SECTION – IV

GENERAL CONDITIONS OF CONTRACT (GCC)

TABLE OF CLAUSES

1. **Definitions** 1
2. **Interpretation** 5

B. Subject Matter of Contract 9

3. **Scope of Facilities** 9
4. **Time for Commencement and Completion** 10
5. **Deleted** ..... Error! Bookmark not defined.
6. **Contractor's Responsibilities** 11
7. **Verification of Information** 12
8. **Employer's Responsibilities** 14

C. Payment 14

9. **Contract Price** 14
10. **Terms of Payment** 15
11. **Securities** 15
12. **Taxes and Duties** 21

D. Intellectual Property 24

13. **Copy Right** 24
14. **Confidential Information** 25

E. Execution of the Facilities 25

15. **Representatives** 26
16. **Work Program** 28
17. **Subcontracting** 30
18. **Design and Engineering** 30
19. **Deleted** 32
20. **Plant and Equipment** 32
21. **Installation** 34
22. **Test and Inspection** 49
23. **Completion of the Facilities and Operational Acceptance** 51

F. Guarantees and Liabilities 57

24. **Completion Time Guarantee** 57

25. Defect Liability 57
26. Functional Guarantees 60
27. Equipment Performance Guarantees 61
28. Indemnity against infringement of Intellectual Property 62
29. Limitation of Liability 63
G. Risk Distribution 64
30. Transfer of Ownership 64
31. Care of Facilities 64
32. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification 65
33. Insurance 66
34. Change in Laws and Regulations 68
35. Force Majeure 69
H. Change in Contract Elements 70
36. Change in the Facilities 70
37. Extension of Time for Completion 70
38. Suspension 71
39. Termination 72
40. Assignment 78
I. Resolution of Disputes 78
41. Settlement of Disputes 78
42. Arbitration 79
Appendix – 1(A): Terms & Procedure of Payment for Supply of Goods 81
Appendix – 1(B): Terms & Procedure of Payment for Supply of Services 85
Appendix - 2: Price Adjustment 88
Appendix - 3: Time Schedule 89
Appendix - 4: Supply by the Employer ..... Error! Bookmark not defined.
Appendix - 5: Guarantees, Liquidated Damages for Non-Performance 90

GENERAL CONDITIONS OF CONTRACT (GCC)

Preamble

This Section of the Bidding Documents [named as General Conditions of Contract (GCC)] provides all the rights and obligations of the parties under the Contract. This Section contains provisions that are to be used unchanged unless [named as Special Conditions of Contract (SCC)] states otherwise as any changes in GCC or any complementary information that may be needed has been shown in SCC. If there is a conflict between the provisions of GCC & SCC, the provisions of SCC shall prevail.

A. Definitions and Interpretation

1. Definitions

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

(a) "Arbitrator" means the person or persons appointed by agreement between the Employer and the Contractor to make a decision on or to settle any dispute or difference between the Employer and the Contractor referred to him or her by the parties pursuant to GCC Clause 41.1 (Arbitration) hereof.

(b) "Associate" means a party who has been conjoined by the Contractor to independently execute a pre-selected part of facilities of the contract and grant him the associated contractual rights and obligations, without diluting the overall responsibility of the contractor in respect of the Facilities under the contract.

(c) "Bill of Quantity"/ "BOQ" / "Billing Breakup" means the document submitted by the Contractor in which materials, parts, and labor (and their associated costs) are itemized.

(d) "Collaborator" or "Parent Company" means the firms/corporations who has provided technological support to the manufacturer for establishing production line for the specific Equipment.

(e) "Commissioning" means operation of the Facilities or any part thereof, if any, as per GCC Clause 1.1(f) by the Contractor as specified in the Technical Specifications, which operation is to be carried out by the Contractor as provided in GCC Clause 23.1.3 (Commissioning), for the purpose of Trial – Operation (GCC Clause 23.1.4).

(f) "Completion" means that the Facilities (or a specific part thereof where specific parts are specified in the **SCC**) have been completed operationally and structurally and put in a tight and clean condition and that all works in respect of pre-commissioning of the Facilities (or a specific part thereof where specific parts are specified in the **SCC**) has been completed (wherever required, as per Technical Specifications) and Commissioning followed by Trail – Operation has been

completed, as provided in GCC Clause 23.1 (Completion of Facilities) hereof.

(g) "Contract" means this Contract entered into between the Employer and the Contractor together with the Contract Documents referred to therein.

(h) "Contract Documents" means the documents listed in Clause 1.1 of Article 1 (Contract Documents) of the Form of Agreement for Supply of Goods Contract and Form of Agreement for Supply of Services Contract (Section-VI), including any amendments thereto.

(i) "Contract Price" means the sum specified in Clause 9 (Contract Price), subject to such additions or deductions therefrom, as may be made pursuant to the Contract. For the purpose of Liquidated Damages and Contract Performance Guarantee, the "Contract Price" means the sum specified in Clause 9 (Contract Price).

(j) "Contractor" means the firms whose bid to perform the Contract has been accepted by the Employer and is named in the Contract Agreement and includes the legal successors or permitted assigns of the Contractor.

(k) "Contractor's Equipment" means all plant, facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Facilities that are to be provided by the Contractor, but does not include Plant and Equipment, or other things intended to form or forming part of the Facilities.

