NTPC LIMITED

(A Government of India Enterprise)

NABINAGAR SUPER THERMAL POWER PROJECT,
STAGE-II (3X800MW)

TERMS AND CONDITIONS OF CONTRACT

FOR

DPR, DE & PMC for Railway Siding Works including OHE and S&T

for

NABINAGAR STPP Stage-II (3x800MW)

Bidding Document No.: CS-0371-350-9

CONTENTS

Form 4	UNDERTAKING REGARDING ABSENCE OF CONFLICT OF INTEREST WITH EMPLOYER/CONTRACTOR	
Form 5	Form of contract Agreement	
Form 6	FORM OF EXTENSION OF BANK GUARANTEE/ INSURANCE SURETY BOND	
APPENDIX-A	FEASIBILITY STUDY REPORT	
ANNEXURE-1	Format of undertaking -to be sent by issuing bank through official email id	
ANNEXURE-2	Format of undertaking -to be sent by issuing insurer through official email id	

INTRODUCTION

Name of the Project: **NABINAGAR SUPER THERMAL POWER PROJECT, STAGE-II (3X800MW), Distt. Aurangabad, Bihar -824303**

Name of the Package: DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP-II (3x800 MW)

Bids are invited for the aforesaid Package for NABINAGAR, STPP-II (3X800 MW) under Single Stage Two Envelope bidding process as mentioned below:

- **Envelope-I containing "Techno-Commercial Bid".**
- **Envelope-II containing "Price Bid"**

The bidder has to submit Techno-Commercial Bid (Envelope-I) and Price Bid (Envelope-II) through website portal https://eprocurentpc.nic.in/ (electronic mode) only as per timelines given below.

GePNIC ID :2026_NTPC-111820_1

Issuance of Bidding Document	12.09.2026
Last date for receipt of queries from bidders (if any)	25.09.2026
Bid (both Techno-Commercial and Price) receipt date & time	08.10.2026 up to 18:30 Hrs. (IST)
Date & Time for opening of Envelope-I (Techno–Commercial) bid.	09.10.2026 at 10:30 Hrs. (IST)
Date & Time for opening of Envelope-II (Price) bid	Shall be intimated later

To submit their bid through electronic mode, bidder has to use their digital signature certificate keys. The bidders are requested to download the entire bidding documents from the website https://eprocurentpc.nic.in/, within the date and time as specified on the website https://eprocurentpc.nic.in, after online registration in the above website.

"Techno-Commercial Bid" shall be opened as per the date and time mentioned in the E-Tender Portal of NTPC (**https://eprocurentpc.nic.in)**. The **"Price Bid"** shall be opened at a later date and time intimated in writing/email separately by the Owner.

1.0 DEFINITION OF TERMS

1.1 Unless defined otherwise, the following terms wherever used in this document shall have the following meanings.

1.2 'Owner' or 'Client' or 'NTPC' or 'Employer' shall mean NTPC Limited, New Delhi, India (A Government of India Enterprise) incorporated under Companies Act 1956, with its registered office at Core-7, Scope Complex, 7 Institutional Area, Lodhi Road, New Delhi-110 003 and shall include their legal representatives, successors and permitted assigns.

1.3 ‘Project Management Consultant (PMC) / Project Executing Agency (PEA) shall mean (Name of the Company) as appointed by the owner for the work stipulated at clause 3.0 of Terms and Conditions of Contract for **DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP-II (3X800 MW)** and shall include their legal representatives, successors and permitted assigns.

1.4 ‘Contract’ shall mean the Letter of Award/Contract Agreement entered into between the Owner and PMC/PEA, together with the contract documents referred to therein, they shall constitute the contract and the term ‘Contract’ shall in all such documents be construed accordingly.

1.5 ‘Contractor’ means any person to whom execution of any part of the work including preparation of any design or supply of any plant & equipment is awarded by PMC/PEA on behalf of Owner and includes its legal successor or permitted assigns.

1.6 ‘Engineer’ or ‘Engineer-in-Charge’ or ‘EIC’ shall mean the officer appointed in writing by the Owner to act as ‘Coordinator’ from time to time on behalf of Owner in all matters pertaining to this contract. ‘Engineer-in-Charge- shall be authorized by the Owner for supervision, inspection, scrutiny and approval of some or all of the services rendered by the PMC/PEA under the contract.

1.7 ‘Specification’ or ‘Bidding Document or ‘Bid Document’ shall mean the Terms and Conditions of Contract forming a part of the contract and such other schedules, documents, and drawings.

1.8 ‘Notice of Award of Contract’ / ‘Letter of Award’ shall mean the official intimation from the Owner notifying PMC/PEA that its proposal has been accepted, and that PMC/PEA is required to sign the Contract Agreement.

1.9 ‘Date of Commencement’ shall mean the date on which both the parties have signed the Contract Agreement, or any other date mentioned in the Contract/Letter of Award, as the effective date of Commencement, whichever is earlier. Further, Date of Commencement for start of construction of Railway Siding shall be the date on which NTPC advises PMC/PEA to proceed with the work or the date mentioned in LOA whichever occurs later.

1.10 ‘Week’ shall mean a continuous period of seven (7) days.

1.11 ‘Indian Rupees’ shall mean the currency of the Government of India.

1.12 The ‘Government’ shall mean the ‘Government of India’ or Government of State of Uttar Pradesh or an authorized representative/agency/department of the ‘Government of India’ or an authorized representative/agency/department of the ‘Government of State of Uttar Pradesh'.

1.13 The Words imparting singular shall also include the plural and vice-versa where the context so requires.

1.14 The ‘Project’ or ‘Site’ or ‘NABINAGAR Super Thermal Power Project’ or ‘NABINAGAR Super Thermal Power Project Stage-II (3 x 800 MW)’ shall mean and include the land and other places on or over or into or through which the Railway

Siding System and its associated sub-systems such as signaling and telecommunication system, etc., are to be constructed by PMC/PEA as specified in scope of work. It shall also include any adjacent land, Path Street, river or a reservoir which may be allocated or used by the Owner or PMC/PEA in performance of the Contract.

1.15 ‘Starting Date’ shall mean the date from which the periods specified for various activities are measured and as set forth in the completion schedules. The starting date for each schedule, unless otherwise agreed, shall be as indicated in the respective schedule.

1.16 Contract Price means total fees payable to PMC/PEA as stipulated in clause 5.2 & 5.3

1.17 ‘Month’ shall mean calendar month. ‘Day or Days’ unless herein otherwise expressly defined shall mean calendar day or day of 24 hours each.

1.18 The ‘works’ shall mean the works to be executed in accordance with the Contract or part(s) thereof as the case may be and shall include all extra or additional, altered or substituted works or temporary and urgent works as required for performance of the contract.

1.19 The title or heading shall not alter or affect the intent or scope of the clauses or articles of the Documents.

1.20 The Date of Completion of Contract/Facilities

Unless otherwise terminated under the provisions of any other relevant clause of the document, the Contract/Facilities shall be deemed to have been completed after issuance of the certification from Engineer-in-charge that there is no demand outstanding against PMC and all works under the contract have been satisfactorily executed by PMC/PEA. The above date shall be the date on which the section or a part of the same is certified as fit for the commencement of rail traffic, by the Railways.

1.21 Words imparting ‘Person’ shall include firms, companies, corporations and association or bodies of individuals, whether incorporated or not.

1.22 The Defect Liability Period shall be twelve (12) months from the date of issuance of certificate for Completion of Facilities from NTPC for entire Railway siding.

1.23 “Final Report”, “Final Document” or “Detailed Project Report” (DPR) shall mean the final report submitted by PMC/PEA in respect of the consultancy assignment as per Indian Railways/RDSO guidelines.

1.24 Estimated Direct Cost means total cost as per break up mentioned at Clause 4.0 below.

2.0 <u>BID VALIDITY AND BID SECURITY</u>

The proposal shall be on firm price basis and valid for acceptance for at least 120 days from the date of submission of the offer. Bidder is required to submit bid security for an amount of INR 50,00,000/- (Indian Rupees Fifty lakh only) which shall be initially valid for a period of one hundred sixty five (165) days from the date of Bid Opening of Envelope-I (Techno Commercial) Bid as per the format (Annexure-B/B1) and from any of the banks mentioned in the Annexure-A1 enclosed in the bid document. The bid security shall, at the Bidder's option, be in the form of a bank guarantee or insurance surety bond or EFT.

In exceptional circumstances, Employer may solicit the Bidder's consent to an extension of the bid validity period. The request and responses thereto shall be made in writing by post, or e-mail. If a Bidder accepts to extend the period of bid validity, the validity of bid security shall also be suitably extended. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request will not be required nor permitted to modify its bid.

ANY BID NOT ACCOMPANIED BY AN ACCEPTABLE BID SECURITY SHALL BE REJECTED BY THE EMPLOYER AS BEING NON-RESPONSIVE.

IN CASE THE BID SECURITY IS DEPOSITED BY THE BIDDER IN THE FORM OF E-BG/THROUGH ELECTRONIC FUND TRANSFER (EFT), BIDDER TO SUBMIT THE COPY OF E-BG/PROOF OF E PAYMENT OF BID SECURITY IN THE E-TENDERING PORTAL.

IN CASE THE BID SECURITY (OTHER THAN BG) IS DEPOSITED BY THE BIDDER IN PHYSICAL FORM, BIDDER TO SUBMIT THE ORIGINAL INSTRUMENT IN SEPARATE SEALED ENVELOPE AND A COPY OF THE SAME IN THE E-TENDERING PORTAL.

ALL BANK GUARANTEES SHALL BE SUBMITTED IN THE FORM OF E-BG THROUGH NESL PLATFORM AND NO PHYSICAL BGs SHALL BE ACCEPTED.

BID SECURITY AMOUNT UP TO RS. 1,00,000/- (RUPEES ONE LACS ONLY) MUST BE SUBMITTED THROUGH ELECTRONIC FUND TRANSFER (EFT) ONLY.

FOR TENDERS ON GePNIC PORTAL, ELECTRONIC FUND TRANSFER (EFT) WILL BE MADE AT GePNIC portal (https://eprocurentpc.nic.in/nicgep/app) only.

2.1 BIDDING DOCUMENTS

2.1.1 This document is meant for exclusive purpose of submitting the offer by the bidder against the specification and shall not be transferred, reproduced or otherwise used for purposes other than for which it is specifically issued.

2.1.2 Not used.

2.1.3 DOCUMENTS COMPRISING THE BIDS

2.1.3.1 The Techno-Commercial (Envelope-I) Bid shall comprise of the following:

2.1.3.1.1 The Documents to be submitted in physical form in separate sealed envelope (s) duly marked at the address giving at clause 43.0, before the last date of submission of Bid. In addition, the scanned copy of these physical forms are to be uploaded by Bidder in **Fee Cover/ Envelope** on the e-tender portal at website portal https://eprocurentpc.nic.in/.

(a) **Attachment 1: Bid Security**

2.1 The Bidder shall furnish, as part of its Bid, a Bid Security in a separate sealed envelope in the amount and currency as stipulated in the Bidding Documents. In case bid security amount is deposited as EFT, Proof of e-payment of Bid Security, shall be submitted in the e-tendering portal or in a separate sealed envelope.

2.2 The Bid Security shall, at the Bidder's option, be in the form of Electronic Fund Transfer (EFT), irrevocable Letter of Credit or an e-BG from any of the banks specified in the Bidding Documents or an Insurance Surety Bond from an Insurer as per guidelines issued by Insurance Regulatory and Development Authority of India (IRDAI).

For the Bid Security amount up to Rs. 1,00,000/- (Rupees One Lacs only), the Bidders must submit the Bid Security amount through Electronic Fund Transfer (EFT) only as per details mentioned in Bidding Documents. **In such cases the provisions pertaining to submission of e-BG/ Insurance Surety Bond towards Bid Security will not be applicable.**

Upon successful e-payment of the Bid Security on the NTPC e-tender portal, an e-receipt shall be generated by the system, a copy of which is to be submitted by the bidder as a part of its bid, in the e-tendering portal as a proof of e-payment of Bid Security.

The format of the Bank Guarantee/ Insurance Surety Bond shall be in accordance with the form of bank guarantee/ Insurance Surety Bond towards bid security included in the Bidding Documents. The Bank Guarantee/ Insurance Surety Bond shall be issued on Non-Judicial stamp paper/e-stamp paper of appropriate value as per applicable Stamp Act(s).

Bid Security shall remain valid for a period of forty-five (45) days beyond the original Bid validity period and beyond any extension of bid validity subsequently requested under relevant clause of BIDDING DOCUMENTS.

2.3 Wherever Bids under Joint Venture route are permitted as per the Qualifying Requirements in the Bidding Documents, the Bid Security by the Joint Venture must be on behalf of all the partners of the Joint Venture.

2.4 **Any bid not accompanied by an acceptable bid security shall be rejected by the employer as being non-responsive. In case, the bid security is**

submitted as e-BG/EFT, bidder to submit the copy of e-BG/proof of e-payment of bid security in the e-tendering portal. In case the bid security (other than BG) is submitted by the bidder in physical form, bidder to submit the original instrument (or extensions, if any) in separate sealed envelope and a copy of the same in the e-tendering portal.

Further, Stage-II (Price Bid) (in case of Two Stage bidding) not accompanied by requisite bid security extension (in case Bid Security is submitted in the form of e-BG/ Insurance Surety Bond) shall be rejected by the Employer as being non-responsive.

All Bank Guarantees shall be submitted in the form of e-BG through NESL platform and no physical BGs shall be accepted.

2.5 BG against Bid Security issued by a Bank outside India needs to bear stamp duty of appropriate value as applicable. The BG may be got adjudicated by the employer from Collector of Stamps, within 3 months of arrival of BG in India. Expenses incurred in this regard shall be borne by NTPC.

Insurance Surety Bond against Bid Security issued by an Indian Insurance company outside India needs to bear stamp duty of appropriate value as applicable. The Insurance Surety Bond may be got adjudicated by the employer from Collector of Stamps, within 3 months of arrival of Insurance Surety Bond in India. Expenses incurred in this regard shall be borne by NTPC.

2.6 Subject to clause 2.8 below, the Bid Security of the Bidder whose Techno-Commercial Bid has not been found acceptable, shall be returned along with letter communicating rejection of Techno-Commercial Bid. The Bid Security of the bidders who are unsuccessful after opening of Price Bids shall be returned expeditiously after placement of award on successful bidder.

.

2.7 The Bid Security of the successful Bidder to whom the contract is awarded will be returned when the said Bidder has signed the Contract Agreement and has furnished the required Performance Securities pursuant to relevant clauses of BIDDING DOCUMENTS

2.8 The Bid Security may be forfeited

a) If the Bidder withdraws or varies its Bid during the period of Bid validity;

b) If the Bidder does not accept the correction of its Bid Price pursuant to BIDDING DOCUMENTS Sub- Clause for Arithmetical Correction;

c) If the Bidder refuses to withdraw, without any cost to the Employer, any deviation, variation, additional condition or any other mention anywhere in the bid (Price bid in case of Two Stage Bid), contrary to the provisions of bidding documents;

d) In the case of a successful Bidder, if the Bidder fails within the specified time limit to furnish the required Contract Performance Guarantee/Security Deposit in accordance with relevant clause of BIDDING DOCUMENTS;

e) If the bidder/his representatives commits any fraud while competing for this contract pursuant to Fraud Prevention Policy of NTPC;

(f) In case the Bidder/Contractor is disqualified from bidding process in terms of Section 3 and 4 of Integrity Pact (IF APPLICABLE);

(g) Any suppression of material fact or false declaration regarding Insolvency, bankruptcy and Liquidation proceeding against Bidder, Associate, Collaborator or Technology Provider.

2.9 CONFIRMATION OF BGS THROUGH STRUCTURED FINANCIAL MESSAGING SYSTEM (SFMS)/ (SWIFT)

While issuing the 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:

(i) Bank Name: ICICI Bank Limited
(ii) Branch: CONNAUGHT PLACE BRANCH
(iii) Bank Address: 9A, PHELPS BUILDING, INNER CIRCLE, NEW DELHI-110001
(iv) IFSC Code: ICIC0000007

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:

BG advising message: IFN 760COV/ IFN 767COV via SFMS

Field Number: Particulars (to be mentioned in Row 1)

7037: NTPCBG (unique identifier)

2.10 Physical BG against Bid Security

A. *Submission of physical BG against EMD/Bid Security is allowed in this tender.

B. * ~~Physical Bank Guarantees against EMD/Bid Security issued outside India will be accepted (in case of ICB Tenders).~~

C. **<u>Confirmation of physical BGs through Structured Financial Messaging System (SFMS)/SWIFT (Not applicable for e-BGs through NESL platform)</u>**

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:

(v)	Bank Name:	ICICI Bank Limited
(vi)	Branch:	CONNAUGHT PLACE BRANCH
(vii)	Bank Address: NEW DELHI-	9A, PHELPS BUILDING, INNER CIRCLE, 110001
(viii)	IFSC Code:	ICIC0000007

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:

BG advising message: IFN 760COV/ IFN 767COV via SFMS

Field Number: Particulars (to be mentioned in Row 1)

7037: NTPCBG (unique identifier)

D. In case of Bidders opting for physical Bank Guarantee as Bid Security but unable to submit the Original Bank Guarantee at the tender opening location, before the deadline for submission of bids, following shall also be considered acceptable, subject to para E below:

(i) The issuing bank shall intimate through their own official e-mail id to concerned C&M department with a copy to Bidder regarding issuance / extension of Bank Guarantee (BG) along with following documents, before the deadline of submission of bids: -

a) The scanned copy of the BG.

b) SFMS / SWIFT message acknowledgement copy sent to Employer / Employer's banker stating the date of sending.

c) An undertaking from the issuing Bank strictly as per format enclosed at **Annexure-1.**

SFMS / SWIFT message must be sent to the Employer/Employer's bank, details of which are mentioned in Bidding documents.

