary Concern incorporated under the laws of having its Registered Office at (hereinafter called as 'Contractor' which expression shall include its successors and permitted assigns) and (*Name of Employer*), a Company incorporated under the having its Registered Office at and its project at (hereinafter called "....." / "*Employer*" which expression shall include its successors and assigns):

WHEREAS the NTPC Limited on behalf of 'Employer' has awarded to the 'Contractor' a Contract forvide its Notification of Award/Contract No.....dated and its Amendment No. and Amendment No....., (*applicable when amendments have been issued*) (hereinafter called the "Contract") in terms of which@..... is required to hand over various Equipment to the 'Contractor' for execution of the Contract.

And WHEREAS by virtue of Clause No..... of the said Contract, the 'Contractor' and the 'Employer' are required to execute an Indemnity-cum-Undertaking Agreement for the Equipment handed over to the 'Contractor' by@..... for the purpose of performance of the Contract/Erection Portion of the Contract (hereinafter called the "Equipment")

AND THEREFORE, This Indemnity-cum-Undertaking Agreement witnesseth as follows:

1. That in consideration of various Equipment as mentioned in the Contract, a list where of is also annexed to this Indemnity-cum-Undertaking Agreement at Schedule-A, valued at (*Currency and amount in Figures*)..... (*Currency and amount in words*) handed over to the 'Contractor' for the purpose of performance of the Contract, the 'Contractor' hereby undertakes to indemnify and shall keep the 'Employer' indemnified, for the full value of the Equipment. The Contractor hereby acknowledges actual receipt of the Equipment, etc. as per dispatch title documents handed over to the 'Contractor' as detailed in the Schedule appended hereto. The 'Contractor' shall hold such Equipment, etc. in trust as a "Trustee" for and on behalf of the 'Employer'

@ Fill in abbreviated name of Employer.

2. That the 'Contractor' is obliged and shall remain absolutely responsible for the safe transit/protection and custody of the Equipment at@..... project site against all risks whatsoever till the Equipment are duly used/erected in accordance with the terms of the Contract and the plant/package duly erected and commissioned in accordance with the terms of the Contract is taken over by the 'Employer' The 'Contractor' undertakes to keep the 'Employer' harmless against any loss or damage that may be caused to the Equipment.
3. The 'Contractor' undertakes that the Equipment shall be used exclusively for the performance/execution of the Contract strictly in accordance with its terms and conditions and no part of the Equipment shall be utilized for any other work or purpose whatsoever. It is clearly understood by the 'Contractor' that non-observance of the obligations under this Indemnity-cum-Undertaking Agreement by the 'Contractor' shall inter-alia constitute a criminal breach of trust on the part of the 'Contractor' for all intents and purpose including legal/penal consequences.
4. That the 'Employer' is and shall remain the exclusive owner of the Equipment free from all encumbrances, charges or liens of any kind, whatsoever. The Equipment shall at all times

be open to inspection and checking by the Project Manager or other employees/agents authorised by the 'Employer' in this regard. Further the 'Employer' shall always be free at all times to take possession of the Equipment in whatever form the Equipment may be, if in its opinion, the Equipment are likely to be endangered, mis-utilised or converted to uses other than those specified in the Contract, by any acts of omission or commission on the part of the 'Contractor' or any other person or on account of any reason whatsoever and the 'Contractor' binds himself and undertakes to comply with the directions of demand of the 'Employer' to return the Equipment without any demur or reservation.

5. That this Indemnity-cum-Undertaking Agreement is irrevocable. If at any time any loss or damage occurs to the Equipment or the same or any part thereof is mis-utilised in any manner whatsoever, then the 'Contractor' hereby agrees that the decision of the Project Manager of the 'Employer' as to assessment of loss or damage to the Equipment shall be final and binding on the 'Contractor'. The 'Contractor' binds itself and undertakes to replace the lost and/or damaged Equipment at its own cost and/or shall pay the amount of loss to the 'Employer' without any demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to the 'Employer' against the 'Contractor' under the Contract and under this Indemnity-cum-Undertaking Agreement.
6. NOW THE CONDITION of this Indemnity-cum-Undertaking Agreement is that if the 'Contractor' shall duly and punctually comply with the terms and conditions of this Indemnity-cum-Undertaking Agreement to the satisfaction of the 'Employer', THEN, the above Indemnity-cum-Undertaking Agreement shall become void after the due performance of the Contract, but otherwise, it shall remain in full force and virtue.

@ Fill in abbreviated name of Employer.

IN WITNESS WHEREOF, the 'Contractor' and the 'Employer' have hereunto set their hand through their authorized representative, the day, month and year first above mentioned.

For and on behalf of

.....
(Contractor's Name)

Signature
Name
Designation of
Authorised representative *

WITNESS :

1. Signature
2. Name
3. Address

For and on behalf of

.....
(Employer's name)

Signature
Name
Designation of
Authorised representative *

WITNESS :

1. Signature
2. Name
3. Address

* Indemnity-cum-Undertaking Agreement are to be executed by the authorised person and (i) in case of contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity-cum-Undertaking Agreement , (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity-cum-Undertaking Agreement . In case of Employer, by the authorized representative of the Employer.