(l) "Contractor's Representative" means any person nominated by the Contractor and approved by the Employer in the manner provided in GCC Clause 15.2 (Contractor's Representative and Construction Manager) hereof to perform the duties delegated by the Contractor.

(m) "Date of Operational Acceptance" means the date at which Operational Acceptance certificate is issued by the Employer pursuant to GCC Clause 23.2.1.3

(n) "Day" means calendar day of the Gregorian Calendar.

(o) "Defect Liability Period" means the period of validity of the warranties given by the Contractor commencing at Completion of the Facilities or a part thereof, if any, as per GCC Clause 1.1(f), during which the Contractor is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC Clause 25 (Defect Liability) hereof.

(p) "Effective Date" means the date of Notification of Award from which the Time for Completion shall be determined.

(q) "Employer" means the firm/corporation/ government entity, named in the **SCC**, who is responsible for getting the Facilities implemented. The Employer may be Owner himself or an agency appointed by the Owner and shall include the legal successors or permitted assigns of the Employer.

(r) "Facilities" or "Plant and Equipment" or "Goods" means the materials or goods or other plant and equipments required to be supplied, installed and commissioned, by the Contractor in accordance with the Contract.

(s) "GCC" means the General Conditions of Contract hereof.

(t) "Installation Services" and/or "Services" means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Contractor under the Contract; e.g., transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor's Equipment and the supply of all construction materials required), installation, testing, pre-commissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training, etc.

(u) "Lump Sum Turnkey (LSTK)" means all the facilities required for the system as mentioned in the Scope of Work including Design, Engineering, Procurement, Construction (Associated Civil, Erection and Installation works), Testing & Commissioning, Freight & Transportation, Insurance, Water & Electricity and other associated works required for successful Completion and Operation of the Scope of Work.

(v) "Mandatory Spare Parts" means the spares required for continuous operation as per CEA guidelines (Guidelines For

Availability Of Spares And Inventories For Power Transmission System (Transmission Lines & Substation/Switchyard) Assets, July 2020).

(w) "Month" means calendar month of the Gregorian Calendar.

(x) "Notification of Award" means the official notice issued by the Employer notifying the Contractor that his bid has been accepted.

(y) "Operational Acceptance" means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor's fulfillment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of GCC Clause 23.2.2 (Operational Acceptance) hereof after successful Commissioning followed by Trial - Operation.

(z) "Owner" means the firm/corporation/government entity, named in the SCC, who has decided to set up the Facilities and shall include the legal successors or permitted assigns of the Owner.

(aa) "Plant and Equipment" means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the Mandatory Spare Parts and Monitoring Instruments to be supplied by the Contractor under GCC Clause 3.2 hereof), but does not include Contractor's Equipment.

(bb) "Pre-commissioning" means the testing, checking and other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning as provided in GCC Clause 23.2.2 (Pre-commissioning) hereof.

(cc) "Project Manager" means the person appointed by the Employer in the manner provided in GCC Clause 15.1 hereof to perform the duties delegated by the Employer.

(dd) "SCC" means the Special Conditions of Contract.

(ee) "Scope of work" means the detailed work to be performed as specified in Volume-II of the tender document.

(ff) "Site" means the land and other places upon which the Facilities are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site.

(gg) "Subcontractor"/"Sub-contractor"/"vendor"/"sub-vendor" means firms/ corporations/government entities to whom execution of any part of the Facilities, including preparation of any design or supply of any Plant and Equipment, is sub-contracted directly or indirectly by the Contractor with the consent of the Employer in writing, and includes its legal successors or permitted assigns.

(hh) "Taking Over" means the Employer's written acceptance of the Facilities under the Contract, after successful Trial – Operation for the specified period in accordance with the Contract, as provided in GCC Clause 23.1.5.

(ii) "Time for Completion" means the time within which Completion of the Facilities is to be attained in accordance with the specifications, as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed in the **SCC**) and Taking Over by the Employer is to be attained.

1.2. Order of precedence

Following will be the order of precedence of the tender documents.

i. Specific Conditions of the Contract (SCC)
ii. General Conditions of the Contract (GCC)
iii. Technical Specifications

2. Interpretation

2.1. Contract

2.1.1. The Contracts to be entered into with the successful Bidder shall be as under:

(i) First Contract: For Ex works supply of all equipment and materials including Mandatory Spare Parts, and Type Test to be conducted, if required *(Supply of Goods Contract)*

(ii) Second Contract: For providing all services i.e., inland transportation for delivery at site, In-transit insurance,

unloading, handling at site, installation, Testing and Commissioning including performance testing in respect of all the equipments supplied under the "Supply of Goods Contract", Training to be imparted (whether in India or abroad) and any other services specified in the Contract Documents *(Supply of Services Contract).*

2.1.2. The award of two separate Contracts shall not in any way dilute the responsibility of the Contractor for the successful completion of the facilities as per Specification and a breach in one Contract shall automatically be construed as a breach of the other Contract(s) which will confer a right on the Employer to terminate the other Contract(s) also at the risk and the cost of the Contractor.

2.1.3. The Contract will be signed in two originals and the Contractor shall be provided with one signed original and the rest will be retained by the Employer.