(ii) Bidders shall also be required to upload the scanned copy of the BG on e-Tender Portal in Fee Cover.

E. The bidder shall be required to submit all the documents in the manner as specified at para D above, to reach Employer before the deadline for submission of bids, **failing which its bid shall be rejected as being non- responsive.**

In such a case, Bidder shall also be required to submit the Original BG in physical form to reach Employer at the address mentioned in Bidding Documents, not later than 10 days from the date of submission of Techno-Commercial bids or before the Price Bid opening, whichever is earlier, failing which its bid shall be rejected and not considered for further evaluation.

2.20 Alternative Submission Procedure for Insurance Surety Bond (ISB)

In case of Bidders opting for Insurance Surety Bond as Bid Security but unable to submit the Original Insurance Surety Bond at the tender opening location, before the deadline for submission of bids, following shall also be considered acceptable, subject to para (iii) below:

(i) The issuing Insurer shall intimate through their own official e-mail id to concerned C&M department with a copy to Bidder regarding issuance / extension of Insurance Surety Bond (ISB) along with following documents, before the deadline of submission of bids:

a) The scanned copy of the ISB.

b) An undertaking from the issuing Insurer strictly as per format enclosed at **Annexure-2.**

(ii) Bidders shall also be required to upload the scanned copy of the ISB on e-Tender Portal in Fee Cover.

(iii) The bidder shall be required to submit all the documents in the manner as specified at para (i) above, to reach Employer before the deadline for submission of bids, **failing which its bid shall be rejected as being non- responsive.**

In such a case, Bidder shall also be required to submit the Original ISB in physical form to reach Employer at the address mentioned in Bidding Documents, not later than 10 days from the date of submission of Techno-Commercial bids or before the Price Bid opening, whichever is earlier, failing which its bid shall be rejected and not considered for further evaluation.

(b) **Attachment 2: Power of Attorney**

A power of attorney, duly notarized by a Notary Public, indicating that the person signing the bid has the authority to sign the bid and that the bid is binding upon the Bidder during the full period of its validity.

(The Authority of the person issuing the Power of Attorney shall also be submitted).

Further, Bidder to note that bid can be submitted/digitally signed by only one person. The Power of Attorney must be in the name of person digitally signing the bids.

(c) **Attachment-4: Integrity Pact**

The Integrity Pact shall be furnished duly signed in accordance with the provision of Integrity Pact specified in Clause 40.

2.1.3.1.2 The scanned copy of following attachments is to be uploaded by Bidder in **Technical Cover/Envelope** on the e-tender portal https://eprocurentpc.nic.in/.:

(a) Schedule-2: (Work Schedule)

Time is the essence of the Contract. Bidder is requested to furnish the Work Schedule for execution of the Contract.

(b) Attachment 3: EFT Form (Electronic Fund Transfer Form)

EFT form duly filled in as per Employer's format.

(c) Attachment-5: Site visit Certificate

The Bidder is mandatorily required to visit and examine the site where the work to be executed and obtain for itself on its own responsibility, all information that may be necessary for preparing the bid and entering into a contract for the subject package. The costs of visiting the site shall be borne by the bidder fully.

The Bidder shall submit the Site Visit Certificate as per enclosed format at Attachment-5, duly signed by bidder and NTPC site representative along with their Envelope-I (Techno-Commercial) Bid.

2.1.3.2 Attributes in General Technical Evaluation (GTE)

Bidders shall certify their compliance by accepting the following General Technical Evaluation (GTE) condition of the Tender at e-Tender Portal prior to the submission of Bid :

"Do you certify full compliance to all provisions of Bidding Document?"

By accepting above GTE, Bidder shall certify their compliance to all provisions of Bidding Documents including but not limited to the following important provisions:

(a) All provisions of Bidding Document.
(b) Fraud Prevention Policy of NTPC.
(c) Policy for Debarment from Business Dealings of NTPC.
(d) Clause "Restrictions on procurement from a Bidder of a country which shares a land border with India.
(e) All provisions of the Integrity Pact.
(f) Anti-Bribery and Anti-Corruption (ABAC) Policy of NTPC
(g) Clause 48.0 "Conflict of Interest"

Acceptance of above GTE shall be considered as Bidder's confirmation that any deviation to the any provision found anywhere in their Bid Proposal, implicit or explicit, shall stand unconditionally withdrawn, without any cost implication whatsoever to the Employer, failing which the bid shall be rejected and bid security shall be forfeited.

Note: The Techno-Commercial Bid should not contain any price content entry. In case, the Techno-Commercial Bid is found to contain any price content, such bid shall be liable for rejection.
Bids cannot be submitted without acceptance of above GTEs.

2.1.3.3 The Price Bid (Envelope-II) shall comprise of the following:

The Price Bid submitted by the Bidder shall comprise of the following:

The Bill of Quantity (BOQ) consisting of the total amount/ percentage (as applicable) against each head is to be submitted on the e-tender portal https://eprocurentpc.nic.in/.

2.1.3.4 SUBMISSION OF BIDS

The Bid (comprising the Techno-commercial, Price Bid & BOQ) shall be submitted simultaneously at the https://eprocurentpc.nic.in/ through e-tender mode in the manner specified in the bidding document.

Bidder shall upload the complete Bid, Attachments and BOQ along with all annexures on the website https://eprocurentpc.nic.in/. Bidders to ensure that all uploaded documents must be digitally certified.

Bidder to further ensure that documents uploaded online are being downloaded properly. Employer shall not be responsible for corrupt files, if any, uploaded online by bidder. Further file related to particular Attachment/Schedule including their annexures/ appendices, if any, shall be given name of that Attachment/Schedule only

The Owner, at its discretion, may hold post bid discussions with the bidder(s) to discuss the issues (if any).

2.3 UNDERSTANDING AND CLARIFICATIONS ON BIDDING DOCUMENTS

The bidder is required to carefully examine the Bidding Documents and fully inform himself as to all the conditions and matters which may in any way affect the works or the cost thereof. If any bidder finds discrepancies or omissions in the specifications and documents or is in doubt as to the true meaning of any part, he shall at once but in no case later than seven (7) days prior to the deadline for submission of techno-commercial bids, request clarifications in writing. For this purpose, the Owner will consider to respond to only those clarifications, which are received not later than seven (7) days prior to the deadline for submission of bids prescribed by the Owner. The Employer will post the Clarifications at https://eprocurentpc.nic.in/ and Bidders can view these Clarifications once they are posted. Bidders are requested to regularly check https://eprocurentpc.nic.in/ regarding posting of clarification, if any. After receipt of such amendments/interpretations/clarifications, the bidder may submit his offer but within the time and date as specified. All such amendments and clarifications shall form an integral part of the specifications and accompany the PMC/PEA’s proposal.

Verbal clarifications and information given by the owner or his employee(s) or his representative(s) shall not in any way be binding on the Owner.

2.4 DISCREPANCIES AND ADJUSTMENT OF ERRORS

2.3.1 If there are varying or conflicting provisions of the Bidding Documents, NTPC shall be deciding authority with regard to the intention of the document.

2.3.2 Any errors in description, quantity or rate in Schedules or any omission there from shall not vitiate the Contract or release the Contractor from the execution of the whole or any part of the works comprised there in according to drawings and specifications or from any of his obligations under the contract.

2.4 SIGNATURE OF BIDS/OFFERS

2.4.1 The bid including all documents attached at https://eprocurentpc.nic.in/ shall be digitally certified using Class-III signature by a duly authorised representative of the Bidder to bind him to the contract. The authorization shall be indicated by written power of attorney as per clause 2.1.3.1.1 (b) and shall be uploaded at Fee Cover/Envelope at on the website **https://eprocurentpc.nic.in**.

2.4.2 Offers by Corporation/Company must be digitally signed by the persons authorized to furnish offer on behalf of such corporation/Company in the matter.

2.4.3 The bidder’s name stated on the proposal shall be the exact legal name of the firm and shall be the same as that registered with NTPC.

2.4.4 A power of attorney, duly notarized by a Notary Public, indicating that the person signing the bid has the authority to sign the bid (and that the bid is binding upon the Bidder during the full period of its validity in accordance with Clause 2.0.

(The Authority of the person/ Board Resolution in this regard issuing the Power of Attorney shall also be submitted).

Further, Bidder to note that bid can be submitted/ digitally signed by only one person. The power of Attorney must be in the name of person digitally signing the bids.

3.0 SCOPE OF WORK

1.1 PMC/PEA shall be responsible for the entire scope of work for Project Management & Construction and successful commissioning of Railway siding system including OHE and S&T including associated Electrical & Mechanical Systems by getting the work executed through the "contractors" engaged for and on behalf of Owner. The scope of work also includes all testing and trials for commissioning of various sub-systems of railway siding as per terms & conditions specified in the bidding document/agreed between PMC/PEA and Owner.

1.2 The scope of work for the PMC/PEA for successful commissioning of railway siding system shall include the following:

i.) Detailed scope of work shall be as per Terms of Reference (TOR) as enclosed.

ii.) DPR, Detailed Engg. and, Preparation of tender documents, calling tenders/NIT and award of all packages to various contractors for execution of the work.

iii.) Procurement of all permanent way materials and other materials required for work at site (other than agreed to be issued by NTPC, if any) including follow- up and receipt, safe custody and handling of the same at site.

iv.) Execution of all associated civil works departmentally or through contractors including earthwork, permanent way, minor/major bridges, culverts, ROR, drainage system, Nallah crossings including laying of underground hume pipes, overhead cables etc. complete for successful commissioning of Railway Siding system and obtaining necessary approvals from Railways.

v.) Execution of all service buildings including their electrification (Cabins, offices, stores, workshop building etc.) and any other building/facility (if required) during execution of the contract.

vi.) Dressing of the formation top, ballasting, track laying for complete Railway Siding system including testing and commissioning of tracks.

vii.) Proper maintenance of tracks for a period of 06 months after successful commissioning. (This clause needs to be included in the scope of respective contractors, engaged by PMC/PEA for execution/construction work without any extra cost/additional BOQ items.)

viii.) Procurement and installation of S&T and OHE.

ix.) Erection of level crossings inside plant.

x.) Re-grading of roads, dismantling of existing built-up structures along the proposed Railway Siding, if any.

xi.) Procurement of plant and machinery including follow up and receipt, safe custody and handing over the same to NTPC at site.

xii.) Testing and trials for commissioning various sub-systems including permanent way, OHE and Signaling & Telecommunications.

xiii.) Commissioning of the transportation system of the Railway Siding.

xiv) Launching schemes and workshop fabrication drawings as required shall be checked by "PMC/PEA" at his costs.

xv) PMC/PEA consultant has to carry out Geo-Technical Study, Detailed Engineering and Proof Check of design and drawing from any IIT.

xvi.) Any observations of railways during site inspections should be suitably addressed by PMC Consultants.

1.2.1 The work towards shifting HT/LT and other utilities shall be in the scope of PMC Consultant. However, all assistance required shall be provided by NTPC as and when required.

1.3 All the above works shall be executed by "PMC/PEA" in accordance with the latest Railways/RDSO guidelines, design, technical specifications and drawings prepared by PMC/ PEA and approved by Railways/NTPC.

1.4 PMC/PEA shall furnish 3 sets of soft copies of all reports & as constructed drawing copies in pen drive to NTPC.

1.5 The ownership of the entire work as mentioned in the bidder's scope shall rest with NTPC.

WORK SCHEDULE FOR PMC –

S. No.	Activity	From the date of LOA	
		Start (In Months)	Finish (In Months)
1.0	Finalization of execution strategy and contract package list	08	09

2.0	Tendering and award of Railway Siding Packages (Earth work, Rail procurement, Formation work, rail laying, Bridges, ROR & culverts, Misc. Buildings etc.	09	12
3.0	Construction of Railway Siding civil works (Earthwork, Rail laying, Formation & P-way works, Bridges, Culverts and interconnection etc.)	12	30
4.0	Construction of ROR bridge and associated ramp up and ramp down works including all civil, P-way,OHE, S&T, & General Electrification w o r k s .	15	34
5.0	Construction of Miscellaneous Buildings	16	28
6.0	Tendering & Award of Railway Siding Package for OHE, Electrical and S&T Works	17	20
7.0	Execution of Railway Siding Package Electrical, OHE and S&T Works	20	34
8.0	Dry Engine Run		35
9.0	Completion of all facilities		36

4.0 **COST ESTIMATE**

4.1 The estimated Direct Cost towards construction of the above scope of work is **INR 71340/- Lakh** as per the break-up provided at **Annexure-A4**.

4.2 **FEASIBILITY STUDY REPORT**, prepared by M/s by M/s MR Technofin Consultants Pvt. Ltd. is enclosed.

5.0 **CONSIDERATION OF CONTRACT**

5.1 For the entire scope of services to be performed by PMC/PEA, NTPC shall pay on the basis of 'Direct Cost', which shall include the following:

a) Cost of all materials procured for incorporating in works including transportation, loading, insurance, unloading and taxes & duties. **Charges for inspection, to be performed either by PMC/PEA or any other inspection agency appointed by PMC/PEA directly, are not to be included in direct cost.**

b) Amounts to be paid to Contractors engaged for carrying out works under the contract.

c) Cost of all office buildings, storage sheds as approved and mutually agreed by NTPC.

d) Earnest money deposit forfeiture, interest earned on short term deposits if any and miscellaneous revenue receipts shall be credited to NTPC.

e) Any variation in amount payable to contractor as per the award of arbitration shall be borne by Owner and the same shall not be included under Direct Cost for the purpose of determination of fees payable to PMC/PEA. However, appointment of defense counsel, wherever required shall be done by PMC/PEA with the prior approval of Owner with regard to such appointment and the cost. Further, arbitrator's fees as well as defense counsel's fees (if applicable) shall be paid/reimbursed by NTPC and shall not be included under Direct Cost for the purpose of fee payable to PMC/PEA.

f) Cost towards safe custody of materials directly procured by PMC/PEA till the appointment of the contractor to whom materials are to be issued for execution. However, in case of contingency arrangement for storage of material directly procured by PMC, PMC shall float tender for the work separately and for such tender, NTPC approval shall be sought.

5.2 PMC/PEA shall be paid a fee towards project management by the Owner. The fee shall include PMC/PEA's all site expenses, inspection charges for inspection carried out by PMC/PEA or any other agency appointed by PMC/PEA, overheads & profits and which are not separately payable.

The Estimated PMC fee as per NTPC is Rs 2476.8 lakhs (exclusive of GST)

Bidders shall quote either a Premium (+) or Discount (-) in percentage (%) over the NTPC Estimated PMC Fee of Rs. 2476.80 lakhs in the designated BOQ sheet. Only the

Premium/Discount percentage quoted by the bidder in the designated BOQ sheet available on the e-tendering portal shall be considered for the purpose of bid evaluation.

The PMC Fee (excluding GST), calculated by applying the quoted Premium/Discount …………percentage to the NTPC Estimated PMC Fee, shall be the Effective PMC Fee in rupees.

The Effective PMC Fee Percentage shall be calculated by dividing the Effective PMC Fee by the Estimated Direct Cost and expressing the result as a percentage.

The above PMC Fee shall remain firm and fixed for any variation in the Estimated Direct Cost within ±10% (Stability Band).

In case the variation is more than (+)10% of the Estimated Direct Cost due to an increase in quantities necessitated during execution and/or an increase in the scope of work, the PMC Fee shall be increased only for the portion of the Direct Cost exceeding the +10% Stability Band. The additional PMC Fee shall be calculated by applying 75% of the Effective PMC Fee Percentage to the Direct Cost beyond the Stability Band. The additional PMC Fee so determined shall be payable only after the original PMC Fee has been fully exhausted and shall be released progressively based on the formula (Monthly Cost Incurred × Effective PMC Fee Percentage × 0.75) until the entire admissible additional PMC Fee has been paid.

In case the variation is beyond (-)10% of the Estimated Direct Cost due to a decrease in quantities necessitated during execution and/or a reduction in the scope of work, the PMC Fee shall be reduced proportionately only for the portion of the Direct Cost falling below the -10% Stability Band.