SCHEDULE - A

Particulars of the Equipments handed over	Quantity	Particulars of Despatch Title Documents	Value of the Equip- ments	Signature of Attorney in token of receipt
		RR/GR/Bill of Lading No & Date	Carrier	

8. FORM OF AUTHORISATION LETTER

(NAME OF EMPLOYER)

(PROJECT)

REF. NO. :

DATE :

To,

M/s (*Contractor's Name*).....

Ref : Contract No..... Dated

forawarded by (*Name of Employer*)

Dear Sirs,

Kindly refer to Contract No..... Dated for(*Contract Name*) You are hereby authorised on behalf of(*Name of Employer*) having its registered office atand its Project at to take physical delivery of materials/equipments covered under despatch Document/ Consignment Note no..... *dated and as detailed in the enclosed Schedule for the sole purpose of successful performance of the aforesaid contract and for no other purposes, whatsoever.

(Signature of Project Authority)

(Designation :

Date

ENCL : as above

* Mention LR/RR No.

Sl. No.	Contract Name	NOA No./ Contract Agreement No.	Description of Materials/ Equipments	Spec. No.	Qty.	Value	Remarks
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Date).....

9. BANK GUARANTEE VERIFICATION CHECKLIST

1. Bank Guarantee No.
2. Issuing Bank
3. Amount of BG
4. Nature of BG & No. of Pages
5. Validity of BG
6. Package Description
7. Party & Contracts Ref. Name, Address, Tel, Fax, e-mail,
Contract No. Package Name
8. Bank Reference Name, Address, Tel. Fax, E-mail

CHECK LIST

S.No.	Details of Checks	Yes/No
a)	Is the BG on non-judicial stamp paper / e-stamp paper of appropriate value, as per Stamp Act?	
b)	Whether date, purpose of purchase and name of the purchaser are indicated on the stamp paper? (The date of purchase of stamp paper should be of any date on or before the date of execution of BG and the stamp paper should be purchased either in the name of the executing Bank or the Party on whose behalf the BG has been issued. The stamp paper (other than e-stamp paper) should be duly Signed by the Stamp Vendor)	
c)	Has the executing Officer of BG indicated his name, designation and Power of Attorney No. / Signing Power No. etc. on the BG?	
e)	Is each page of BG duly signed/initiated by executant and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars under seal of Bank as required in the prescribed proforma?	

S.No.	Details of Checks	Yes/No
f)	Does the Bank Guarantees compare verbatim with the Proforma prescribed in the Bid Documents?	
g)	Are the factual details such as Bid Document No., NOA / LOA / Contract No., Contract Price, Percentage of Advance, Amount of BG and Validity of BG correctly mentioned in the BG?	
h)	Whether overwriting / cutting if any on the BG have been properly authenticated under signature & seal of executant?	
i)	Whether the BG has been issued by a Bank in line with the provisions of BG / Contract Documents?	
j)	In case BG has been issued by a Bank other than those specified in Bid/Contract Document, is the BG confirmed by a Bank in India acceptable as per Bid/Contract Documents?	

Date : Signature

Place : Printed Name

(Designation)

(Common Seal)

Note: The Bidder is required to fill up this form and enclose along with the Bank Guarantee.

10. FORM OF VALIDITY EXTENSION OF BANK GUARANTEE

(To be stamped in accordance with the Stamp Act,
if any, of the Country of the issuing Bank) :

Ref. No.....

Dated :

To :

The Employer

[To be submitted to Project Manager at the Address mentioned at SCC]

Dear Sirs,

Sub : Extension of Bank Guarantee No. dtd..... forvalue
of BG..... favouring yourselves, expiring on..... on account of
M/s*..... in respect of Contract/Bid document for (Insert
package name)..... for (Insert Project name)
project, Contract No./Bid Document No. dated..... (hereinafter
called original Bank Guarantee).

At the request of M/s*..... we Bank having branch
office at and having Head Office at do
hereby extend our liability under the above mentioned Bank Guarantee No..... dt for a
further period of.....Years/Months from to expire on

Except as provided above, all other terms and conditions of the original Bank Guarantee
No..... dt..... shall remain unaltered and binding.

Please treat this as an integral part of the original guarantee to which it would be deemed to have been
attached.

.....
(Signature)

.....
(Name)

.....
(Designation with Bank Stamp)

Authorised vide Power of Attorney No.....

Dated.....