2.1.4. The Contractor shall provide to the Employer all the engineering data, drawing and descriptive materials submitted with the bid, in soft copies in a USB drive along with hard copies to form a part of the Contract immediately after Notification of Award. The cost of such data would already be included in the bid submitted by the Contractor.

2.2. Contract Documents

All documents forming part of the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory, subject to Article 1.2 (Order of Precedence) of the Contract Agreement. The Contract shall be read as a whole.

2.3. Language

The ruling language of the Contract and the language for communications shall be English.

2.4. Singular and Plural

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

2.5. Headings

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

2.6. Entire Agreement

Subject to GCC Clause 14.4 hereof, the Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

2.7. Amendment

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

2.8. Independent Contractor

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

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

2.9. Joint Venture

If the Contractor is a joint venture of two or more firms, all such firms shall be jointly and severally bound to the Employer for the fulfillment of the provisions of the Contract and shall designate one of such firms to act as a leading firm with authority to bind the joint venture. The composition or the constitution of the joint venture shall not be altered without the prior written consent of the Employer.

2.10. Non-Waiver

2.10.1. Subject to GCC Clause 2.10.2 below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

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

2.11. Severability

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

2.12. Country of Origin

"Origin" means the place where the materials, equipment and other supplies for the Facilities are mined, grown, produced or manufactured, and from which the services are provided. Plant and equipment are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

2.13. Notices

2.13.1. All notices to be given by one Party to the other Party in connection with or under the Contract shall be made in writing in English, and shall be sent, at the addresses set forth below or to such other addresses as notified from time to time by the Parties to each other, by electronic mail and either one or more of the means namely personal delivery, registered post, courier.

2.13.2. A notice shall be treated as having been received:

(a) if sent by hand, when its delivery is confirmed by a signature on behalf of the recipient;
(b) if sent by courier, (a) two (2) days after deposit with a reputed overnight courier if for inland delivery and (b) five (5) days after deposit with a reputed international courier if for overseas delivery;
(c) if sent by registered post then, when the registered post would, in the ordinary course of post, be delivered whether actually delivered or not; and
(d) by email, when the sender receives an automated message confirming delivery (all electronic mail communication shall be followed by hand delivery, posting the courier or registered post in terms of Clause 2.13.2 (a), 2.13.2 (b) and 2.13.2 (c) hereof), provided always that the onus of proving deposit per Clause 2.13.2 (b) hereof and posting by registered post per Clause 2.13.2 (c) shall be that of the sender.

2.13.3. Either Party, by notice in writing to the other Party, may change its postal, facsimile or email address or addressee for receipt of such notices.

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

2.13.5. Notwithstanding anything contained in the Contract, no electronic mail communication shall be accepted as a legal notice or legal claim, unless it is additionally served at the appropriate address by hand, courier or by registered post.

2.14. Governing Law & its Jurisdiction

The Contract shall be governed by and interpreted in accordance with laws of Union of India and the Courts of New Delhi shall have exclusive jurisdiction in all maters arising under this Contract. In case of conflict, the final decision of the Employer will be final.

B. Subject Matter of Contract

3. Scope of Facilities

Unless otherwise expressly limited in the Technical Specifications, the Contractor's obligation shall include the provision of all Plant and Equipment and the performance of all Installation Services required for

the design, supply (including procurement, testing, quality assurance, and delivery) of the Plant and Equipment and installation, construction, associated civil works, completion, pre-commissioning commissioning, performance testing, operational acceptance of the facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the technical specifications. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labour, materials, equipment, spare parts and accessories; Contractor's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including without limitation, all clearances, handling etc.); storage and training except for those supplies, works and services that will be provided or performed by the Employer, as set forth in Appendix-4 (Supply by the Employer).

3.1. The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.

3.2. The supply of Mandatory Spare Parts as applicable shall be treated as an integral part of the Contract.

4. Time for Commencement and Completion

4.1. Time for Completion is the essence of Contract. The Contractor shall commence work on the Facilities from the Effective Date of Contract and without prejudice to GCC Clause 24.2 hereof, the Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in Appendix – 3 (Time Schedule).

4.2. The Contractor shall attain Operational Acceptance of the Facilities (or of a part where a separate time for Completion of such part is specified in the Contract) within the time stated under Time for Completion or within such extended time to which the Contractor shall be entitled under GCC Clause 37 hereof.

5. Bill of Quantity / Billing Breakup

5.1. The Contractor shall submit a detailed BOQ/ Billing Breakup, for Employer's review and approval, within 15 days of the Effective Date for billing and invoicing purpose, however the total price shall be

restricted to the Contract Price.

5.2. In case of any discrepancy in quantities indicated in the detailed engineering drawings, consumed during the execution of the Contract and that specified in the BOQ/ Billing Breakup, actual quantities indicated in BOQ/ Billing Breakup shall be followed for payment purpose.

5.3. Employer shall not be liable for any increase in quantities of items from the quantities specified in the BOQ/ Billing Breakup vis-à-vis the actual quantity consumed during the execution of the Contract.

6. Contractor's Responsibilities

6.1. The Contractor shall perform the design, engineering, supply, testing at manufacturer's works, transportation, unloading and delivery at site including insurance & storage, associated civil works, erection, testing and commissioning at site along with all equipment's, fittings, accessories, foundation bolts (if any), cables and Mandatory Spare Parts at Ishanagar substation on LSTK basis as defined in the Scope of Work

6.2. Contractor Permits: The Contractor shall in timely manner procure/acquire/arrange/obtain and maintain in full force all the permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located that are necessary for Contractor in relation to the performance of the Contract, including, without limitation, visas for the Contractor's and subcontractor's personnel and entry permits for all imported Contractor's Equipment.