Typical calculations for PMC Fee Revision are as detailed below:

Illustrative Example 1 (Increase in Direct Cost):
Calculation for DC variation from ₹275 Cr to ₹475 Cr is as below:
LOA Direct Cost = ₹275 Cr
Actual Direct Cost = ₹475 Cr
Total Variation = +₹200 Cr (+72.70%)
Upper stability band (LOA DC × 1.10) = ₹302.50 Cr
Variation beyond band = ₹475 Cr − ₹302.50 Cr = ₹172.50 Cr
Additional PMC Fee = 75% × 5% (Effective PMC Fee Percentage) × ₹172.50 Cr = ₹6.47 Cr

Illustrative Example 2 (Decrease in Direct Cost):
Calculation for DC variation from ₹275 Cr to ₹150 Cr is as below:
LOA Direct Cost = ₹275 Cr
Actual Direct Cost = ₹150 Cr
Total Variation = - ₹125 Cr (- 45.45%)
Lower stability band (LOA DC × 0.90) = ₹247.50 Cr
Variation beyond band = ₹247.50 Cr − ₹150 Cr = ₹97.50 Cr
Reduction in PMC Fee = 5% (Effective PMC Fee Percentage) × ₹97.50 Cr = ₹4.875 Cr

Further, in case of additional works carried out by PMC/PEA at the instance of NTPC, not covered in DPR, consultancy fee for Project Management shall be based on NIT cost estimate or awarded direct cost whichever is lower for such work/package identified by the

Owner/PMC/PEA. However, price adjustment formula as specified in clause no. 11.0 (c) shall not be applicable for such additional work.

The fee to be paid to PMC/PEA does not include GST which shall be paid as per actual.

Fee, levied by Indian Railways or any other department, for any services rendered by them, shall be paid directly by NTPC to the Railways/department and shall be excluded from the Direct Cost and no fee will be payable to PMC/PEA on such direct payments to Railways /Department.

Any increase or decrease of PMC/PEA Fee shall be worked out based on the unit rate adopted in the Estimated Direct Cost furnished along with the bidding documents.

Detailed Procedure for deriving PMC fee on account of Scope Change/qty variation for bridges and Sheds & Buildings is presented at **Annexure-A5. The format for preparation of post award variation statement is placed at Annexure A6.**

Typical calculations for PMC Fee revision are placed at Annexure A7

5.3 CONSULTANCY FEE FOR DPR & DETAILED ENGG.

INR …………….. [Inclusive of all taxes, duties, levies, insurance charges, licence fee etc.], however excluding GST which shall be paid as per actuals. Detailed breakup for Consultancy Fee for Design (DPR and detailed Engineering) is to be furnished in Bill of Quantity (BOQ) of NTPC e-tender site.

6.0 SPECIFIC EXCLUSIONS FROM DIRECT COST

The specific exclusions from Direct Cost shall be as elaborated but not limited to the following:

~~a)~~ All expenses incurred by PMC/PEA for their head office, site office and those in relation to technical co-ordination, procurement and its follow-up (All establishment expenses incurred by PMC/PEA for their head office and those in relation to technical co-ordination, Procurement and its follow-up including inspection by either PMC/PEA or any other agency appointed by PMC/PEA) NIT is to be hosted on website.

All activities regarding preparation of drawings, in connection with setting out of works including field survey etc., drawings for phase of working, temporary arrangement, launching schemes for approval from Railways as required shall be carried out by PMC/PEA and all related costs shall be excluded from direct cost.

However, the work of preparation of fabrication drawings only shall be included in the scope of the contractors engaged by the PMC/PEA. PMC/PEA shall be responsible for checking the correctness of such fabrication drawings submitted by the contractors, as per RDSO/Railway guidelines.

b) Salaries/wages, P.F.(s)/Pensions and other perquisites paid to staff and labour directly employed by PMC/PEA for follow up, receipt, safe custody of material and execution of work at site.

c) Cost of direct field supervision at site.

d) All expenses related to official and residential accommodation acquired by PMC/PEA and their maintenance at places other than the project site.

e) Establishments charges including essential expenses related to accommodation, furnishing and maintenance of office.

f) All expense including salaries, allowances, travel expenses for personnel identified as related to inspection activities.

g) Cost of all necessary insurance for plants and equipment provided by PMC/PEA and Insurance of PMC/PEA's personnel, if any.

h) All capital cost for procurement of tools, plants and equipment incurred by PMC/PEA / Contractors.

i) Charges (excluding penalty), if any, levied by Railways or any other Govt. /State department for any services rendered by them, which shall be paid directly by NTPC to the Railways/ concerned department.

j) Temporary quarters constructed and maintained for PMC/PEA's staff.

k) Any variation arising solely due to market price escalation.

7.0 <u>COST CONTROL</u>

7.1 The PMC/PEA shall maintain separate bank account(s) at the respective Project site(s) for the money drawn by him from NTPC for the work. This money shall be utilized only for execution of the contract for NABINAGAR STPP Stage-II (3X800MW).

7.2 For effective cost control, all drawings shall have bill of quantities for major items and shall have approval by NTPC or PMC/PEA before they are released for construction purposes. However, the approval by NTPC shall not relieve PMC/PEA of their responsibilities. Further, a quarterly statement shall be furnished by PMC/PEA for NTPC's review indicating the actual quantities of work executed, their variance from the quantities identified in the finalized FR and reasons for the same. In addition, progress reports shall be furnished by 7th of every month giving details up to the end of previous month and program for next three months.

NTPC clearance is required for drawings for in-plant where layout has interface with other facilities.

Periodical (monthly/quarterly) project expenditure statement along with bank statement shall be furnished by "PMC/PEA" for NTPC's review indicating the work executed and program for next one month/quarter.

7.3 Any proposal for upward/downward revision of cost estimate indicated at para 4.1 on account of change in scope, quantities, indicated in FR or any other reason shall have reasoned vetting of Project Technical Services/Field Engg. of NTPC, with the concurrence of NTPC Finance of NTPC. PMC/PEA (if required) shall prepare an updated NIT cost estimate for each package. The updated cost estimate for the purpose of NIT shall however be vetted by Project Finance and Execution Department of Owner.

7.4 In case of Variation in cost at the time of award of package with respect to NIT Cost Estimate or for change in specification / quantities / scope during execution having additional financial implication prior approval from NTPC shall be obtained by PMC/PEA as follows:

7.4.1 The approval of such proposal shall be conveyed to PMC/PEA within 45 days from the date of its receipt.

7.4.2 Whenever the lowest & responsive bid price of any package to be awarded by PMC/PEA exceeds NIT cost estimate by 10% of the respective package, the award recommendation by PMC/PEA shall necessarily be routed through NTPC's Engineer-in-charge. The PMC/PEA shall consider the observations / comments / remarks of NTPC while finalizing the Contract. Further, during execution, in case of any variation in quantities or scope change, if the revised estimated cost of respective package exceeds NIT cost estimate by 10%, PMC/PEA shall submit details of cost along with justifications, for consideration/approval of NTPC.

7.4.3 Whenever the Consolidated cost estimate for the work i.e. entire Railway Siding Package (aggregate of value of different packages awarded & cost estimate for the other packages yet to be awarded) exceeds the total estimated direct cost indicated at para 4.1 of terms and conditions, the PMC/PEA shall submit the details of increase in cost along with justifications for approval of NTPC.

7.5 Release of payments against any proposal for upward revision of cost estimate on account of change in scope, quantities during execution of any package/s as indicated in the BOQ or for any other reason on compliance with 15(a),15(g) would be regulated (provided total cost estimate of the entire Railway Siding exceeds the total estimated direct cost indicated at para 4.1 of terms and conditions or total estimated cost including variation, if any, of any package awarded by PMC/PEA during execution, exceeds NIT Cost Estimate by 10% of the respective package) as per the following payment terms

(i) 75% of the applicable payment shall be released on vetting / approval of such proposal by Project Technical Services with the concurrence of Project Finance.

(ii) Balance 25% of the applicable payment shall be released on approval of NTPC and issuance of the amendment to Contract(s) by PMC/PEA to their Contractors.

8.0 <u>TERMS OF PAYMENT:</u>

8.1 Advances

a) NTPC shall release interest free advances @ 10% of the Project management Fee (referred at para 5.2) payable towards mobilization of resources at site on fulfillment of following conditions:

i) Unconditional acceptance of letter of award.

ii) Submission of unconditional Bank Guarantees of equivalent amount initially valid upto 3 months after the completion period from any bank listed at **Annexure-A1** and in the prescribed format placed at **Annexure-A**, which shall be extended by PMC/PEA from time to time as required by NTPC. The bank guarantee so submitted shall be reduced proportionate to the advance recovered from their fees once in every six months. The advance will be recovered @ 10% of amount due as fee from their fee bills submitted to NTPC till such time the advance stands fully recovered.

iii) Submission of detailed Project Schedule (PERT) conforming to the completion schedule as brought out at para 11.0 (b) later & its approval by NTPC.

"**Note: In case the PMC/PEA decides not to take advance payment, the advance payment shall be proportionately adjusted in the progressive payment."**

b) In addition to above, NTPC shall release following advance to PMC/PEA for the Direct Cost portion:

Monthly advance towards cost of execution of work and procurement of materials in accordance with the agreed fund flow chart. This advance shall be released against furnishing an Indemnity Bond by PMC/PEA. The advance for procurement of materials shall be released to PMC/PEA in stages depending upon the procurement schedule along with submission of demand after order finalization on the suppliers/Contractors.

The first installment shall be released against PMC/PEA's requisition. However, the subsequent amounts shall be released against submission of statement of accounts for expenses incurred from the advance amount released in the previous months supported by trial balance for the month, certified copies of relevant documents in support of expenses incurred by PMC/PEA in that month.

In addition, PMC/PEA shall arrange to furnish indemnity bond through the deployed contractors against owner issue materials, if any, in a Performa acceptable to NTPC.

c) NTPC shall release interest free advances @ 10% of the consultancy fee for DPR & Detailed Engg. (referred at para 5.3) payable towards mobilization of resources at site on fulfilment of following conditions:

i) Unconditional acceptance of letter of award.

ii) Submission of unconditional Bank Guarantees of equivalent amount initially valid upto 3 months after the completion period from any bank listed at **Annexure-A1** and in the prescribed format placed at **Annexure-A**, which shall be extended by PMC/PEA from time to time as required by NTPC. The bank guarantee so submitted shall be reduced proportionate to the advance recovered from their fees once in every six months. The advance will be recovered @ 10% of amount due as fee from their fee bills submitted to NTPC till such time the advance stands fully recovered.

iii) Submission of detailed Project Schedule (PERT) conforming to the completion schedule as brought out at para 11.0 (b) later & its approval by NTPC.

8.2 Terms of payment for direct cost & Fees shall be as under:

a) All materials to be used for works under contract shall be procured and paid by PMC/PEA on behalf of NTPC, out of the advance amounts received by them as brought out above.

Any payment to the Contractors shall be released by PMC/PEA directly. For this purpose, PMC/PEA shall furnish work execution statement to the Engineer-in-charge. The Owner (Engineer-in-charge) reserves the right of periodical checks/audit of bills (quarterly) and in case discrepancies/deficiencies, if any, are identified by the Owner, PMC/PEA shall make good the same under advice to the Owner. However, in case of final payment, all regularization/reconciliation shall be done prior to release of payment.

All claims towards direct costs shall be made by PMC/PEA on the basis of actual payments made by them towards procurement of materials and execution of work.

b) On completion of works, materials charged to the direct cost but not consumed for the works, whether serviceable or unserviceable or scrap or surplus shall be handed over to NTPC or disposed off in consultation with NTPC and necessary credit shall be given to NTPC.

c) At the end of each month from the date of award of contract, PMC/PEA shall submit a statement of accounts in formats to be approved by NTPC, setting forth therein all costs incurred by them during that month for procurement of materials and execution of work. Along with the above statements, PMC/PEA shall also submit the invoice for fee as mentioned at para 5.2 above. The fees shall be released by NTPC upon certification by Engineer-in-charge.

d) From every invoice/bill of PMC/PEA, claiming fees NTPC shall withhold 10% of the amount of fees claimed as Retention Money. This retention money shall become due and payable to the PMC/PEA on the expiry of 15 months after completion of works at site in all respects (including removal of construction sheds etc.) and after obtaining the completion certificate from NTPC's Engineer-in-charge in line with clause 1.20 above. However, if PMC/PEA desires, retention money shall be released on half-yearly basis against submission of a bank guarantee of equivalent amount as per the format prescribed by NTPC valid till 15 months beyond completion of entire works under the contract.

e) All the statements of accounts and invoice / bills shall be submitted by the PMC/PEA in 'triplicate' to the respective Engineer-in-charge at site and same shall be supported by relevant documents/vouchers etc.

9.0 TERMS OF PAYMENT FOR CONSULTANCY FEE FOR DESIGN (DPR & DETAILED ENGINEERING)

Terms of Payment for consultancy fee for design (DPR and detailed engineering) are as under:

S. No.	**ACTIVITY /STAGE**	**% of Contract Price**

(A)		Revalidation of FR and its approval from Railways (if required) and/or Submission of draft DPR to NTPC (with survey reports) for comments/acceptance before submission to Railways	10%
(B)		Approval of DPR from Railways and submission of Final DPR to NTPC	5%
(C)		Submission of ESP, Plan & L-section, SIP, LOP including Railway clearance/approval as applicable	5%
(D)		Submission of Final Survey Report and Land Plans (if any) * *Amount is fully payable if land plan is not required.	5%
(E)		Submission of Final DPR (including Railway clearance/approval) after incorporating Railways observations & NTPC requirements (if any) for system augmentation	10%
(F)	**CIVIL ENGINEERING & OTHER MISC WORKS**		
	(i)	Submission of detailed technical specification, tender drawings, BOQ and detailed cost estimates for all civil works viz. Earth work, slope stabilization, all bridges incl. ROR works, culverts, tracks, permanent way, all buildings, workshop, FOB, ballast-less tracks, drainage system, block hut etc. and obtaining approvals from Railways, State/Central Govt. & other agencies as applicable. Details of deposit works also to be submitted (as/if required by Railways)	5%
	(ii)	Submission of Complete Geotechnical Investigation Reports for all bridges/building and other structures	10%
	(iii)	Submission of GAD (General Arrangement Drawing), detailed design and drawing of all bridges and culverts after obtaining proof check from any IIT (Indian Institute of Technology).	10%
	(iv)	Completion of detailed design & drawings for all civil works viz. rail track structure, earthwork, slope stabilization, bridges, culverts, ROR, control buildings, workshops, FOB, ballast-less tracks, drainage system, etc. and obtaining approvals from Railways, State/Central Govt. & other agencies as applicable	10%
(G)	**Signaling and Telecommunication (S&T)**		
	(i)	Submission of detailed system design of signaling and telecom facilities and plan & obtaining approvals from Railways State/Central Govt. Dept. & other agencies as applicable.	5%
	(ii)	Submission of technical specifications, construction drawings, BOQ & cost estimates for signaling and telecom works, list of spares, tools & maintenance schedule etc. & obtaining approvals from Railways, State/Central Govt. Dept. and other agencies as applicable	5%

(H)	**OHE & General Electrical works**		
	(i)	Submission of plan and detailed system design for OHE works including approval from Railways as applicable	5%
	(ii)	Submission of technical specifications, tender drawings, BOQ & cost estimates, construction drawings etc. for the complete OHE system, list of spares, tools and maintenance schedule including approval from railways as applicable	5%
	(iii)	**General Electrical Works** Submission of detailed system design & plans, technical specifications, construction drawings, BOQ & cost estimates for general electrical works.	5%
(I)	Submission of Station Working Rules including Railway clearance as applicable		5%

Payment shall be released progressively on certification of Engineer-In-Charge.

10.0 RECORD OF ACCOUNTS

a) PMC/PEA shall maintain regular records and accounts of all expenses incurred by him with respect to the direct cost of works under award. All these accounts shall be maintained in formats acceptable to NTPC and shall be subject to inspection and admittance by the engineer-in-charge and his duly appointed finance representatives. PMC/PEA shall depute their own internal auditors from their head office to audit these accounts, at their own expenses, at regular intervals of time and shall also arrange for audit by the statutory auditing authorities.

b) On successful completion of work at the site and on physical handing over of the Railway Siding to NTPC, PMC/PEA shall prepare and submit to NTPC the closing accounts duly approved by NTPC and other concerned authorities.

11.0 Completion Schedule

a) It is specifically agreed that time is the essence of the contract and shall be strictly adhered to the detailed Time Schedule stipulated as stipulated in Terms and Conditions of Contract schedule 2. Follow as,

DPR & Detailed Engg.:

S.No.	Activity	From LOA date (in Months)
1	Submission of draft DPR & ESP to NTPC for comments/acceptance before submission to Railways	02
2	Submission of Survey Report and Land Plans, Finalization of DPR & ESP and Submission to Railways/NTPC (as applicable) for approval/ acceptance	02-03

3	Approval of DPR from Railways and submission of Final DPR to NTPC including Plans	03-06
4	Submission of Technical specification, tender drawings, BOQ, detailed cost estimates etc. to NTPC	05-07
5	Submission of construction drawings	08-10
6	Obtaining Railways, State/Central Govt. Dept. and other agencies approvals of detailed design & drawings for all Civil, S&T, OHE and general electrical works viz. Rail track structure, bridges & culverts (including proof check from IIT), control buildings etc. as applicable	09-11

PMC :

S. No.	Activity	From the date of LOA	
		Start (In Months)	Finish (In Months)
1.0	Finalization of execution strategy and contract package list	08	09
2.0	Tendering and award of Railway Siding Packages (Earth work, Rail procurement, Formation work, rail laying, Bridges, ROR & culverts, Misc. Buildings etc.	09	12
3.0	Construction of Railway Siding civil works (Earthwork, Rail laying, Formation & P-way works, Bridges, Culverts and interconnection etc.)	12	30
4.0	Construction of ROR bridge and associated ramp up and ramp down works including all civil, P-way, OHE, S&T, & General Electrification works.	15	34
5.0	Construction of Miscellaneous Buildings	16	28
6.0	Tendering & Award of Railway Siding Package for OHE, Electrical and S&T Works	17	20
7.0	Execution of Railway Siding Package Electrical, OHE and S&T Works	20	34
8.0	Dry Engine Run		35
9.0	Completion of all facilities		36

b) PMC/PEA shall prepare and submit detailed project schedule with a write up on the modality of operation proposed by him for the Contract within four weeks of award of contract. The schedule shall be discussed and mutually agreed to and shall form an integral part of agreement to be entered into between NTPC and PMC/PEA. The schedule shall be strictly followed by PMC/PEA while executing the work under this contract.

c) For any delays attributable to NTPC in execution of contract, project management consultancy (PMC/PEA) fee for the balance work beyond the end of contractual completion schedule shall be adjusted and payable/recoverable as per the formula and illustration given at **Annexure-A3.**

12.0 <u>PMC/PEA's Personnel</u>

a) PMC/PEA shall depute to project site the required personnel along with necessary supporting staff as may be discussed and mutually agreed to with Engineer-in-Charge at site. Further, PMC/PEA shall ensure that persons engaged for the work shall have proven integrity, competence and overall sound reputation.