Note:

- 1.*In case of Joint Ventures, name of all partners of the Joint Venture shall be mentioned.
2. The BG should be on Non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state(s) where the BG is submitted or is to be acted upon or the rate prevailing in State where the BG is executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Bidder/Bank issuing the guarantee.
3. The extension of the Bank Guarantee should be forwarded to the Unit/Project/Corporate Centre, from where the extension has been sought

**11. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT WITH REGARD TO
REMOVAL/DISPOSAL OF SCRAP/SURPLUS MATERIAL**

(TO BE EXECUTED ON STAMP PAPER OF APPROPRIATE VALUE, IF APPLICABLE)

INDEMNITY-CUM-UNDERTAKING AGREEMENT

THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT executed thisday of.....
20 between(Name of Company) a Company
/Partnership Firm / Proprietary Concern incorporated under the laws of having its
Registered Office(s) at (Office Address) hereinafter called the
'Contractor' (which expression shall, unless excluded by or repugnant to the context, be deemed to mean
and include its successors, administrators, executors and permitted assigns)

AND

M/s. having its registered office at
(hereinafter referred to as 'Employer').

1. PMC on behalf of 'Employer' has awarded the 'Contractor', contract for execution of work ("Scope of Work") as mentioned in the Letter of Award no. dated, relating to (Name & Address of Project/Station) (hereinafter called 'the Project').
2. The 'Contractor' for the purpose of execution of its Scope of Work had from time to time procured and stored (Details of Material) at the Project Site.
3. After completion of the Scope of Work by 'Contractor', it has been identified that scrap (Details of Scrap Material & its quantity) and/or surplus (Details of Surplus Material & its Quantity) belonging to 'Contractor' is lying at the said Project Site.
4. Now, the scrap (Details of Scrap Material & its Quantity) and/or surplus (Details of Surplus Material & its Quantity) belonging to the 'Contractor', requires to be removed by 'Contractor' from the Project Site.

NOW THEREFORE THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT WITNESSETH AS UNDER:

1. That 'Contractor' by way of this Indemnity-cum-Undertaking Agreement requests 'Employer' to issue necessary exit gate pass(es) in favour of 'Contractor' for removal of scrap..... (Details of Scrap Material & its Quantity) and/or surplus (Details of Surplus Material & its Quantity) belonging to 'Contractor', from the project.
2. That as per Employer's procedure, 'Contractor' shall ensure loading of trucks for clearing of its scrap (Details of Scrap Material & its Quantity) and/or surplus (Details of Surplus Material & its Quantity) by itself, as aforesaid, under the supervision of Employer's personnel.
3. That 'Contractor' in consideration of the premises above, for itself and its respective, executors, administrators and assigns, jointly and severally agree and undertake from time to time and at all times hereafter to indemnify 'Employer' and keep 'Employer' indemnified from and against all claims, demands, actions, liabilities and expenses which may be made or taken against or incurred by 'Employer' by reason of the issue of necessary gate pass(es) by 'Employer' and permitting 'Contractor' to remove scrap (Details of Scrap Material & its Quantity) and/or surplus (Details of Surplus Material & its Quantity) belonging to 'Contractor', from the project.
4. That 'Contractor' undertakes to indemnify and keep 'Employer' harmless from any act of omission or negligence on the part of the 'Contractor' in following the statutory requirements with regard to

removal/disposal of scrap and surplus belonging to 'Contractor', from the Project Site aforesaid, by the 'Contractor'. Further, in case the laws require 'Employer' to take prior permission of the relevant Authorities before handing over the scrap and/or surplus to the 'Contractor', the same shall be obtained by the 'Contractor' on behalf of 'Employer'.

IN WITNESS WHEREOF, the 'Contractor' and the 'Employer', through their authorized representative, have executed these presents on the Day, Month and Year first mentioned above at (Name of the Place)

For and on behalf of

.....
(Contractor's Name)

Signature
Name
Designation of
Authorised representative *

For and on behalf of

.....
(Employer's name)

Signature
Name
Designation of
Authorised representative *

WITNESS :

1. Signature
2. Name
3. Address

WITNESS :

1. Signature
2. Name
3. Address

* Indemnity-cum-Undertaking Agreement are to be executed by the authorised person and (i) in case of contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity-cum-Undertaking Agreement , (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity-cum-Undertaking Agreement. In case of Employer, by the authorized representative of the Employer.

FORM NO. 12

PROFORMA OF "NO DEMAND CERTIFICATE" BY CONTRACTOR
(TO BE ISSUED BY THE CONTRACTOR)

NAME OF PACKAGE:

**LETTER OF AWARD/ NOA/
CONTRACT NO.:**

NAME OF CONTRACTOR:

DATED:

PROJECT:

We, M/s..... (Contractor) do hereby acknowledge and confirm that we have received the full and final payment due and payable to us from the Employer in respect of our aforesaid LOA/Contract No..... dated.....including amendments if any, to our entire satisfaction and we further confirm that we have no claim whatsoever pending with Employer / NTPC Ltd. under the said Contract.

Notwithstanding any protest recorded by us in any correspondence document, measurement books, and/or final bills etc., we waive all our rights to lodge any claim or protest in future under this contract.

We are issuing this "NO DEMAND CERTIFICATE" in favour of Employer / NTPC Ltd. with full knowledge and with our free consent without any undue influence, misrepresentation, coercion etc.

Signature

Date

Name.....

Place.....

Designation

.

(Company Common Seal