6.3. Employer Permits: The Contractor shall obtain/ procure, on behalf of the Employer, all statutory and regulatory clearances permits/approvals/licenses including without limitation approvals from CEA/CERC/SLDC/RPC/RLDC/Chief Electrical Inspector etc. required for successful charging and commissioning of the Facilities. All such approvals shall be obtained in the name of the Owner. All related documentation, paperwork, and liasoning for the same shall be done by the Contractor in consultation with the Employer and Employer shall provide all requisite support/ assistance, as needed. Any payment that may be required to be paid towards procurement of any approval/ clearance under this Clause 6.3, shall be paid directly by the Employer/ Owner to the concerned authorities.

6.4. The Contractor shall comply with all laws in force in India. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Clause 8.1 hereof.

6.5. The Contractor shall permit the Employer to inspect the Contractor's accounts and records relating to the performance of the Contractor.

7. Verification of Information

7.1. Site Conditions

7.1.1. Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, availability of power, water & other utilities for construction, approach/access to site, transportation, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them. Bidders are advised to visit the site and familiarise themselves with the Facilities and/or Site within the stipulated time of submission of the Bid. No extension of time is likely to be considered for the submission of Bids.

7.1.2. The Contractor confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Facilities, access to land, soil strata, water level at land, topography, requirement of cutting-filling etc. The Bidders are advised to conduct independent geo-technical investigation, contouring of land etc. to acquaint themselves with the site conditions. The Contractor acknowledges that any failure to acquaint itself with any such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.

7.1.3. Power and water required for performance of the Contract shall be arranged by the Contractor at its own cost. Bidder shall visit the site and explore land development options without disturbing existing structure/equipment/ongoing works.

7.2. Bid Information

7.2.1. It shall be deemed that by submitting a Bid, the Bidder has:

(a) made a complete and careful examination of the Bidding Documents, Appendices annexed to the Contract;

(b) received all relevant information requested from the Employer and/or Owner;

(c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Employer relating to any of the matters referred to in Clause 7.1 above. No claim shall be admissible at any stage on this account.

(d) satisfied itself about all matters, things and information including matters referred to in Clause 7.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;

(e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 7.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Agreement by the Contractor;

(f) acknowledged that it does not have a Conflict of Interest; and

(g) agreed to be bound by the undertakings provided by it under and in terms hereof.

7.3. The Employer shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, including any error or mistake therein or in any information or data given by the Employer.

8. Employer's Responsibilities

8.1. The Employer shall ensure the accuracy of all information and/or data to be supplied by the Employer as described in the corresponding Appendix - 4 (Supply by the Employer) to the Contract, except when otherwise expressly stated in the Contract.

8.2. The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way. The Employer shall provide non-exclusive right of access of Site in accordance with Clause 4.2 "Access to Site" specified in Volume-II, Scope of Work.

8.3. Employer shall be responsible for the continued operation of the Facilities after Taking Over, in accordance with GCC Clause 23.1.5.

8.4. All costs and expenses involved in the performance of the obligations under this GCC Clause 8 shall be the responsibility of the Employer.

C. Payment

9. Contract Price

9.1. The Contract Price shall be the sum of Supply Price as specified in Article 2 of Form of Agreement for Supply of Goods Contract and Service Price as specified in Article 2 of Form of Agreement for Supply of Services Agreement.

9.2. The Contract Price shall be subject to adjustment in accordance with the provisions of Appendix - 2 (Price Adjustment). The Contract Price shall be increased or reduced on account of variation in quantity in accordance with Clause 36 of GCC.

9.3. The Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

10. Terms of Payment

10.1. The Contract Price shall be paid as specified in Appendix – 1(A) (Terms & Procedure of Payment for Supply of Goods) and Appendix 1(B)(Terms & Procedure of Payment for Supply of Services). The procedures to be followed in making application for and processing payments shall be those outlined in the same Appendix.

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

11. Securities

11.1. Issuance of Securities

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

11.2. Advance Bank Guarantee

11.2.1. The Contractor shall, within twenty-eight (28) days of the Effective Date, provide a security in an amount equal to as follows:

a. 100% (one hundred percent) of the amount equivalent to Advance Payment 1, as defined in Appendix-1 (A), for Supply of Goods (hereinafter referred to as "Advance Bank Guarantee 1"); and

b. 100% (one hundred percent) of the amount equivalent to Advance Payment 2, as defined in Appendix-1 (B), for Supply of Services (hereinafter referred to as "Advance Bank Guarantee 2").

The above shall be calculated in accordance with the corresponding Appendix – 1 (A) and Appendix – 1(B) respectively of the Contract, and in the same currency(ies) with initial validity of up to ninety (90) days beyond the date of Operational Acceptance of the Facilities in accordance with GCC Clause 23.1. The same shall be extended by the Contractor time to time till ninety (90) days beyond the actual date of Operational Acceptance of the Facilities, as may be required under the Contract.