PMC/PEA shall identify 'procurement cells' in his site organization comprising of personnel to perform procurement and inspection activities as to be mutually agreed between NTPC and PMC/PEA. During the course of execution of the work, if found necessary and approved by NTPC's Engineer-in-charge, PMC/PEA shall be permitted to depute more persons as to be approved by NTPC so as to achieve the desired progress of work, if found necessary and instructed by NTPC's Engineer-in-Charge.

b) PMC/PEA shall submit within 15 days of award of contract a detailed schedule of deployment of his manpower placement schedule in all concerned areas including quality control and safety for supervision of the work to Engineer-in-Charge for approval of NTPC.

c) In the head office PMC/PEA shall nominate a senior officer for this project who will coordinate with NTPC corporate office at New Delhi/NOIDA for progress and monitoring the work and shall visit site from time to time for guiding and coordinating the field activities. He will be assisted by necessary technical staff at the PMC/PEA's headquarter office who are specialist in specified fields, such as earthwork, bridges, pre-stressed concrete work, track works, girder erection work etc. and will keep NTPC notified periodically about the person deployed at site for the work.

d) PMC/PEA personnel when posted to the site, shall abide by the general instruction as may be given by the respective Engineer-in-charge from time to time and shall not involve themselves in any local politics.

e) NTPC reserves the right to request PMC/PEA for replacement of his personnel, if not found suitable by the Engineer-in-charge, of NTPC. PMC/PEA in all such cases will replace the person within a reasonable time up-to a maximum of thirty days.

13.0 <u>COMPLETION CERTIFICATE</u>

13.1 PMC/PEA shall maintain a log book at site incorporating therein the progress of work during the execution of contract. During execution of the work, PMC/PEA shall submit monthly progress reports and on completion shall intimate the Engineer-in-charge in writing. Within 30 days of receipt of such information the Engineer-in-charge shall physically inspect the works and log book and shall furnish PMC/PEA with a certificate of completion indicating:

a) Date of completion;

b) Defects to be rectified by Contractors appointed by PMC/PEA. PMC/PEA shall remain liable rectifying defects etc. in the work executed by Contractors appointed by PMC/PEA upto 12 months after issue of completion certificate.

c) Part of work completed for which payment may be authorized towards the charges claimed by them.

For the purpose of this clause the work shall be considered completed in full on the day when PMC/PEA has completely been removed from the premises, all sheds, surplus material, rubbish, etc. stage wise/package wise. Further, PMC/PEA shall ensure that the defect liability period/warranty period of individual package awarded during execution of Contract is valid upto 12 months after completion of schedule period (as per Clause no. 11.0 above) of the entire Railway Siding Package.

The Bank Guarantee & Insurance charges of extended period on account of delays attributable to the owner shall be reimbursed at actuals based on the written request of PMC/PEA.

The reimbursement of BG charges shall be made on the basis of documentary evidence submitted by the Contractor (such as debit advice of Bank) along with a Certificate from the issuing Bank, as per the format enclosed at Form-2).

Further, the reimbursement of Insurance charges shall also be made on the basis of documentary evidence submitted by the Contractor. In addition, the Contractor should obtain Insurance Policy directly from the Insurance Company and not through Brokers.

The aforesaid reimbursement of Bank Guarantee Charges and Insurance Charges shall be inclusive of GST.

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

13.3 The following documents shall form the principal basis for Consideration of Time Extension with or without LD, levy of liquidated damages and settlement of extra claims during the execution of contract:

1. The joint recordings in the weekly meetings register and Logbook.
2. Records of Technical Coordination Meetings, if any.
3. Records of Contract Review meetings, if any.
4. Written notices issued by Engineer or his authorized representative to Project Manager in the relevant period.

14.0 <u>LIQUIDATED DAMAGES FOR DELAYS</u>

14.1 In case of any delay in execution of contract, in part or full, beyond the completion date stipulated in the Contract including any Time extension as may be granted by NTPC in writing for the reasons solely attributable to PMC/PEA, PMC/PEA shall pay to NTPC or shall permit NTPC to recover from the amounts due to PMC/PEA a sum equal to half (1/2) percent of PMC/PEA's fee towards project management for the part or work so delayed, per week of delay or part thereof. The total liability of PMC/PEA under this clause shall be subject to maximum of 10% of his fee.

15.0 RESPONSIBILITY OF PMC/PEA

a) For the purpose of achieving the desired progress of work and for Contracting etc., the work shall be split into packages and the package list shall be finalized after approval of NTPC's Engineer-in-charge at site to enable early and quick award of packages.

The PMC/PEA shall be responsible for preparation of all tender documents including those for the material plant and equipment for the purpose of Contracting. Further, the PMC/PEA shall also perform all necessary re-engineering, which may be necessary and shall be responsible for entire field engineering co-ordination with Contractors at site. The PMC/PEA shall ensure the completeness of engineering involved and shall be responsible for all necessary detailed engineering.

For each contract, PMC/PEA shall finalize updated cost estimate before issue of NIT. The cost estimate shall be vetted by Project Finance & Execution Department of NTPC. PMC/PEA shall, however, furnish justification/basis for revision(s) with respect to corresponding DPR provision.

Each Package as identified shall be awarded by PMC/PEA as per their Procurement policy & Delegation of Power for and on behalf of NTPC. After award of each such package, PMC/PEA shall forward certified copies of Contract documents along with all supporting tender documents to NTPC's Engineer-in-charge.

PMC/PEA shall furnish the revised Cost Estimate for the entire Coal Transportation System on 6 monthly basis.

Please also refer Clauses 7.4.1, 7.4.2 & 7.4.3 above.

b) The PMC/PEA shall be responsible for procurement of all the materials covered in the scope, including preparation of tender documents as applicable, evaluation of bids, finalization of awards of supply orders, inspection, coordination with the suppliers and necessary follow-up so as to ensure the timely receipt of all necessary materials at site.

c) The PMC/PEA shall be responsible for the construction supervision including storage and handling of the materials, plant and equipment and measurement of works for all items of work covered under their scope of work, and shall coordinate with all agencies involved in the execution of the same and shall be responsible for achieving the scheduled completion dates.

The PMC/PEA shall co-ordinate the field work at the site with other agencies involved, including zonal Railways for necessary clearances and approvals and from local authorities (if necessary) and shall assist NTPC in issue of notices to concerned parties and local bodies for activities connected with the construction work. The PMC/PEA shall also assist NTPC in all matters pertaining to the execution of the agreement including preparation and finalization of the draft agreement with zonal Railways to be executed after legal vetting by NTPC's Law Department immediately after completion of the individual work.

d) The PMC/PEA shall make all necessary arrangement with zonal railway for arranging the testing of railway siding system by bringing on them suitable locomotive and trailing loads (at Owner's cost) and shall obtain the fitness certificate from the competent authority of railway and handover the same to NTPC as a proof of satisfactory completion of work.

e) Adequate land (Phase wise) shall be made available by NTPC prior to scheduled start of the work under the respective contracts. Further, PMC/PEA will identify the constraints, if any in availability of adequate working space or land during execution of work and assist NTPC in resolving associated issues.

f) The PMC/PEA shall finalize the list of tools & plants to be incorporated in the documents for contracts in consultation with Engineer-in-Charge / NTPC and tie up of the same with the contractors while finalizing the contracts. All such tools, plants and equipment will be mobilized at site within mutually agreed time schedule. No additional tools, plants and equipment will be brought to site by the PMC/PEA unless otherwise instructed by Engineer-in-Charge to achieve the desired progress of work. The PMC/PEA shall be required to keep detailed log accounts of performance of all such tools, plant and equipment and shall be responsible for operation and maintenance of the same.

g) The PMC/PEA shall be responsible for monitoring of the progress and cost of work as per the requirement of NTPC. In this regard, the PMC/PEA shall strictly comply with NTPC's planning and budgeting systems requirement and will accordingly submit monthly progress report and other report as per NTPC's prescribed formats.

h) The PMC/PEA shall prepare a detailed coordination procedure at site within fifteen days of the award of contract.

i) The PMC/PEA shall prepare as constructed drawing and furnish soft copies of constructed drawings (in CDs) to NTPC. The work of preparation of "As Constructed Drawings" shall be included in the scope of the Contractors engaged for the execution of various works. The PMC/PEA shall compile the above and submit the same to the owner in totality.

Note:
1. The above provisions will not be applicable in case the PMC/PEA proposes deployment of required plant and equipment in Contractor's scope (Refer 15.0(f) above).
2. NTPC shall not issue Power of Attorney to PMC/PEA for execution of the subject package.

16.0 <u>ASSISTANCE TO BE PROVIDED BY NTPC</u>

a) NTPC will render all necessary assistance to the PMC/PEA in procurement of controlled items. If, in order to maintain the construction schedule, it becomes necessary to procure such items from open market, the actual cost of such purchase will be borne by the PMC/PEA.

b) While the PMC/PEA shall be associated with the project activities, necessary assistance shall be provided by PMC/PEA to NTPC for issue of necessary notification under the land acquisition act or any other act or institution of Government of India or the State Government.

c) In case any compensation is required to be paid for cutting of crops, gardens, or forests or for any other reasons arising out of the construction operations claims for the same shall be settled and paid by NTPC.

d) NTPC shall arrange for acquisition of land required for execution of works and fulfillment of formalities with respect to the same.

e) NTPC shall make available a layout plan in the area, so that the siding connections can be suitably planned.

f) While NTPC shall render assistance to PMC/PEA in coordinating with coal companies in obtaining data/information in connection with execution of works, the PMC/PEA shall perform all necessary follow up on NTPC's behalf in this regard.

g) NTPC shall provide PMC/PEA's personnel assigned to site the following facilities comparable to NTPC's own personnel for similar categories.

  (i) Access to medical facilities to the PMC/PEA's field personnel and their dependent family members who reside with them at site, during the period of assignment to the project site, on the same lines as that of NTPC personnel of equivalent status on payment for the same.

  (ii) Transport facilities for the children of the PMC/PEA's personnel posted at site for going to school, wherever such facilities are available.

  (iii) NTPC shall provide furnished guest house accommodation to the PMC/PEA's personnel visiting site on payment of charges laid down by NTPC for their own personnel of comparable categories subject to its availability.

  (iv) Quarters, if available, may be provided for PMC/PEA's staff/officers on chargeable basis subject to availability at site.

17.0 TAXES, DUTIES AND INSURANCE

17.1 All taxes, duties & levies (including GST) and applicable surcharge/ cess on taxes, duties & levies, insurance charges, license fees, etc. including statutory variations during the currency of the contract applicable on transactions between the PMC/PEA and Contractors appointed by PMC/PEA, if any, shall be payable directly by PMC/PEA or Contractors appointed by PMC/PEA and NTPC will not have any liability whatsoever on this account.

17.2 All taxes, duties & levies (other than GST as applicable on direct transaction between the PMC/PEA and Owner), applicable surcharge/ cess on taxes, duties & levies, insurance charges, license fees, etc. including any statutory variations there to arising out of the contract shall be payable directly by PMC/PEA and shall be included in the project management fees for the entire scope of work. Owner will not bear any expenditure, whatsoever on this account.

17.3 GST as applicable on direct transaction between Owner and the PMC/PEA under this contract (tax rates as applicable on 7 days prior to date of bid opening, component of contract price on which it is applicable and the total amount) will be indicated by the bidder separately in Bill of Quantity (BOQ) and GST including statutory variations & any new cess and/or levies there upon during the currency of the contract shall be payable/reimbursable by Owner. However if bidder fails to mention GST as applicable on 7 days prior to date of bid opening on any component of the contract price and the same becomes payable by the PMC/PEA during execution, Owner will not be liable for reimbursement in this regard.

17.4 (a) As regards income tax, surcharge on income tax and other corporate taxes, including cess wherever applicable, the PMC/PEA shall be responsible for such payments to the concerned authorities.

(b) The Owner is entitled to deduct TDS as per the Government policies/tax rules and regulations.

17.5 Tax liability, if any, on deputation of the Consultant's Personnel abroad shall also be borne by the PMC/PEA and shall be the responsibility of the PMC/PEA as per Tax Laws of India.

17.6 The PMC/PEA shall be liable to take/maintain all necessary insurance at its own cost as applicable to them. Further, PMC/PEA will also ensure that their Contractors shall take/maintain all necessary insurance for their respective packages.

17.7 The recovery of TDS shall be done by PMC/PEA on behalf of NTPC and deposited with the relevant Tax Authorities.

18.0 <u>SUSPENSION OF WORKS</u>

18.1 The PMC/PEA shall, on receipt of the order in writing of the NTPC's Engineer-in-Charge, suspend the progress of the works or any part thereof for such time and in such manner as the Engineer-in-Charge may consider necessary for any of the following reasons:

i) On account of any default on part of the PMC/PEA or

ii) For proper execution of the works or part thereof for reasons other than default of the PMC/PEA or

iii) For safety of the works or part thereof.

The PMC/PEA shall, during such suspensions, properly protect and secure the works to the extent necessary and carry out the instructions given in that regard by the Engineer-in-Charge.

For the suspension being ordered for reasons (ii) and (iii) above, the PMC/PEA shall be entitled to an extension of time equal to the period of every such suspension plus 25% subject to approval of Engineer-in-Charge.

Further, PMC/PEA may reduce their resources (manpower and machinery) during the period of suspension or extended time beyond contract period for the reasons solely attributable to Owner as mutually agreed between PMC/PEA and Owner.

19.0 <u>SETTLEMENT OF DISPUTE</u>

19.1 Mutual Consultation

If any dispute of any kind whatsoever shall arise between the Employer and the Contractor in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Facilities, whether during the progress of the Facilities or after their completion and whether before or after the termination, abandonment or breach of the Contract, the parties shall seek to resolve any such dispute or difference by mutual consultation.

On reference of such a dispute by either party, the Employer shall invite the Contractor for mutual consultation, within seven (07) working days of such reference.

Without admitting the Employer's liability, the Employer may obtain, within 30 days of such reference of the dispute, further details from the Contractor and examine it relating to the dispute. Such examination (if any) by the Employer shall not be construed as or imply acceptance of the claim or liability or accuracy or completeness of the details set forth in such request or reference. The Employer may hold discussions with Contractor with an effort to resolve the dispute. If the parties fail to resolve such a dispute or difference by mutual consultation within a period of forty-five (45) days from the date of receipt of reference of such dispute or within such extended period as the parties shall agree in writing, then the dispute may be settled through Independent Engineer (if applicable) and/ or Mediation through Independent External Monitors (if applicable) and/or through Conciliation and/or Arbitration (if applicable) / other remedies available under the applicable laws.

Notwithstanding anything contained in any other law for the time being in force, the parties shall keep confidential all matters relating to the Mutual consultation proceedings. Confidentiality shall extend also to any agreement reached during Mutual consultation, except where its disclosure is necessary for purposes of implementation and enforcement.

The parties shall not rely on or treat as evidence in Independent Engineer/ Mediation/ Conciliation/ and in any way Arbitral or Judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the Mutual consultation proceedings

a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;

b) admissions made by the other party in the course of the mutual consultation proceedings;

c) the fact that the other party had indicated his willingness to accept a proposal for mutual settlement

19.2 Deleted

19.3 Mediation through Independent External Monitors (IEMs)

If the parties fail to resolve a dispute or difference by mutual consultation and through Independent Engineer (if applicable) within a period specified at Cl. 19.1 above, the dispute, if the parties agree, may be referred to the Panel of IEMs for Mediation.

The Mediation proceedings shall be completed in a time bound manner, in not more than 45 days from the date of reference to IEMs for Mediation.

The IEMs may conduct the Mediation proceedings in the manner, they consider appropriate. In case of 3-member Panel of IEMs, 2 members will constitute a valid quorum and the meeting can take place to proceed in the matter after seeking consent from the member who is not available. However, IEMs recommendations will be signed by all the members.

The fees for such meetings shall be as specified in the SCC. The travel and stay arrangement for such meetings shall be equal to that of Independent Board Member of Employer's Organization. However, not more than five meetings shall be held for a particular dispute resolution. The fees/ expenses on dispute resolution shall be equally shared by both the parties.

If decision of IEMs is acceptable to both the parties, a Settlement Agreement will be signed to the extent agreed by the parties within 15 days of acceptance by the parties and same shall be authenticated by all the IEMs.

Notwithstanding anything contained in any other law for the time being in force, the Mediator and the parties shall keep confidential all matters relating to the Mediation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

The parties shall not rely on or introduce as evidence in Conciliation or Arbitral or Judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the Mediation proceedings, —

a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;

b) admissions made by the other party in the course of the Mediation proceedings;

c) proposals made by the Mediator; and

d) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the Mediator.

19.4. Resolution of Dispute through Conciliation

If the parties fail to resolve such a dispute or difference by mutual consultation and through Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period as specified at Cl. 19.1 and 19.3 above, the dispute if the parties agree, may be referred to Conciliation.

(i) For cases where the disputed amount (Claim/ Counter claim, whichever is higher) is upto Rs. 25 Cr. (excluding interest), the matter for conciliation shall be referred to Expert Settlement Council (ESC), constituted by Employer

(ii) For cases where the disputed amount (Claim/ Counter claim, whichever is higher) is above Rs. 25 Cr. (excluding interest), the matter for conciliation shall be referred to Conciliation Committee of Independent Experts (CCIE), constituted by Ministry of Power (MoP).

If the claim/Counter-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.

The Conciliation process shall be conducted as per Part III of the Arbitration and Conciliation Act, 1996.

19.4.1. Resolution of Dispute through Expert Settlement Council (ESC), constituted by EMPLOYER {For cases with Disputed amount (Claim/ Counter claim, whichever is higher) upto Rs. 25 Crore excl. interest}

If the parties fail to resolve such a dispute or difference by mutual consultation and through Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period specified at Cl. 19.1 and 19.3 above, the dispute, if the parties agree, may be referred to Conciliation through Expert Settlement Council (ESC), in cases where the Disputed amount (Claim/ Counter claim, whichever is higher) is upto Rs.25 crore (excl. interest).

19.4.1.1 Invitation for Conciliation through ESC:

19.4.1.1.1 A party shall notify the other party in writing about such a dispute it wishes to refer for Conciliation through ESC within a period of 15 days from the date of failure to resolve the dispute through Mutual Consultation and Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period as specified at Cl. 6.1, 6.2 and 6.3 above. Such Invitation for Conciliation shall contain sufficient information as to the dispute to enable the other party to be fully informed as to the nature of the dispute, amount of the monetary claim, if any, and apparent cause of action.

19.4.1.1.2 Upon acceptance of the invitation to conciliate, the other party shall submit its counter claim, if any, within a period of 15 days from the date of the invitation to conciliate. If the other party rejects the invitation or Disputed amount (Claim/ Counter claim, whichever is higher) exceeds Rs 25 crore (excl. Interest), there will be no Conciliation proceedings through ESC.

There shall be no Conciliation where disputed amount (Claim/ Counter claim, whichever is higher excl. interest) is only up to Rs 5 lakhs.

19.4.1.1.3 If the party initiating Conciliation does not receive a reply within fifteen (15) days from the date on which it sends the invitation, or within such other period of time as specified in the invitation, it shall treat this as a rejection of the invitation to conciliate from the other party.

19.4.1.2.0 Conciliation through ESC:

19.4.1.2.1 Where Invitation for Conciliation has been furnished under GCC sub clause 19.4.1.1, the parties shall attempt to settle such dispute through Expert Settlement Council (ESC) which shall be constituted by CMD/Chairman of Employer.

19.4.1.2.2 ESC will be formed from experts comprising three members from the panel of Conciliators maintained by EMPLOYER. However, there will be single member ESC for disputes involving disputed amount (Claim/ Counter claim, whichever is higher excl. interest) is up to Rs. 1 crore.

CMD/ Chairman of Employer shall have the authority to reconstitute the ESC to fill any vacancy.

19.4.1.2.3 The ESC shall be amongst Civil Servants of Govt. of India retired from the level of Joint Secretary and above, Retired Judges, Officers retired from the level of Executive Director and above of any Maharatna /Navratna company in India, other than NTPC Ltd, Retired Independent Directors who have served on the Board of any Maharatna / Navratna company in India, other than NTPC Ltd.

19.4.1.3.0 Proceedings before ESC:

19.4.1.3.1 The claimant shall submit its Statement of Claims (SOC) along with relevant documents to ESC members, and to the party(s) indicated in the appointment letter within 15 days of appointment of ESC. The respondent shall file its reply/Statement of Defence (SOD) and counter claim (if any) within 15 days of the receipt of the Statement of claims. Each party shall send a copy of such Statement along with relevant documents to the other party.

Parties may file their rejoinder/additional documents, if any in support of their Claim/Counterclaim within next 7 days. No documents shall be allowed thereafter, except with the permission of ESC.

19.4.1.3.2 The parties shall file their claim and counterclaim in the following format

a. Chronology of the dispute
b. Brief of the contract
c. Brief history of the dispute
d. Issues

Sl. No.	Description of Claims/ Counter claims	Amount (in foreign currency/INR)	Relevant Contract Clause

Details of Claim(s)/Counter Claim(s)
Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract

Note: Statement of claims shall be restricted to maximum limit of 20 pages.

19.4.1.3.3 In case of 3 members ESC, 2 members will constitute a valid quorum and the meeting can take place to proceed in the matter after seeking consent from the member who is not available. However, ESC recommendations will be signed by all the members.

If required, meetings can be conducted through video conferencing/other digital means subject to the agreement between the parties and the ESC.

19.4.1.3.4 The parties shall be represented by their in house employees. No party shall be allowed to bring any advocate or outside consultant/advisor/agent to contest on their behalf. Ex-officers of Employer's Organization who have handled the subject matter in any capacity shall not be allowed to attend and present the case before ESC on behalf of contractor. However, ex-employees of parties may represent their respective organizations. Parties shall not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till execution of settlement agreement, if so arrived. In case, parties are unable to reach a settlement, no interest shall be claimed by either party for the period from the date of notice invoking Conciliation till the date of ESC recommendations and 30 days thereafter in any further proceeding.

19.4.1.3.5ESC will conclude its proceedings in maximum 5 meetings and give its recommendations within 90 days from the date of reference to ESC. ESC will give its recommendations to both the parties recommending possible terms of settlement. CMD/ Chairman of Employer may extend the time/number of *meetings, in exceptional cases, if ESC requests for the same with sufficient reasons and as agreed by the parties.*

19.4.1.3.6*Depending upon the location of ESC members and the parties, the venue of the ESC meeting shall be either Delhi/Mumbai/Kolkata/Chennai or any other city whichever is most economical from the point of view of travel and stay etc. All the expenditure incurred in ESC proceedings shall be shared by the parties in equal proportion.*

19.4.1.4.0 Fees & Facilities to the Members of the ESC

The cost of Conciliation proceedings including but not limited to fees for Conciliator, Airfare, Local transport, Accommodation, cost towards conference facility etc shall be as provided herein below:

Sl. No.	***Fees/ Facility***	***Entitlement***
1	*Fees*	*Lumpsum fee of Rs. 2,50,000 per conciliator irrespective of the no. of meetings. **
2	*Secretarial expenses*	*Rs. 10,000 lump sum (to 1 member only).*
3	*Transportation in the city of the meeting*	*Car as per entitlement or Rs. 2,000 per day*
4	*Venue for meeting*	*Employer's conference rooms*
Facilities to be provided to the out-stationed member		
5	*Travel from the city of residence to the city of meeting*	*As per entitlement of Independent Directors. Executive class air tickets / first class AC train tickets/ Luxury car/ reimbursement of actual fare. However, entitlement of air travel by Business class shall be subject to austerity measures, if any, ordered by Govt of India.*

6	*Transport to and fro airport/ railway station in the city of residence*	*Car as per entitlement or Rs. 3,000*
7	*Stay for out stationed members*	*As per entitlement of Independent Directors.*
8	*Transport in the city of meeting*	*Car as per entitlement or Rs. 2000 per day*

** Due to unavoidable circumstances, if there is requirement of more than 5 meeting to conclude the Conciliation proceedings, the same may be done at the discretion of ESC within the capping of fee of Rs 2.5 Lakhs per conciliator. However, logistic arrangements, including travel, etc. may be provided as per the extant Policy for such additional sittings.*

Aforesaid fees is subject to revision by Employer from time to time and subject to government guidelines on austerity measures, if any. All the expenditure incurred in the ESC proceedings shall be shared by the parties in equal proportions. The Parties shall maintain the account of expenditure and present to the other for the purpose of sharing on conclusion of the ESC proceedings.

19.4.1.5.0 If recommendations/ report of ESC is acceptable to both the parties, a Settlement Agreement under Section 73 of the Arbitration and Conciliation Act, 1996 will be signed to the extent agreed by the parties within 15 days of acceptance by the parties and same shall be authenticated by all the ESC members.

Parties are free to terminate Conciliation proceedings at any stage as provided under the Arbitration and Conciliation Act 1996.

19.4.1.6.0 Notwithstanding anything contained in any other law for the time being in force, the Conciliator and the parties shall keep confidential all matters relating to the Conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

The parties shall not rely on or introduce as evidence in Arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the Conciliation proceedings,—

a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;

b) admissions made by the other party in the course of the Conciliation proceedings;

c) proposals made by the Conciliator; and

d) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the Conciliator.

19.4.2.0 ***Resolution of Dispute through Conciliation Committee of Independent Experts (CCIE), constituted by Ministry of Power (MoP) {For cases with Disputed amount (Claim/ Counter claim whichever is higher) above Rs. 25 Crore excl. interest}***

If the parties fail to resolve such a dispute or difference by mutual consultation and through Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period specified at Cl. 6.1, 6.2, 6.3 above, the dispute, if the parties agree, may be referred to Conciliation Committee of Independent Experts (CCIE), in cases where the Disputed amount (Claim/ Counter claim whichever is higher) is above Rs. 25 crore excl. interest.

19.4.2.1 Invitation for Conciliation through CCIE:

19.4.2.1.1 A party shall notify the other party in writing about such a dispute it wishes to refer for CCIE within a period of 15 days from the date of failure to resolve the dispute through Mutual Consultation and Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period as specified at Cl. 6.1, 6.2 and 6.3 above. Such Invitation for Conciliation shall contain sufficient information as to the dispute to enable the other party to be fully informed as to the nature of the dispute, amount of the monetary claim, if any, and apparent cause of action.

19.4.2.1.2 If the party initiating Conciliation does not receive a reply within fifteen (15) days from the date on which it sends the invitation, or within such other period of time as specified in the invitation, it shall treat this as a rejection of the invitation to conciliate from the other party.

19.4.2.2 Conciliation Committee of Independent Experts:

19.4.2.2.1 Where Invitation for Conciliation has been consented to under GCC sub clause 19.4.2.1, the same shall be referred to the Conciliation Committee of Independent Experts (CCIE) within 30 days.

19.4.2.2.2 Conciliation Committees of Independent Experts (CCIE) have been constituted and notified by MoP for settlement of disputes arising in the Contract. There are three CCIEs, as specified in Special Conditions of Contract.

19.4.2.2.3 The Contractor may select three CCIEs, in priority order, from the list of CCIEs enclosed with the Special Conditions of Contract, for finalization by Central Electricity Authority (CEA).

There shall not be any conflict of interest for the members of the CCIE due to their past assignments. ***Individuals CCIE members shall submit an undertaking in this regard to the Employer, prior to appointment****. It shall be ensured that they have not been engaged for providing any services to any of the parties i.e. either Employer or the Contractor in the last five* *years. An Undertaking in this regard, shall also be furnished by the Contractor for the purpose of avoiding any conflict of interest.*

19.4.2.3 Proceedings before CCIE:

19.4.2.3.1 The procedure of CCIE shall not be treated as alternate arbitration proceedings where both parties come with Statement of claims/defence, arguments/counter arguments, rejoinders, written submissions etc., aided by their respective lawyers.

19.4.2.3.2 The parties shall be brief and to the point before the Committee with regard to their respective stance and view the exercise in the spirit of conciliation/settlement.

19.4.2.3.3 The possibility of non-availability of any one of the members of CCIE in any proceedings cannot be ruled out. As such, the Committee comprising the other two members shall be competent to proceed in the matter. The proceedings of the Committee shall not be vitiated if one of the three members of CCIE is not present in the deliberations of the Committee. When the parties sign the settlement agreement, at least two members of CCIE shall authenticate the same. Such conciliation proceedings shall be considered valid and the settlement agreement will be binding on the parties.

19.4.2.3.4 The parties shall be represented by their in house employees. No party shall be allowed to bring any advocate or outside consultant/advisor/agent to contest on their behalf. Ex-officers of Employer's Organization who have handled the subject matter in any capacity shall not be allowed to attend and present the case before CCIE on behalf of contractor. However, ex-employees of parties may represent their respective organizations.

19.4.2.3.5 The Conciliation proceedings shall be completed in each case through 5 sittings in a period of not more than three months from the date the reference made to the CCIE. In exceptional cases, if any dispute so merits, the time period may be extended at the discretion of Conciliation Committee (with reasons to be recorded in writing), for a further period of three months.

19.4.2.3.6 The CCIE shall hold day to day sitting at a suitable place (preferably the headquarter of the Employer or New Delhi) and may hold as many sittings every month as it deems appropriate keeping in view the volume of work.

19.4.2.4 Fees & Facilities to the Members of the CCIE

Each member of CCIE would be paid a sum of Rs. 50,000/- as sitting fee per sitting. In addition, Rs. 5,000/- per sitting will be paid for local transport charges for each day of proceeding.

In case, a particular dispute requires more than 5 sittings, the same may be held at the discretion of the CCIE but with a cap on payment of fee for 5 sittings only. The local transport charges shall, however, be paid as provided for each day of sitting beyond the 5 sittings.

All expenditure incurred on the conciliation proceedings including payment of fees to the Conciliators, office space, logistic, secretarial assistance and other incidental expenses etc. shall be borne by the Employer initially. Thereafter it shall be shared equally by both parties on completion of the conciliation process.

19.4.2.5 The Parties shall maintain the account of expenditure and present to the other for the purpose of sharing on conclusion of the CCIE proceedings.

The Conciliation process shall be conducted under Part III of the Arbitration and Conciliation Act, 1996.

In case of failure of the conciliation process at the level of the Conciliation Committee, the parties may withdraw from conciliation process and take recourse to remedies as may be available to them under the applicable laws other than Arbitration.

In the event of the conciliation proceedings being successful, the parties to the dispute would sign the written settlement agreement and the conciliators would authenticate the same. Such settlement agreement would then be binding on the parties in terms of Section 73 of the Arbitration and Conciliation Act, 1996.

After successful conclusion of proceedings, the Parties to the conciliation process, have to undertake and complete all necessary actions for implementation of the terms of settlement within a period of 30 days from execution of settlement agreement, unless a different timeline not exceeding 60 days is agreed upon in settlement agreement. All pending claims of parties, in connection with the dispute, before any other legal forum are to be withdrawn within the said 30 days in pursuance of the settlement agreement.

19.4.2.6 Notwithstanding anything contained in any other law for the time being in force, the Conciliator and the parties shall keep confidential all matters relating to the Conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

The parties shall not rely on or introduce as evidence in Arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the Conciliation proceedings, —

- *a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;*
- *b) admissions made by the other party in the course of the Conciliation proceedings;*
- *c) proposals made by the Conciliator; and*
- *d) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the Conciliator.*

19.5.0 Arbitration

19.5.1 ****If the process of mutual consultation and IE (if applicable)and/or Mediation (if applicable) and/or ESC fails to arrive at a settlement between the parties, Employer or the Contractor may, within Thirty (30) days of such failure, 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. The mechanism of settling the disputes through arbitration shall be applicable only in cases where the disputed amount (i.e. Claim/ Counter claim, whichever is higher, excluding interest) is* ***less than Rs. 10 crores****.*

If the claim/ counter 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

In case the disputed amount (Claim/ Counter claim, whichever is higher, excl. interest) is ***Rs. 10 Crores or above****, the parties shall be within their rights to take recourse to remedies as may be available to them under the applicable laws other than Arbitration after prior intimation to the other party. There shall be no arbitration where the disputed amount (Claim/ counter claim, whichever is higher) is only up to Rs. 5 lakhs.*

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.

In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party under this contract, then the cumulative disputed amount (i.e. Claim/ Counter claim, whichever is higher, excluding interest) in all such arbitrations shall be taken into account while arriving at the total disputed amount for the subject contract. Disputes having cumulative value less than Rs 10 crores shall be resolved through arbitration. In case the disputed amount (Claim/Counter claim, whichever is higher, excluding interest) is Rs 10 crores and above, the parties shall be within their rights to take recourse to remedies as may be available to them under the applicable laws other than Arbitration after prior intimation to the other party.

19.5.2 *Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Sub Clause 19.5.1, shall be finally settled by arbitration.*

19.5.3 It is agreed between the parties that the Arbitration proceedings shall be conducted as per the provisions of Fast Track Procedure as provided under The Arbitration and Conciliation Act, 1996, as amended from time to time.