11.2.2. The security shall be in the Form of unconditional and irrevocable Bank Guarantee(s) attached hereto in Section VI -

Sample Forms and Procedures with claim period valid for twelve (12) months from the date of expiry of the Bank Guarantee. The security shall be discharged after the date it ceases to be in force and after completion of the facilities or relevant part thereof corresponding to which advance has been drawn.

- Procedure for effective reduction in the Advance Bank Guarantee

The Advance Bank Guarantee shall be allowed to be reduced every six (06) months after First Running Account Bill/Stage payment under the Contract if the validity of the Bank Guarantee is more than one year. The cumulative amount of reduction shall be allowed upto full value of the Bank Guarantee upon adjustment of the corresponding advance and certification to this effect by the Employer's representative. It should be clearly understood that reduction in the value of advance Bank Guarantee shall not in any way dilute the Contractor's responsibility and liabilities under the Contract including in respect of the Facilities for which reduction in the value of security is allowed.

11.3. Performance Security

11.3.1. The Contractor shall, within twenty-eight (28) days of the notification of award, provide a performance security ("Performance Bank Guarantee") for the due performance of the Contract in the amount equivalent to Ten percent (10%) of the Contract Price, with a validity upto ninety (90) days beyond the Defect Liability Period. The same shall be extended by the Contractor time to time till ninety (90) days beyond the actual Defect Liability Period, as may be required under the Contract.

Apart from the Contractor's performance security, the Contractor shall be required to arrange additional performance securities, as specified in **SCC**, within twenty-eight (28) days of the notification of award in favour of the Employer in the form acceptable to the Employer.

11.3.1.1. Notwithstanding above, in case of the performance security (ies) for which the validity as per GCC Clause 11.3.1 is required to be more than 5 years, the Contractor may choose to submit the performance security with initial validity of 5 years. In such cases, the Contractor shall, however, be required to extend the validity till ninety (90) days beyond the actual Defect Liability Period, as may be required under the Contract at any time, but no later than 6 months, prior to

expiry of the performance security failing which the said performance security shall be forfeited by the Employer.

11.3.1.2. If the Contractor delays submission of the performance security(ies) vis-à-vis the period specified in Clause GCC 11.3.1, then without prejudice to any other rights or remedies available with the Employer, following shall also be applicable:

a) The Defect Liability Period pursuant to Clause GCC 25 for the Facilities or any relevant part thereof covered under the said performance security shall stand extended and the Contractor shall accordingly extend the validity of the Contract Performance Security to be furnished as per Clause GCC 11.3.1 by the period of delay as per Clause GCC 11.3.1.2 (c), over and above the period required as per the Contract.

b) Alternatively, if the Contractor fails to extend the validity of the performance security pursuant to Clause GCC 11.3.1.1 (a), an amount @preailing SBI Card Rate applicable for Inland Bank Guarantee +2% per annum on the performance security amount corresponding to the Facilities or any relevant part thereof covered under the said performance security, for the period of delay as per Clause GCC 11.3.1.2 (c) shall be paid by the Contractor to the Employer. The Employer may, without prejudice to any other method of recovery, deduct the amount worked out as above from any monies due or to become due to the Contractor under the Contract.

c) The period of delay for the above purpose shall be the time elapsed between the due date for submission of performance security as per the Contract and the date of performance security.

d) In case the Contractor fails to submit the performance security within 90 days of the Notification of Award, the Employer, without prejudice to any other rights or remedies it may possess under the Contract, may forfeit the bid security and/or may terminate the Contract forthwith pursuant to GCC Clause 39.

11.3.1.3. The above extension of Defect Liability Period or deduction shall not relieve the Contractor from any of his obligations and liabilities under the Contract.

11.3.1.4. The Employer shall be sole judge in above regard.

11.3.1.5. Apart from the performance security(ies) to be furnished as per Clause GCC 11.3.1 above, additional performance securities, as specified in the Bidding Documents, shall be arranged and furnished by the Contractor at any time after the Notification of Award. The submission of these performance securities to the Employer shall, however, be one of the conditions precedent for release of payment due against such equipment/ works for which the said performance security is required to be submitted.

11.3.2. The performance security shall be in the Form of unconditional Bank Guarantee attached hereto in the Section VI - Sample Forms and Procedures.

11.3.3. Reduction in the performance security, pro-rata to the Contract Price of any part of the Facilities is not admissible. However, if the Defects Liability Period has been extended on any part of the Facilities pursuant to GCC Clause 25.8 hereof, the Contractor shall issue an additional security in an amount proportionate to the Contract Price of that part. The security shall be returned to the Contractor immediately after the expiry of its claim period, provided, however, that if the Contractor pursuant to GCC Clause 25, is liable for an extended warranty obligation, the performance security shall be reduced to ten percent (10%) of the value of the component covered by the extended warranty.

11.3.4. In case of award of the contract to a Joint Venture, the Bank Guarantees for performance security and the Bank Guarantee for advance payment shall be submitted in the name of all the partner(s) of the Joint Venture.