Any dispute or difference raised by a party to arbitration shall be adjudicated by an arbitral tribunal consisting of three arbitrators, in the following manner:

a) *A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party.*

b) The EMPLOYER and the Contractor shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator within 30 days, who shall act as presiding arbitrator of the arbitral tribunal. If the two arbitrators do not succeed in appointing a third arbitrator within 30 days of the latter of the two arbitrators has been appointed, the third arbitrator shall be appointed by the High Court of Delhi.

c) If one party fails to appoint its arbitrator within 30 days after the other party has named its arbitrator, the party which has named its arbitrator may approach the High Court of Delhi to appoint the second arbitrator.

d) If any member of the arbitral tribunal dies, resigns, becomes incapacitated or withdraws for any reason from the proceedings or his mandate is terminated by the Court, a substitute shall be appointed in the same manner as the arbitrator whose mandate has terminated as above. After substitution of new member, the arbitration tribunal shall proceed with reference from the stage where the mandate of the arbitrator has been terminated.

e) Arbitrator tribunal shall be paid fees as per the Fee Schedule (presently Fourth Schedule) provided in 'The Arbitration and Conciliation Act, 1996' as amended from time to time. If the claim/ counter 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.

f) If after commencement of the Arbitration proceedings, the parties agree to settle the dispute mutually or refer the dispute to mediation or Conciliation, the arbitral tribunal 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:
40% of the fees if the Pleadings are complete.
60% of the fees if the Hearing has commenced.
80% of the fees if the Hearing is concluded but the Award is yet to be passed.

g) Each party shall pay its share of arbitrator's fees in stages as under or as per the directions of Arbitrator:

40 % of the fees on Completion of Pleadings.
40% of the fees on Conclusion of the Final Hearing.
20% at the time when arbitrator notifies the date of final award.

h) 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.

i) The Arbitration shall be held at Delhi only.
j) The arbitral tribunal shall give reasoned and speaking award in prompt manner and it shall be final and binding on the parties.
k) Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.

19.5.4 In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central

Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/ Organizations (excluding disputes relating to Railways, Income Tax, Customs & Excise Departments), such disputes or difference shall be taken up by either party for resolution through Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD) as mentioned in DPE Office Memorandum No. 05/0003/2019-FTS-10937 dated 14.12.2022 issued by Department of Public Enterprises, Government of India and its further clarifications, modifications and amendments, issued from time to time.

The limit on disputed amount as mentioned at clause 19.5.1 above *shall not be applicable and matter may be referred to AMRCD irrespective of the amount involved in dispute, if the dispute could not be resolved through Mutual Consultation and IE (if applicable) as brought out at GCC Sub Clause 19.1 and 19.2 above.*

19.6.0 Notwithstanding any reference to the Independent Engineer or Mediation or Conciliation or Arbitration herein,

(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree.

(b) the Employer shall pay the Contractor any monies due to the Contractor.

Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.

20.0 NOT USED

21.0 TERMINATION

21.1 Termination for default:

21.1.1 The owner may without prejudice to any other remedy for breach of contract, by written notice of default sent to PMC/PEA, terminate the contract in whole or in part

a) If the PMC/PEA fails to deliver any or all of the services within the time period(s) specified in the contract or any extension thereof granted by the owner in writing.

b) If the PMC/PEA fails to perform any other obligation(s) under the contract or;

c) If the PMC/PEA in either of the above circumstances, does not cure its failure within a period of thirty (30) days after receipt of the default notice from the owner.

d) If the PMC/PEA, sub-contracts any part of the works in violation of the provision of Clause 45.0 "Restrictions on procurement from a Bidder of a country which shares a land border with India".

21.1.2 In the event the Owner terminates the Contract in whole or in part, pursuant to para 21.1.1, the owner may get the works done, upon such terms and in such manner as it deems appropriate, similar to those parts not carried out by the PMC/PEA, and the PMC/PEA shall be liable to the Owner for any excess costs for such similar works. However, the PMC/PEA shall continue performance of the Contract to the extent not terminated.

21.2 TERMINATION FOR CONVENIENCE

21.2.1 The Owner, may by written notice sent to the PMC/PEA, terminate the contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for owner's convenience, the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.

21.2.2 The items of work that is completed and ready for final inspection within thirty (30) days after the PMC/PEA's receipt of notice of termination shall be accepted by the Owner at the Contract terms and prices. For the remaining items of works the Owner may elect

a) To have any portion completed and delivered at the contract terms and prices and/or

b) To cancel the remainder and pay to the PMC/PEA an agreed amount for partially completed works.

21.3 TERMINATION FOR INSOLVENCY

21.3.1 The owner may at any time terminate the Contract by giving written notice to the PMC/PEA, without compensation to the PMC/PEA, if the PMC/PEA becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Owner.

21.3.2 Upon termination of the contract at any time for whatever reason by NTPC compensation shall be payable to the PMC/PEA for all items of works performed satisfactorily until the date of termination. In addition the PMC/PEA will be paid for such of those items of work which have been partially completed as conditions stipulated under clause 21.2.2. The PMC/PEA shall provide available documentary evidence to this effect, acceptable to NTPC.

21.3.3 Following issuance by NTPC of a notice of termination and prior to the effective date of such termination, PMC/PEA shall:

i) terminate performance of work in progress under the contract on the date and to the extent specified in the notice of termination;

ii) incur no further costs for services except as necessary to complete performance of any portion of the work under the contract not terminated by the said notice;

iii) terminate all outstanding order, service contracts and contracts to the extent that they relate to the performance of work terminated by the notice;

iv) transfer title and deliver to NTPC in the manner, at the times and to the extent, if any, as directed by NTPC, all completed or partially completed items of works which, if the contract had been continued, would have been required to be furnished to NTPC;

The termination of the contract shall not relieve the PMC/PEA of its responsibilities and liabilities as per the contract for the portion of the works performed prior to the effective date of termination.

22.0 SIGNING OF AGREEMENT

22.1 The PMC/PEA will prepare a draft contract agreement as per the format to be provided by the owner, for its review and approval within twenty eight (28) days of issue of letter of Award. Upon approval of the same, the authorized signatory of PMC/PEA will be required to sign the contract agreement. The PMC/PEA will make and submit at no extra cost to NTPC immediately after signing of it by both parties.

23.0 GOVERNING LAWS

23.1 The Contract shall be governed by the Indian Laws from time to time and the Delhi Courts alone shall have exclusive jurisdiction.

24.0 SUSPENSION OF THE OBLIGATION

24.1 The obligations stipulated in this specification can only be suspended in the case of any particular item of work, in the event of Force Majeure as defined in clause 25.0 or as the result of an agreement between the parties.

24.2 In the event of Force Majeure, neither of the parties may be considered in default of its obligations under the terms of the Specifications.

25.0 FORCE MAJEURE

Force majeure is hereby defined as any cause which is beyond the control of the PMC/PEA or NTPC as the case may be which they could not foresee or with a reasonable amount of diligence could not have foreseen and which substantially affects the performance of contract such as:-

a) Natural Phenomena including but not limited to floods, draughts, earthquakes and epidemics.

b) Acts of any government, domestic or foreign, including but not limited to war, declared or undeclared, priorities, quarantines, embargoes.

Provided either party shall within fifteen (15) days from the occurrence of such a cause notify the other in writing of such cause.

26.0 LIMITATION OF LIABILITIES

26.1 NTPC shall in no way be responsible for any liabilities arising out of the PMC/PEA's contractual obligation with the PMC/PEA's personnel, experts, engineers, agencies (other than the Contractors engaged by PMC/PEA for execution of the Contract), licensors, collaborators. Similarly, the PMC/PEA shall in no way be responsible for any liabilities arising out of NTPC's personnel, agency, licensors, collaborators or vendors.

26.2 The PMC/PEA and NTPC both agree that each shall assume full risk of damages or injury to its own properties, employees and representatives caused by any act or omission to act by their respective employees or representatives, during the performance.

27.0 ENFORCEMENT OF TERMS

The failure of Owner to enforce at any time any of the provisions of this contract or any rights in respect thereto or to exercise any option herein provided, shall in no way be construed to be a waiver of such provisions, rights or options or in any way to affect the validity of the Contract. The exercise by Owner of any of its rights hereto shall not preclude or prejudice him from exercising the same or any other right it may have under the Contract.

28.0 NOTICE OF DEFAULT

28.1 In the event of any default by either party hereto, in respect of any of its obligations and responsibilities under the contract, the party not in default shall give notice in writing to the other party calling upon it to rectify such default within a period of thirty (30) days of the receipt thereof. Should the party remain in default within the said period, the other party shall be entitled to treat it as a breach of contract and notice to that effect shall be given forthwith.

29.0 PATENT

29.1 The PMC/PEA shall hold harmless and indemnify the Owner from and against loss, damage and expenses arising from any claim for infringement of patent, copyright, design and other such rights in existence or to be granted on an application published prior to the completion of this Contract with respect to or arising out of the use or supply of design, or any work in accordance with the designs, drawings or specifications furnished, approved or recommended by the PMC/PEA.

29.2 The PMC/PEA shall promptly notify the Owner in writing if the PMC/PEA has acquired knowledge of any patent under which a claim or suit for infringement could reasonably be brought because of the use by the owner of any information, recommendation or specifications, services rendered by the PMC/PEA.

29.3 The PMC/PEA, in such case, shall forthwith at its own cost make and furnish to the owner alternative designs, drawings, specifications or recommendations to avoid the same and without putting the owner to additional cost.

30.0 INSTRUCTION REGARDING EXPENDITURE

The PMC/PEA shall obtain prior approval of Engineer-in-charge before incurring any expenditure regarding enabling/infrastructure works such as office equipment, procurement/hiring of vehicle, furnishing of office/temporary quarters, etc.

31.0 INDEMNITY

The PMC/PEA shall be fully responsible for execution of the works and shall take all precautions to prevent loss or damages or to minimize loss or damage to the extent possible, and shall be liable to make good any loss or damage incurred due to negligence on his part.

The PMC/PEA shall indemnify and keep NTPC indemnified against all losses or claims for injuries or damages to any person or any property whatsoever which may arise out or in consequence of the execution of any part(s) of the work under the contract. All expenses incurred for such insurance etc. shall however be excluded from the direct cost.

The PMC/PEA shall at all times indemnify NTPC against all claims, damages or compensation under the provisions of Payment of Wages Act 1936. Minimum Wages Act, 1948, Owner's Liability Act 1938, the Workmen's Compensation Act 1923, Industrial Dispute Act 1947 and Maternity Benefit Act 1961 or any statutory notifications thereof or any other law relating thereto and rules made from time to time there under, or as a consequence of any accident or injury to any workman or other persons in or about the work.

PMC/PEA shall include necessary provisions in the bidding documents of execution contracts to comply to provisions of Indemnity.

32.0 PROGRESS REPORT

The PMC/PEA shall prepare and submit to the Engineer-in-Charge monthly progress report showing the progress and status of the 'Works being performed by him including such materials as charts, networks and photograph (if any) as per the directives of the Engineer-In-Charge. Draft formats of progress reports shall be finalised in consultation with the Engineer-In - Charge.

It is understood that submission of such reports and reviews thereof by NTPC shall not be deemed to absolve the PMC/PEA of his responsibility of timely completion of the assignment as per the time schedule indicated in the Technical Specification.

33.0 UNITS & STANDARDS/ CODES/ REGULATIONS

The International system of Units (SI) will be used for carrying out the services mentioned in the specification. Indian Standards, codes and regulations, wherever applicable shall be adopted and adhered to by the PMC/PEA. In case of such Indian Standards/Codes/Regulations being not available in particular areas, applicable and acceptable international standards shall be followed.

34.0 ASSOCIATION OF NTPC's ENGINEERS

34.1 NTPC/Owner may depute their engineer/representative to be present during the entire period of this Consultancy assignment/service studies or any part thereof and they would be closely associated by the PMC/PEA in all activities relating to the assignment for a fruitful interaction.

34.2 The PMC/PEA shall provide all facilities for NTPC/Owner's engineers/ representatives to have fruitful participation in the work. The to and fro travel charges and the boarding and lodging charges of NTPC engineers/representatives shall be borne by NTPC.

35.0 NO WAIVER

If the Owner, in any instance, does not insist upon strict performance of any of the terms of the assignment, it shall not be construed as a waiver or relinquishment in the future till the assignment is enforced and shall not relieve the PMC/PEA of any of its responsibilities under the assignments.

36.0 NTPC DISCRETION

NTPC Limited does not bind themselves to accept the offer or to give reasons for their decision.

37.0 SAFETY MEASURES

The Employer has formulated Safety Rules for Construction & Erection of Power Plants and is enclosed at Annexure-D. These Safety Rules lay down the safety requirements for safe execution of project activities, responsibilities of the Contractor, and all concerned involved in Construction and Erection. The PMC/PEA, including his contractors, while executing the Works, shall strictly comply with these Safety rules and statutory requirements (including amendments thereof), as applicable, in respect of safety of personnel, equipment and materials at site area under execution of the Contractor. Quoted fee shall also include cost towards all required safety measures and necessary insurance coverages. PMC/PEA shall indemnify and shall keep NTPC indemnified against losses and damages, if any, suffered by the persons, deployed by the PMC/PEA or his Contractors, due to any cause and/or accident during working at the site.

38.0 FRAUD PREVENTION POLICY

The Bidder along with its associate/ collaborators/ sub-contractors/ sub-vendors/ consultants/ service providers shall strictly adhere to the Fraud Prevention Policy of Employer displayed on its tender website https://ntpctender.ntpc.co.in/ and shall immediately apprise Employer about any fraud or suspected fraud as soon as it comes to their notice. If in terms of above policy it is established that the bidder/his representatives have committed any fraud while competing for this contract then the bid security of the bidder shall be forfeited.

Bidders shall certify their compliance on "**Fraud Prevention Policy**" of Employer by accepting the following GTE at the e-Tender Portal:

"**"Do you certify full compliance to all provisions of Bidding Document?"**

Acceptance of General Technical Evaluation (GTE) of the Tender at e-Tender Portal shall be considered as bidder's confirmation that they have read the contents of the Fraud Prevention Policy as displayed on tender website at https://ntpctender.ntpc.co.in/ under section 'policy docs' and undertake that they along with their associate/collaborator/ subcontractors / sub vendors / consultants / service providers shall strictly abide by the provisions of the Fraud Prevention Policy.

39.0 AUTHORIZATION FOR ELECTRONIC FUND TRANSFER

The initial advance payment & payments due on receipt of equipment and materials and those for the inland transportation and the erection portion shall be made directly to the PMC/PEA by the Owner. Wherever technically feasible, these payments shall be made electronically only as per details of Bank Account indicated in the contract. The PMC/PEA shall hold the Owner harmless & Owner shall not be liable for any direct, indirect or consequential loss or damage sustained by the PMC/PEA on account of any error in the information or change in Bank details provided to the Owner in the prescribed form specified at Attachment-5 without intimation to Owner duly acknowledged.

40.0 INTEGRITY PACT

Bidders are required to unconditionally accept all conditions of the "Integrity Pact (IP)" as per Attachment - 4 of Bidding Documents which has been pre-signed by the Employer.

Bidders shall certify their compliance on "**Integrity Pact** " by accepting the following General Technical Evaluation (GTE) of the Tender at e-Tender Portal:

"Do you certify full compliance to all provisions of Bidding Document?"

On Bidder's acceptance to the above GTE condition, Bidder confirms to have read, understood and unconditionally accept & commit to all the contents, terms, conditions and undertakings mentioned in the Integrity Pact which has been pre-signed by the Employer and enclosed with the Bidding Documents.

It may also be noted that subsequent to Employer's evaluation of Bids, resulting into award of Contract to a particular Bidder, the Integrity Pact so submitted shall form an integral part of the Contract.

41.0 INDEPENDENT EXTERNAL MONITORS (IEMs)

In respect of this package, the Independent External Monitors (IEMs) would be monitoring the implementation and effectiveness of the Integrity Pact Program as per the SOP issued by CVC from time to time and available in its website https://cvc.gov.in/

The Independent External Monitor(s) (IEMs) as mentioned at NTPC tender website(https://ntpctender.ntpc.co.in/) under Integrity Pact tab have been appointed by NTPC, in terms of Integrity Pact (IP) which forms part of the NTPC Tenders/Contracts.

This panel is authorized to examine /consider all references made to it under this tender. The bidder(s), in case of any representation/grievance/complaint pertaining to this package may raise the issue directly with the IEMs at following Address or through e-mail as mentioned in https://ntpctender.ntpc.co.in/ :

"The IEMs' Secretariat,
Contracts Services, 6th Floor, EOC,
NTPC Limited, A-8A, Sector-24,
Noida-201301 (UP)."

The Independent External Monitors (IEMs) has the right to access without restriction to all Project documentations of the Employer including that provided by the Contractor. The Contractor will also grant the IEMs, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his Project Documentations. The same is applicable to Subcontractors. The IEMs are under contractual obligation to treat the information and documents of the Bidder/ Contractor/ Sub-Contractors/ JV partners/ Consortium member with confidentiality.

The Nodal Officer for necessary coordination with Independent External Monitors shall be as under:

i) Concerned Group Head in CC&M: if the issue pertains to awarding of Contract by CC&M
ii) Concerned Group Head of C&M under respective CPG of USSC : if the issue pertains to awarding of Contract by USSC
iii) Concerned Head of Department: if the issue pertains to other departments
iv) Head of Project/ Station : if the issue pertains to post-award execution or award of Contract by Project/ Station

42.0 TRAVEL EXPENSES

All the travel expenses including boarding and lodging, insurance and taxes incurred by PMC/PEA for carrying out all the works indicated in the scope of work shall be included in the bid price and the Owner shall not bear any liability on this account. All the travel expenses including boarding, lodging, taxes and insurance of the engineers of NTPC/Owner travelling to PMC/PEA's office in India shall be borne by NTPC/Owner.