11.3.5. No interest shall be payable by the Employer on the performance Security.

11.4. Issuing Banks

The Bank Guarantee for Advance Payment Security and Performance Security are to be provided by the Contractor, which should be issued either:

(a) by a Public Sector Bank located in India, or

(b) a scheduled Indian Bank having paid up capital (net of any accumulated losses) of Rs. 1,000 Million or above (the latest

annual report of the Bank should support compliance of capital adequacy ratio requirement) or

(c) by a foreign bank or a subsidiary of a foreign bank, acceptable to the Employer, with overall international corporate rating or rating of long term debt not less than A- (A minus) or equivalent by a reputed rating agency. Further, the Bank Guarantee should be confirmed by either (i) its corresponding bank located in India; or (ii) a Public Sector Bank located in India; or (iii) a scheduled commercial private bank located in India as per para (b) above.

11.5. Indemnity

11.5.1. The Contractor agrees to defend, indemnify, and hold harmless each of Employer, its Affiliates, its directors, officers, employees, agents and advisers ("Employer Indemnified Parties") from and against any and all Losses:

11.5.1.1. Arising from physical damage to or physical destruction of property, or death of or bodily injury to any Person except and to the extent caused by Employer;

11.5.1.2. Arising due to the act or omission of the Contractor, its Sub-Contractors or any of their representatives (including breach by the Contractor of any of its obligations hereunder);

11.5.1.3. Arising from any breach by the Contractor of any of its covenants, obligations and representations;

11.5.1.4. Any claims of a Sub-Contractor against Employer for any breach by the Contractor under the sub-contract including any non-payment in connection with the scope of Supplies;

11.5.1.5. Employers' liability or workers' compensation claims filed by any personnel engaged by Contractor or any Sub-Contractor or their respective agents in connection with the scope of Supplies;

11.5.1.6. Arising from Contractor's or any Sub-Contractor's failure to comply with Applicable Law including Applicable Anti-Corruption Laws in connection with Scope or otherwise;

11.5.1.7. Arising from Contractor's failure to pay Taxes and Duties for which it is responsible hereunder (including its income tax payable under the Applicable Laws);

11.5.1.8. Arising from claims of personnel engaged by the Contractor or any Sub- Contractor against any Employer Indemnified Party, including arising in any manner out of or in connection with any failure of the Contractor or any Sub- Contractor to comply with any provisions of this Contract or act or omission and/or commission on the part of the Contractor and/or any Sub- Contractor or any personnel engaged by the Contractor or its Sub- Contractor s, including relating to any disruption of work carried out in the ordinary course of business, strikes, destruction of any property carried out and/or any claims for regularization raised by any personnel or Sub- Contractor of the Contractor or any personnel or agent of any Sub- Contractor;

11.5.1.9. Arising out of or in connection with any hazardous substances or materials introduced onto the Site or any other locations by the Contractor or its Sub- Contractors, or anyone else for whom the Contractor is responsible;

11.5.1.10. That would have otherwise been covered by insurance but for the Contractor's failure to obtain and maintain the insurance coverage required of it under this Contract;

11.5.1.11. Arising out of or in any manner related to any infringement or misappropriation (or alleged infringement or misappropriation) of any Intellectual Property Rights or other proprietary rights of a third party; and

11.5.1.12. Arising from the default of the Contractor to adhere to GCC Clause 16.6.

11.5.1.13. Employer agrees to defend, indemnify, and hold harmless each of the Contractor, its Affiliates, its directors, officers, employees, agents and advisers ("Contractor Indemnified Parties") from and against any and all Losses:

11.5.1.14. Arising from physical damage to or physical destruction of property, or death of or bodily injury to any Person except and to the extent caused by the Contractor;

11.5.1.15. Arising from any breach by the Employer of any of its covenants, obligations and representations;

11.5.1.16. Caused to the Contractor by any Persons including any contractor appointed by Employer; and

11.5.1.17. Arising from Employer's failure to comply with Applicable Law including Applicable Anti-Corruption Laws in connection with the Supplies or otherwise.

11.5.1.18. The Employer Indemnified Parties and the Contractor Indemnified Parties are collectively referred to as the "Indemnified Parties"

11.5.1.19. Employer loss, damage and any risks involved for the full value of the materials.

12. Taxes and Duties

12.1. The Contractor shall be entirely responsible for payment of all taxes, duties, licence fees and other such levies legally payable/incurred until delivery of the contracted supplies to the Employer.

If it is statutory requirement to make deductions towards such taxes and duties or any other applicable taxes and duties, the same shall be made by the Employer and a certificate for the same shall be issued to the Contractor.

12.2. The Contractor shall be solely responsible for the taxes that may be levied on the Contractor's persons or on earnings of any of his employees and shall hold the Employer indemnified and harmless against any claims that may be made against the Employer. The Employer does not take any responsibility whatsoever regarding taxes under Indian Income Tax Act, for the Contractor or his personnel. If it is obligatory under the provisions of the Indian Income Tax Act, deduction of Income Tax at source shall be made by the Employer.

12.3. In respect of supply of Plant and Equipment(s) to the Employer by the Contractor, the EXW price is inclusive of all cost as well as duties and tax (viz., custom duties & levies, duties, etc.) other than GST, paid or payable on components, raw materials and any other items used for their consumption incorporated or to be incorporated in the Plant & Equipment.