43.0 ADDRESS FOR COMMUNICATION

Abhishek Kumar Jain / Shailendra Kr Srivastava
AGM (CS)/ DGM (CS)
NTPC Limited
Plot A-8A, Sector 24, Noida-201301
State of U.P. India
e-mail: abhishekjain02@ntpc.co.in/ shailendrakrsrivastava@ntpc.co.in
Telephone No.: 9650992301, 9406712310

44.0 POLICY FOR DEBARMENT FROM BUSINESS DEALINGS

The Employer has in place a Policy for Debarment from Business dealings displayed on the website www.ntpc.co.in/ & www.ntpctender.ntpc.co.in. 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 Debarment from Business Dealings.

Bidders shall certify their compliance on "**Policy for Debarment from Business Dealings** " of Employer by accepting the following General Technical Evaluation (GTE) of the Tender at e-Tender Portal.

"Do you certify full compliance to all provisions of Bid Doc?"

Acceptance of above GTE shall be considered as bidder's confirmation to the following conditions:

(1) Bidder have read the contents of Debarment Policy (version mentioned in BIDDING DOCUMENTS) displayed on the website www.ntpc.co.in / ntpctender.ntpc.co.in and agreed to abide by this policy.

a) Bidder have not been Banned/Blacklisted as on date of submission of bid by Ministry of Power or Deptt. of Expenditure, Ministry of Finance.

b) Bidder have not employed any public servant dismissed/removed or person convicted for an offence involving corruption or abetment of such offences.

c) Bidder's Director(s)/ Owner(s)/ Proprietor/ Partner(s) have not been convicted by any court of law for offences involving corrupt and fraudulent practices including moral turpitude in relation to business dealings with Government of India or NTPC or NTPC's group companies during the last five years.

(2) Bidder further confirms as under:

that if at any point subsequent to award of Contract, the declarations given above are found to be incorrect, NTPC Limited/ Employer shall have the full right to terminate the Contract and take any action as per applicable laws for breach of contract including forfeiture of Bid Security/Performance Bank Guarantee.

45.0 <u>"Restrictions on procurement from a Bidder of a country which shares a land border with India"</u>

45.1 Any Bidder (including its Collaborator/Associate/DJU Partner/JV partner/Consortium Member/Assignee, wherever applicable) from a country which shares a land border with India will be eligible to bid in this tender only if bidder is registered with the Competent Authority as mentioned in Annexure-E.

Further, any bidder having specified Transfer of Technology (ToT) arrangement with an entity from a country which shares a land border with India, will be eligible to bid only if the bidder is registered with the same competent authority as mentioned in Annexure-E.

(Definition/Requirement of ToT shall be as specified in DOE OM Ref. No. F.7/10/2021-PPD(1) dated 23.02.2023, enclosed with Annexure-E)

Such registration should be valid for the entire period of bid validity or any extension thereof. However, in case the validity period of registration is less than bid validity period, the Bidder shall be required to submit the extension of the validity period of registration before the opening of price bids, failing which the bid shall be rejected.

Further the successful bidder shall not be allowed to sub-contract services/works to any "Sub-contractor" from a country which shares a land border with India unless such Sub-contractor is registered with the competent Authority as mentioned in Annexure-E.

However, the said requirement of registration will not apply to bidders/sub-contractors from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. Bidders may apprise themselves of the updated lists of such countries available in the website of the Ministry of External Affairs.

45.2 “Bidder” (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process

45.3 “Sub-contractor” (including the term ‘Sub-vendor’/Sub-supplier’ in certain contexts) means any person or firm or company, every artificial juridical person not falling in any of the descriptions of Sub-contractors stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.

45.4 “Bidders from a country which shares a land border with India” / “Subcontractor from a country which shares a land border with India” / “Entity from a country which shares a land border with India” mentioned in para 45.1 above means;

a) An entity incorporated, established or registered in such a country; or
b) A subsidiary of an entity incorporated, established or registered in such a country; or
c) An entity substantially controlled through entities incorporated, established or registered in such a country; or
d) An entity whose beneficial owner is situated in such a country; or
e) An Indian (or other) agent of such an entity; or
f) A natural person who is a citizen of such a country; or
g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.

45.5 The beneficial owner for the purpose of clause “45.4” above will be as under;

a) In case of company of Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

   Explanation-
   i. “Controlling ownership interest” means ownership of or entitlement to more than twenty-five per cent of shares or capital or profits of the company;
   ii. “Control” shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholdings or management rights or shareholders agreements or voting agreements;

b) In case of a partnership firms, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more judicial person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
c) In case of an unincorporated associations or body of individuals, the beneficial owner is the natural person(s) who, whether acting alone or

together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;

d) Where no natural person is identified under (a) or (b) or (c) above, the beneficial owner is the relevant natural person who holds the position of senior managing officials;

e) In case of a trust, the identifications of beneficial owner(s) shall include identification of the author of trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

45.6 An Agent for the purpose of clause "45.4" is a person employed to do any act for another, or to represent another in dealings with third person.

[Note: i. A person who procures and supplies finished goods from an entity from a country which shares a land border with India will, regardless of the nature of his legal or commercial relationship with the producer of the goods, be deemed to be an Agent.

ii. However, a bidder who only procures raw material, components etc. from an entity from a country which shares a land border with India and then manufactures or converts them into other goods will not be treated as an Agent.]

45.7 The Contractor shall not be allowed to sub-contract works to any sub-contractor/ sub-vendor from a country which shares a land border with India unless such sub-contractor is registered with the competent Authority.
The Competent Authority for the purpose of registration shall be as mentioned in Annexure-E.

However, the said requirement of registration will not apply to subcontractors from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. The Contractor may apprise itself of the updated lists of such countries available in the website of the Ministry of External Affairs.
Procurement of raw material, components, etc. does not constitute subcontracting.

46.0 Bidder shall certify their compliance to Clause "Restrictions on procurement from a Bidder of a country which shares a land border with India" by accepting the following General Technical Evaluation (GTE) of the Tender at e-Tender Portal:

"Do you certify full compliance to all provisions of Bidding Document?"

Acceptance of above attribute shall be considered as Bidder's confirmation that Bidder has read and understood the Clause regarding "Restrictions on procurement from a Bidder of a country which shares a land border with India" and its bid is in compliance to this clause.

In case it is established that Bidder has provided any false information in pursuance of the aforesaid Clause, while competing for this contract, then its bid shall be rejected and bid security shall be forfeited.

In case of a successful bidder, if it is established that the Bidder has not complied with terms of aforesaid Clause, during execution of contract, this would be considered as fraudulent practices as mentioned in 5.1 (j) of "Policy for Debarment from Business Dealings" and shall be dealt accordingly.

47.0 **Anti-Bribery and Anti-Corruption (ABAC) Policy**

The Bidder and its employees along with its Associate/ Collaborator/ Sub Contractors / Sub-Vendors / Consultants / Service Providers and all other persons associated with business of Employer shall strictly adhere to Anti Bribery and Anti-Corruption (ABAC) Policy of Employer displayed on tender website https://ntpctender.ntpc.co.in/.

Bidders shall certify their compliance on "Anti-Bribery and Anti-Corruption (ABAC) Policy" of Employer by accepting the following GTE at the e-Tender Portal:

"Do you certify full compliance to all provisions of Bidding Document?"

Acceptance of General Technical Evaluation (GTE) of the Tender at e-Tender Portal shall be considered as bidder's confirmation that they and their employees along with their associate / collaborator/ subcontractors / sub vendors / consultants / service providers shall strictly abide by "Anti-Bribery and Anti-Corruption (ABAC) Policy" of Employer as displayed on tender website at **https://ntpctender.ntpc.co.in**/ under section 'policy docs' and undertake that they represent and confirm that they are aware of, understand, and will comply with all applicable laws and regulations relating to anticorruption and anti-bribery and the ABAC Policy of Employer.

47.1 After award PMC/PEC and its employees along with its Associate/ Collaborator/ Sub Contractors / Sub-Vendors / Consultants / Service Providers and all other persons associated with NTPC in the performance of Contract shall strictly adhere to NTPC's Anti-Bribery and Anti-Corruption (ABAC) Policy displayed on website **https://ntpctender.ntpc.co.in/** under section 'policy docs'. The PMC/PEA and its employees along with its Associate/ Collaborator/ Sub Contractors / Sub-Vendors / Consultants / Service Providers and all other persons associated with Employer in the performance of Contract shall comply with all applicable laws and regulations relating to anti-corruption and anti-bribery and the ABAC Policy of Employer.

48.0 **CONFLICT OF INTEREST**

48.1 A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Employer's interests. A bidder may be considered to have a conflict of interest with one or more parties in the bidding process, if:

a) they directly or indirectly control, or are controlled by or are under common control of another entity; or
b) they have the same legal representative/agent for purposes of their bids; or
c) they have relationship with each other, directly or through common third party(ies), that puts them in a position to have access to information about or influence on the bid of another Bidder; or
d) Bidder and/or any of its allied entity(ies), which directly or indirectly control(s) or is(are) controlled by or is(are) under common control of another entity, has(ve) participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the tender; or
e) Bidder participates in more than one bid in this bidding process.

For the purposes of this clause the term 'control' shall have the following meaning:

"Control" shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders' agreements or voting agreements or in any other manner.

Note: If two or more CPSEs/State PSEs participate in a tender, they will not be deemed to fall under the 'Conflict of Interest' provisions solely because they are under common control of Government of India / State Government.

48.2 Bidders shall certify their compliance to BIDDING DOCUMENTS Clause "Conflict of Interest" by accepting the following General Technical Evaluation (GTE) of the Tender at eTender Portal:

"Do you certify full compliance to all provisions of Bidding Document?"

Acceptance of above GTE shall be considered as Bidder's confirmation that Bidder has read and understood the BIDDING DOCUMENTS Clause regarding "Conflict of Interest" and its bid is in compliance to this clause.
In case it is established that Bidder has provided any false information in pursuance of the aforesaid Clause, while competing for this contract, then its bid shall be rejected and bid security shall be forfeited.

In case of a successful bidder, if it is established that the Bidder has not complied with terms of aforesaid Clause, during execution of contract, this would be considered as fraudulent practices as mentioned in para 5.1 (j) of "Policy for Debarment from Business Dealings" and shall be dealt accordingly.

49.0 EVALUATION OF BIDS

49.1 The evaluation shall be carried out in full conformity with the provisions of the Bidding documents/Specifications.

49.2 The comparison shall be of the Project Management fee (including the Goods and Services Tax (GST)) and Consultancy Fee for DPR & Detailed Engg. (including the Goods and Services Tax (GST)) specified by the Bidder in the BOQ. Subject to fulfilment of all the conditions mentioned in the Specifications/Bidding document, the Employer will award the Contract to the Bidder whose bid has been determined to be substantially responsive to the Specifications /Bidding Documents and whose bid has been adjudged as the lowest evaluated bid price. (lowest sum of Project Management fee.(including GST) and Consultancy Fee for DPR & Detailed Engg.(including GST)).

Illustrative Method of Evaluation

Sr. No.	Description	Equivalent INR
1	Total fees for Preparation of DPR and detailed Engineering (including all taxes, duties & levies other than GST there upon as applicable on direct transaction between PMC/PEA and Owner) as per Cl. 5.3 of Terms & Conditions of Contract.	N1
2.	GST on N1 (Sr. No. 1)	G1
3.	Total Project Management fee (including all taxes, duties & levies other than GST there upon as applicable on direct transaction between PMC/PEA and Owner), as per Cl. 5.2 of Terms & Conditions of Contract. *	N2
4.	GST on N2 (Sr. No. 3)	G2
	Evaluated Bid Price	N1+N2+G1+G2

* Bidders shall quote either a Premium (+) or Discount (-) in percentage (%) over the NTPC Estimated PMC Fee of Rs. 2476.80 lakhs in the designated BOQ sheet. Only the Premium/Discount percentage quoted by the bidder in the designated BOQ sheet available on the e-tendering portal shall be considered for the purpose of bid evaluation.

49.3 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/Specifications. In case the Bidder refuses to withdraw deviations, implicit or explicit, found anywhere in the bid, without any financial implication whatsoever to the Employer, the bid shall be rejected and bid security shall be forfeited.

49.4 The Employer does not bind itself to accept the lowest evaluated bid with or any offer or to give any reasons for its decision. The participating bidders may note that the decision of Employer shall be final and binding on all matters /issues arising out the bidding process.

49.5 The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at an time prior to award of contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Employer's action.

50.0 Declaration regarding insolvency, bankruptcy and Liquidation:

The Bidder shall not be eligible for bidding, if the Bidder has become the subject of proceedings under any bankruptcy or insolvency laws either by way of voluntary insolvency initiation or upon a judicial order being passed to that effect, thereby admitting the Bidder to Corporate Insolvency Resolution Process (CIRP) or Liquidation proceedings under Insolvency and Bankruptcy Code, 2016 or has a receiver appointed over its properties under any law for the time being in force in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949.

The aforesaid ineligibility provision owing to the pendency of CIRP, Liquidation, appointed receiver shall also be applicable to any Associate, Collaborator, Technology Provider or Bidder's Parent/Holding/Subsidiary company from whom the Bidder has taken, or intends to take, technical and/or financial support for qualification in the bid.

In case of a Foreign Company who is participating either as a Bidder or an Associate, Collaborator, Technology Provider which is undergoing insolvency, bankruptcy or liquidation proceedings, as per the extant laws of the respective jurisdiction, shall also not be eligible for bidding or associating or collaborating or providing Technology or partnership with the Bidder.

If, at the time of bid submission, any Bidder or its Associate, Collaborator, Technology Provider or Bidder's Parent/Holding/Subsidiary Company, from whom the Bidder has taken, or intends to take technical and/or financial support for qualification in the bid, was not undergoing CIRP , Liquidation, Bankruptcy or similar proceedings but subsequently during the period of evaluation of bids, including but not limited to technical, commercial and financial evaluation, or any time before the work is awarded, any such application is admitted by the Adjudicating Authority under the IBC, 2016 or any similar proceedings have started by any Judicial / Quasi-Judicial Body, the Bidder shall, with immediate effect, be considered as ineligible and his bid shall be rejected forthwith.
An undertaking as per enclosed Proforma (Attachment-6) to the effect that the Bidder or its Associate, Collaborator, Technology Provider or Bidder's Parent/Holding/Subsidiary Company, from whom the Bidder has taken, or intends to take, technical and/or financial support for qualification in the bid, is not undergoing any Insolvency, Liquidation or Bankruptcy proceedings, shall be submitted by the Bidder along with its Techno Commercial bid on the letter head of the Bidder duly signed by the authorized representative of the Bidder. Further, any Foreign Company which is acting as an Associate, Collaborator or Technology Provider, shall also submit an undertaking along with the Techno-

Commercial bid of the Bidder that they are not undergoing insolvency, bankruptcy or liquidation as per the relevant laws of their respective jurisdiction.

Further, the Bidder, from the submission of bid until the award of work, shall immediately inform the Employer of any proceedings / admission / orders passed for admitting the Bidder or any of its Associate, Collaborator or Technology Provider or Bidder's Parent/Holding/Subsidiary Company (from whom the Bidder has taken or intends to take technical and/ or financial support for qualification of bid) to CIRP by the Adjudicating Authority under IBC, 2016 or any similar proceedings under other applicable laws (in cases where IBC, 2016 is not applicable).

Any suppression of such material facts or false declaration shall immediately render the Bidder liable for rejection of his bid, forfeiture of bid security/EMD and banning of business dealing as per terms and conditions of the Policy & Procedure for Debarment from Business Dealings. In case of non-submission of the Attachment / Declaration with authorized seal and signature, the bid shall not be entertained.

51.0 Advance Payment Security

51.1 If the Contractor/PMC/PEA wishes to take advance payment as mentioned in the Clause 8.1 a), and 8.1 c), it shall, within twenty-eight (28) days of the Notification/Letter of Award of Contract, provide a security in an amount equal to the advance payment calculated in accordance with Terms of Payment, and in the currency or currencies of the Contract, with an initial validity of up to ninety (90) days beyond the schedule date of Completion of the last facility covered under the package. However, in case of delay in completion of the facilities under the package, the validity of this security shall be extended by the period of such delay. The advance payment security shall also cover the amount of GST as applicable on the advance payment to be paid to the contractor.

51.2 The security shall be in the form of an unconditional bank guarantee as per the proforma provided in – Annexure-A. The Advance payment Security shall be reduced pro-rata every three (3) months after First Bill/Stage Payment under the Contract based on the work completed and applicable GST. The cumulative amount of reduction at any point of time shall not exceed ninety (90%) of the advance and the amount of GST paid on the advance amount. It should be clearly understood that reduction in the value of security for advance shall not in any way dilute the Contractor's responsibility and liabilities under the Contract including in respect of the Facilities for which the reduction in the value of security is allowed.

51.3 The Bank Guarantees submitted towards Advance Payment Security, shall be from any of the Banks listed at Annexure-A1.

51.4 **Advance BG will be mandatorily submitted in the form of e-BG, and no physical BG will be accepted**.