Further, the EXW price of (i) imported equipment/items offered as 'Off the Shelf' or dispatched directly from the Indian Port of disembarkation are inclusive of all cost as well as any duties paid/payable in relation to import of such goods (viz., Customs duties, GST & levies etc.) and no separate claim on this behalf will be entertained by the Employer. If any tax exemptions, reductions,

allowances or privileges may be available to the Contractor in the Country where the site is located and the Contractor has declared the same in its bid, the Employer shall use its best endeavors to enable the Contractor to benefit from such tax savings to the maximum allowable extent.

The Input Tax Credit (ITC) available, if any, under GST as per the relevant Government laws wherever applicable has been taken into account by the Contractor.

12.4. Ex-works price for the supply of goods viz. equipment/items by the Contractor is excluding GST, if any, payable. The GST will be reimbursable by the Employer on the supplies made by the Contractor but limited to the tax liability on the transaction between the Employer and the Contractor.

Further the price for supply of services viz. Installation and training are excluding GST, if any, payable. The GST will be reimbursable by the Employer on the supplies made by the Contractor but limited to the tax liability on the transaction between the Employer and the Contractor.

12.5. Employer would not bear any liability on account of any other taxes, duties, levies including BOCW, labor cess or any other local taxes (if any) that may be applicable.

12.6. Employer shall, deduct taxes at source as per the applicable laws/rules, if any, and issue Tax Deduction at Source (TDS) Certificate to the Contractor.

12.7. Reimbursement of GST by the Employer shall be at the rate applicable on the HSN/SAC of the goods/ services supplied by the Contractor to the Employer. The reimbursement of GST except GST on advance payment shall be against Invoice/Debit Note containing particulars specified under the GST Act and related Rules, Notifications, etc as notified by the Government in this regard. In the event that the Contractor fails to provide the invoice in the form and manner prescribed under the GST Act and Rules, the Employer shall not be liable to make any payment against such invoice. Reimbursement of GST payment against Advance payment (applicable for Supply of Services) shall be against a proforma invoice. Further, the Contractor shall, within 7 days from the date of receipt of Advance, furnish an Advance Receipt Voucher to the Employer, as prescribed under the GST Law.

If there is difference in HSN/SAC classification and corresponding rate of GST of an item as confirmed/deemed confirmed by the bidder in its bid and HSN/SAC and corresponding rate of GST as interpreted under any interpretation/ judgment/ Notification/ Circular/ amendment issued under the GST law before or after the award of contract, GST reimbursable to the bidder/Contractor shall be lower of the GST applicable at the rate as confirmed/deemed confirmed in the bid or actual GST paid/payable by the bidder for that item.

12.8. The Contractor shall comply with all tax laws in force in India. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, interest, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such tax laws by the Contractor or its personnel, including the Subcontractors and their personnel.

12.9. While raising invoice/proforma invoice for Supply of Goods, Contactor shall bill to and ship to the address specified by the Employer during the execution of the Contract, in the State/UT where the Goods or part thereof is to be Supplied and mention GSTIN of Employer in of the same state/UT. In case of Supply of Services, the Contractor shall invoice the Employer using the GSTIN of Employer in the state/UT in which the service or part thereof is to be rendered.

12.10. Notwithstanding anything above or elsewhere in the Contract, in the event that the input tax credit of the GST charged by the Contractor is denied by the tax authorities to the Employer for reasons associated with non-compliance/ incorrect compliance by the Contractor, the Employer shall be entitled to recover such amount from the Contractor by way of adjustment from any of the subsequent invoices submitted by the Contractor to the Employer. In addition to the amount of GST, the Employer shall also be entitled to recover interest and penalty, in case any interest and/or penalty are imposed by the tax authorities on the Employer for incorrect/wrong availment of Input Tax Credit. The Employer shall determine whether the denial of credit is linked to the non-compliance/ incorrect compliance of the Contractor and the said determination shall be binding on the Contractor.

12.11. For the purpose of the Contract, it is agreed that the Contract Price specified in the Contract Agreement is based on the taxes, duties, levies and charges prevailing at the date seven (07) days prior to the last date of bid submission (hereinafter called "Tax" in this GCC Sub-clause 12.7). If any rates of Tax are increased or decreased, a new Tax

is introduced, an existing Tax is abolished, or any change in interpretation except for classification related purpose, or application of any Tax occurs in the course of the performance of the Contract, which was or will be assessed on the Contractor in connection with performance of the Contract, an equitable adjustment of the Contract price shall be made to fully take into account any such change by addition to the Contract price or deduction therefrom, as the case may be, in accordance with GCC Clause 34 (Changes in Laws and Regulations) hereof. These adjustments shall be applicable for all transactions between the Employer and the Contractor for supply of goods and services under the Contract but shall not be applicable on procurement of raw materials, intermediary components etc. by the Contractor and on account of variation in taxes, duties & levies applicable locally.

In respect of raw materials, intermediary components etc. and the taxes, duties & levies applicable locally, neither the Employer nor the Contractor shall be entitled to any claim arising due to increase or decrease in the rate of Tax, introduction of a new Tax or abolition of an existing Tax in the course of the performance of the Contract.

D. Intellectual Property

13. Copy Right

13.1. The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Employer directly or through the Contractor by any third party, including supplies of materials, the copyright in such materials shall remain vested in such third party.

The Employer shall however be free to reproduce all drawings, documents and other material furnished to the Employer for the purpose of the Contract including, if required, for operation and maintenance.