51.5 Advance Bank Guarantees/should be enforceable for minimum ninety (90 days) after expiry of its validity.

DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP Stage-II (3X800MW)
For

NABINAGAR STPP-II

Bidding Document No.: CS-0371-350-9

BIDDER TO SUBMIT BID SECURITY OF REQUIRED AMOUNT AND VALIDITY AS PER CLAUSE NO. 2.0 OF TERMS AND CONDITIONS.

DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP Stage-II (3X800MW)

For

<u>NABINAGAR STPP-II</u>

Bidding Document No.: CS-0371-350-9

BIDDER TO SUBMIT POWER OF ATTORNEY AUTHORISING THE SIGNATORY TO SIGN THE BIDS

Package Name

BIDDING DOCUMENT NO. **************

(ELECTRONIC FUND TRANSFER FORM)

Bidder's Name and Address:

To,
NTPC Limited, Contract Services

Dear Sirs,

We, hereby authorize the Employer to make all our payments through Electronic Fund Transfer System. The details for facilitating the payments are given below:

(TO BE FILLED IN CAPITAL LETTERS)

1. **NAME OF THE BENEFICIARY:** ____________________
2. **ADDRESS:** ____________________
   ____
3. **TELEPHONE NO. (WITH STD CODE):** ____________________
4. **BANK PARTICULARS**
   A. Bank Name: ____________________
   B. Bank Telephone NO. (with STD Code): ____________________
   C. Branch Address: ____________________
   D. Branch Code: ____________________
   E. 9 Digit MICR Code of the Bank Branch (Enclose copy of a cancelled cheque): ____________________
   F. IFSC CODE: ____________________
   G. BANK ACCOUNT NUMBER: ____________________
   H. BANK ACCOUNT TYPE (TICK ONE):

SAVING	CURRENT	LOAN	CASH CREDIT	OTHERS

   IF OTHERS, SPECIFY: ____________
5. **Permanent Account Number (PAN) (Enclose Copy):** ____________________
6. **E-mail address for intimation regarding release of payments:** ____________________

I/We hereby declare that the particulars given above are correct and complete. If the transaction is delayed or credit is not affected at all for reasons of incomplete or incorrect information, I/We would not hold the Employer responsible. We have enclosed document as mentioned at Sl. No. 4(E) and 5 above.

DATE:

SIGNATURE:
(AUTHORISED SIGNATORY)
Name:

Official Stamp:

BANK CERTIFICATION:

It is certified that above mentioned beneficiary holds a bank account no. .... with our branch and the Bank particulars mentioned above are correct.

DATE:

SIGNATURE:
(AUTHORISED SIGNATORY)
Authorization No.:
Name:

Official Stamp:

ATTACHMENT – 4

INTEGRITY PACT

DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP Stage-II (3X800MW)

Package For

NABINAGAR STPP-II

Bidding Document No.: CS-0371-350-9

Between
NTPC Ltd., a Govt. of India Enterprise
(hereinafter referred to as "The Employer")
and
....

(hereinafter referred to as "The Bidder/Contractor")

And

....

(hereinafter referred to as "JV Partner/ Consortium Member(s)" (if applicable))

Preamble

The Employer invites the bids from all eligible bidders and intends to enter into Contract for *DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP Stage-II (3X800MW)* with the successful bidder(s), as per organizational systems and procedures. The Employer values full compliance with all relevant laws and regulations, and the principles of economical use of resources, and of fairness and transparency in its relations with its Bidder(s) and/or Contractor(s).

This Integrity Pact is an agreement between the Employer and the bidder/Contractor/JV Partners/Consortium members, committing the persons/officials of the Parties not to resort to any corrupt practices in any aspect/stage of contract.

In order to achieve these goals, the Employer will appoint Independent External Monitor(s) (IEM), who will monitor the processes as stipulated in the SOP for implementation of Integrity Pact issued by eve from time to time

Section 1 Commitments of the Employer

1. The Employer Commits itself to take all measures necessary to prevent corruption and to observe the following principles in this regard:-

a) No employee of the Employer, either in person or through family members including relatives, will in connection with the bidding for or the execution of a

Contract, demand or accept a promise for or accept for him/herself or for a third person, any material or immaterial benefit to which he/she is not legallyentitledto.

b} The Employer shall, during the bidding process treat all Bidders with equity and reason. The Employer will, in particular, before and during the bidding process, provide to all Bidders the same information and will not provide to any Bidder confidential/additional information through which the Bidder(s) could obtain an advantage inrelation to the bidding process or the Contract execution.

c) The Employer will exclude from the process all known prejudicedpersons.

2. If the Employer obtains information on the conduct of any of its employees which is a criminal offence under the Bharatiya Nyaya Sanhita (BNS) I The Prevention of Corruption Act (P C Act) or if there be a substantive suspicion in this regard, the Employer will inform the Chief Vigilance Officer.

Section 2 Commitments and Undertakings by theBidder/Contractor

1. The Bidder/Contractor commits and undertakes to take all measures necessary to prevent malpractices & corruption. He commits himself to observe the following principles during his participation inthe biddingprocess and during the execution of the contract:

a) The Bidder/ Contractor undertakes not to, directly or through anyother person or firm offer, promise or give or influence to any employee of the Employer associated with the bidding process or the execution of the contract or to any third person on their behalf any materialor immaterial benefit which he/she is not legally entitled, in order to obtain in exchange any advantage of any kind whatsoever during the bidding process or during the execution of thecontract.

b) The Bidder/ Contractor undertake not to enter into any undisclosed agreement or understanding, whether formal or informal with other Bidders. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other action to restrict competitiveness or to introduce cartelization in the bidding process.

c) The Bidder/Contractor undertakes not to commit any offence under the relevant Anti-corruption Laws of India; furtherthe Bidder/Contractor will not use improperly, any information or document provided by the Employeras part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically for purposes of competition or personal gain and will not pass the information so acquired on to others.

d) The Bidder/ Contractor, when presenting his bid, undertakes to disclose any and all payments made, or is committed to or intends to make to agents, brokers orany other intermediaries inconnection with the bidding process and *I* or award of the contract.

e) The Foreign Bidder/ Contractor, when presenting his bid, undertakes to disclose the name and address of agents and representative in India. Further, Indian Bidder/ Contractor when presenting his bid, undertakes to disclose the name and address of its foreign principals orassociates.

2. The Bidder/ Contractor will not instigate and allure third persons/parties to commit offences outlined above or be an accessory to suchoffences.

Section 3 Disqualification from Bidding Process and Exclusion from Future Contracts

1. If the Bidder(s)/ Contractor(s), before award or during execution has committed a transgression through a violation of any provisions of Section 2 so as to put his reliability or credibility as Bidder into question, the Employer shall be entitled to disqualify the Bidder(s)/ Contractor(s) from the bidding process or to terminate the contract, if signed on that ground.

2. If the Bidder/ Contractor has committed a transgression through a violation of Section 2 such as to put his reliability or credibility into question, the Employer shall be entitled to exclude including debarring the Bidder/ Contractor for any future tenders/contract award process. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the Employer taking into consideration the full facts and circumstances of each case particularly taking into account the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a period not exceeding two (02)years.

3. A transgression is considered to have occurred if the Employer after due consideration of the available evidence concludes that no reasonable doubt is possible.

4. The Bidder with its free consent and without any influence agrees and undertakes to respect and uphold the Employer's absolute rights to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.

5. Subject to full satisfaction of the Employer, the exclusion of Bidder/ Contractor could be revoked by the Employer if the Bidder/ Contractor can prove that he has restored/ recouped the damage caused by him and has installed a suitable corruption prevention system in his organization.

Section 4 **Compensation for Damages including Forfeiture of Earnest Money Deposit/ Security Deposit/ Performance & Advance Bank Guarantees**

1. If the Employer has disqualified the Bidder/ Contractor from the bidding process or has terminated the contract pursuant to Section 3, the Employer shall forfeit the Earnest Money Deposit/Bid Security, encash Contract Performance Bank Guarantees in addition to excluding the bidder from the future award process and terminating the contract.

2. In addition to 1 above, the Employer shall be entitled to take recourse to the relevant provisions of the contract related to Termination of Contract due to Contractor's Default.

Section 5 **Previous Transgressions**

1. The Bidder swears on oath that no previous transgression impinging on anti- corruption principles *I* any malpractice as mentioned in Section-2 has occurred in the last three years reckoned from the date of bid submission in any other Public/Government organization. The date of such transgression would be the date on which cognizance of the said transgression was taken by competent authority. The transgression(s), for which cognizance was taken even before the said period of three years, but are pending conclusion, shall also be considered to fall within last three years.

2. If the Bidder makes incorrect statement on previous transgression as mentioned above in para 1, Bidder can be disqualified from the bidding process or the contract, if already awarded, can be terminated on this ground.

Section 6 **Company Code of Conduct**

Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behaviour) and a compliance program for the implementation of the code of conduct throughout the company.

Section 7 **Independent External Monitors (IEM)**

1. The Employer will appoint competent and credible Independent External Monitor for this Pact. The task of the IEMs is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

2. The IEMs are not subject to instructions by the representatives of the parties and perform his functions neutrally and independently. He shall report to CMD of the Employer, or a person authorized by him.

3. The roles & responsibilities of the IEM shall be as per the SOPs issued by CVC from time to time and available in its website "https://cvc.gov.in/.

4. As soon as the IEMs notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Employer (CMD of the Employer or a person authorized by him) and request to discontinue or to take corrective action, or to take other relevant action. The IEMs can in this regard submit non- binding recommendations. Beyond this, the IEMs has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action. However, Independent External Monitor shall give an opportunity to the bidder/contractor to present its case before making its recommendations to the Employer.

5. The IEMs will submit a written report to CMD of the Employer or a person authorized by him within 30 days from the date of reference or intimation to him by the Employer and, should the occasion arise, submit proposals for correcting problematic situations.

6. The Bidder *I* Contractor accepts that they shall not approach courts while the matter *I* complaint *I* dispute has been referred to the IEM in terms of this pact and they shall await IEM's decision before approaching any Court.

7. The word " IEM" will include Singular or Plural.

Section 8 **Pact Duration**

This Pact comes into force from the date of signing by all the parties. It shall expire for the Contractor 12 months after the final payment under the respective Contract, and for all other unsuccessful bidders 6 months after the Contract has been awarded.

Section 9 **Miscellaneous Provisions**

1. This Pact is subject to Indian Law. The place of performance and jurisdiction shall be New Delhi.

2. Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

3. The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

4. If the Contractor is a JV partnership I Consortium, this agreement must be signed by all the partners of JV I Consortium Partners as the case may be.

The Parties hereby sign this Integrity Pact at ....on this .... day of ....20....

Employer	Bidder/ Contractor	Joint Venture Partner(s)/ Consortium member(s) (As Applicable)
Witness	Witness	Witness

1.

2.

Attachment-5

DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP Stage-II (3X800MW)
For

NABINAGAR STPP-II

Bidding Document No.: CS-0371-350-9
(Site Visit Certificate)

Bidder's Name and Address:	To NTPC Limited, (CS) 6th Floor, Engineering Office Complex, Plot A-8A, Sector 24, Noida-201301, Distt. Gautam Budh Nagar, State of U.P., India

Dear Sirs,

With reference to the subject package and as per Clause **2.1.3.1.2 (c) of "Terms of conditions"** regarding site visit by bidder, we confirm that we have visited and examined the NABINAGAR Super Thermal Power Project, site and its surroundings where the work to be executed for the subject package, on the date mentioned below:

Date :

(Bidder)	**(NTPC Official)**
(Signature) ………………………..	(Signature) ………………………..
(Printed Name) ……………………	(Printed Name) ……………………
(Designation) ……………………..	(Designation) ……………………..
(Common Seal) ……………………	(Common Seal) ……………………

(i) **Format for declaration by the Domestic Bidder "Self-Declaration by the Bidder"**

I/ We, M/s ………………(Name of Bidder)…………………. hereby certify that no proceedings for insolvency or liquidation under the Insolvency and Bankruptcy Code, 2016, or any other bankruptcy proceedings under any other applicable laws (in cases where IBC, 2016 is not applicable) have been admitted or is pending against us and/or our Parent/Holding/Subsidiary Company, Associate or Collaborator or Technology Provider………………………… (Name of Parent/ Holding/ Subsidiary Company, Associate or Collaborator/ Technology provider company)………………………… from whom we have taken or intend to take technical and/ or financial support for qualification of bid.

It is understood that if any part of this declaration is found to be false, the Employer shall have the right to unconditionally, immediately and outrightly reject my/our bid and forfeit the Bid Security/ EMD.

Further, in case the bid has already culminated into a Contract, the Employer shall be entitled to terminate the Contract, without prejudice to any other rights or remedies available to the Employer.

(Seal & Signature of Bidder)

Note: 1. This 'Declaration' should be on the letterhead of Bidder
2. T he declaration shall be submitted separately as per 3L(ii) by the Parent/Holding/ Subsidiary Company, Associate, Collaborator and Technology provider from whom the Bidder has taken or intends to take technical and/or financial support for qualification of bid.

Attachment-6

(if applicable)

(ii) **Format of declaration by Parent/Holding/Subsidiary Company, Associate or Collaborator/ Technology Provider from whom the Bidder has taken or intends to take technical and/ or financial support for qualification of bid**

"Self-declaration by the Parent/Holding/Subsidiary Company, Associate or Collaborator/ Technology Provider"

I/ We, M/s ……………………..(Name of Parent/Holding/Subsidiary Company, Associate or Collaborator/ Technology Provider)…………………….. from whom the Bidder has taken or intends to take technical and/ or financial support for qualification of bid, hereby certify that no proceedings for insolvency or liquidation under the Insolvency and Bankruptcy Code, 2016, or any other bankruptcy proceedings under any other applicable laws (in cases where IBC, 2016 is not applicable) have been admitted or is pending against us.

It is understood that if any part of this declaration is found to be false, the Employer shall have the right to unconditionally, immediately and outrightly reject the bid and forfeit the Bid Security/ EMD.

Further, in case the bid has already culminated into a Contract, the Employer shall be entitled to terminate the Contract, without prejudice to any other rights or remedies available to the Employer.

Date:

(Seal & Signature of Parent/Holding/
Subsidiary Company, Associate or
Collaborator, Technology provider)

Note: 1. The 'Declaration' shall be on the letterhead of Parent/Holding/Subsidiary Company, Associate or Collaborator/ Technology Provider

DELETED

**DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP Stage-II (3X800MW)
For**

NABINAGAR STPP-II

Bidding Document No.: CS-0371-350-9

(WORK SCHEDULE)

Bidder's Name and Address:

To
Contract Services,
EOC, NTPC Limited,
Noida - 201301

Dear Sirs,

We declare that the total scope of work for **DPR, DE & PMC for Railway Siding Works including OHE and S&T for NABINAGAR STPP Stage-II (3X800MW) For NABINAGAR STPP-II** located at **Aurangabad, Bihar -824303** in accordance with the provisions of the bidding documents shall be executed as per the following Work Schedule:

A) **WORK SCHEDULE for DPR and Detailed Engineering**

S.No.	**Activity**	**From LOA date (in Months)**
1	Submission of draft DPR & ESP to NTPC for comments/acceptance before submission to Railways	02
2	Submission of Survey Report and Land Plans, Finalization of DPR & ESP and Submission to Railways/NTPC (as applicable) for approval/ acceptance	02-03
3	Approval of DPR from Railways and submission of Final DPR to NTPC including Plans	03-06
4	Submission of Technical specification, tender drawings, BOQ, detailed cost estimates etc. to NTPC	05-07
5	Submission of construction drawings	08-10
6	Obtaining Railways, State/Central Govt. Dept. and other agencies approvals of detailed design & drawings for all Civil, S&T, OHE and general electrical works viz. Rail track structure, bridges & culverts (including proof check from IIT), control buildings etc. as applicable	09-11

B) WORK SCHEDULE for PMC

S. No.	Activity	From the date of LOA	
		Start (In Months)	Finish (In Months)
1.0	Finalization of execution strategy and contract package list	08	09
2.0	Tendering and award of Railway Siding Packages (Earth work, Rail procurement, Formation work, rail laying, Bridges, ROR & culverts, Misc. Buildings etc.	09	12
3.0	Construction of Railway Siding civil works (Earthwork, Rail laying, Formation & P-way works, Bridges, Culverts and interconnection etc.)	12	30
4.0	Construction of ROR bridge and associated ramp up and ramp down works including all civil, P-way, OHE, S&T, & General Electrification works.	15	34
5.0	Construction of Miscellaneous Buildings	16	28
6.0	Tendering & Award of Railway Siding Package for OHE, Electrical and S&T Works	17	20
7.0	Execution of Railway Siding Package Electrical, OHE and S&T Works	20	34
8.0	Dry Engine Run		35
9.0	Completion of all facilities		36

Remarks:

- Packages including priority stream shall be identified in consultation with NTPC NABINAGAR & NTPC-Engineering, so that the construction fronts are made available to the prospective executing agencies & project requirement is met.
- The NIT for Earthwork Package, Bridges & Culverts and NIT for Rail Procurement; Rail Laying work; Electrical, S&T works and Serving Station shall be done in parallel so that the works are awarded & execution starts in parallel.

Yours Faithfully,

Date: **Printed Name……………..**
Place: **Designation………………..**