13.2. Notwithstanding the provisions of Clause GCC 11.1 above, the copyright in all drawings, documents and other materials containing data and information for design(s) and otherwise which have been developed by the Contractor or by any third party under the Contract shall remain vested in the Employer.

14. Confidential Information

14.1. The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this GCC Clause 14.

14.2. The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement of Plant and Equipment, construction or such other work and services as are required for the performance of the Contract.

14.3. The obligation of a party under GCC Clauses 14.1 and 14.2 above, however, shall not apply to that information which

(a) now or hereafter enters the public domain through no fault of that party
(b) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto
(c) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

14.4. The above provisions of this GCC Clause 14 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.

14.5. The provisions of this GCC Clause 14 shall survive termination, for whatever reason, of the Contract.

E. Execution of the Facilities

15. Representatives

15.1. If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Employer shall appoint and notify the Contractor in writing of the name of the Project Manager. The Employer may from time to time appoint some other person as the Project Manager in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. The Employer shall take all reasonable care to see that no such appointment is made at such a time or in such a manner as to impede the progress of work on the Facilities. The Project Manager shall represent and act for the Employer at all times during the currency of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as herein otherwise provided.

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

15.2. Contractor's Representative & Construction Manager

15.2.1. If the contractor's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the contractor's Representative and shall request the Employer in writing to approve the person so appointed. If the Employer makes no objection to the appointment within fourteen (14) days, the contractor's Representative shall be deemed to have been approved. If the Employer objects to the appointment within fourteen (14) days giving the reason therefor, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Clause 15.2.1 shall apply thereto.

15.2.2. The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Project Manager all the contractor's notices, instructions, information and all other communications under the Contract. All notices, instructions, information and all other communications given by the Employer or the Project Manager to the Contractor under the Contract shall be given to the contractor's Representative or, in its absence, its deputy, except

as herein otherwise provided. The Contractor shall not revoke the appointment of the contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the contractor's Representative, pursuant to the procedure set out in GCC Clause 15.2.1.

15.2.3. The Contractor's Representative may, subject to the approval of the Employer (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Employer and the Project Manager. Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Clause 15.2.3 shall be deemed to be an act or exercise by the Contractor's Representative.

15.2.3.1. Notwithstanding anything stated in GCC Clause 15.1 and 15.2.1 above, for the purpose of execution of Contract, the Employer and the Contractor shall finalize and agree to a Contract Co-ordination Procedure and all the communication under the Contract shall be in accordance with such Contract Coordination Procedure.

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

15.2.5. The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or

negligent, or may commit a serious breach of the Site regulations provided under GCC Clause 21.3. The Employer shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities.

15.2.6. If any representative or person employed by the Contractor is removed in accordance with GCC Clause 15.2.5, the Contractor shall, where required, promptly appoint a replacement.

16. Work Program

16.1. Contractor's Organization

The Contractor shall supply to the Employer and the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out work on the Facilities. The chart shall include the identities of the key personnel together with the curriculum vitae of such key personnel to be employed within fourteen (14) days of the Effective Date. The Contractor shall promptly inform the Employer and the Project Manager in writing of any revision or alteration of such an organization chart.

16.2. Program of Performance

Within 14 (fourteen) calendar days after the Effective Date , the Contractor shall prepare and submit to the Project Manager a detailed program of performance of the Contract (L2 Network) in the form of the Critical Path Method (CPM), the PERT network, or other internationally used programs and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commissioning the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion, Commissioning and Acceptance of the Facilities in accordance with the Contract. The program so submitted by the Contractor shall accord with the Time Schedule included in Appendix-3 (Time Schedule) and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion under GCC Clause 4.2 and any extension granted in accordance with GCC Clause 37, and shall submit all such revisions to the Project Manager.

16.3. Progress Report

The Contractor shall monitor progress of all the activities specified in the program referred to in GCC Clause 16.2 above, and supply a progress report to the Project Manager every month.

The progress report shall be in a form acceptable to the Project Manager and shall indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.

16.4. Progress of Performance

If at any time the contractor's actual progress falls behind the program referred to in GCC Clause 16.2, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Clause 4.2, any extension thereof entitled under GCC Clause 37.1, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.

16.5. Work Procedures

The Contract shall be executed in accordance with the Contract Documents and the procedures given in the Section-VI Sample Forms and Procedures of the Contract Documents.

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

16.6. Books and Records

The Contractor shall keep and, to the extent practicable, shall cause all Sub-Contractors to keep full and detailed books, logs, records, daily reports, schedules, accounts, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Contract of the obligations and as required under Applicable Law ("Books and Records"). The Contractor shall maintain all such Books and Records

in accordance with Indian Generally Accepted Accounting Principles (IGAAP) and shall retain all such Books and Records for a minimum period of three (3) years after the Operational Acceptance, or such greater period of time as may be required under the Applicable Laws.

The Employer shall have the right to have to seek and audit the Books and Records of the Contractor after issuing a prior written notification of fifteen (15) days to the Contractor.

17. Subcontracting

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

17.2. The Contractor shall select and employ its Subcontractors for such major items from the Employer approved list as mentioned in Clause No 17.1.

17.3. For items or parts of the Facilities not specified in the approved list as mentioned in Clause 17.1, the Contractor may employ such Subcontractors as it may select, at its discretion.

18. Design and Engineering

18.1. Specifications and Drawings

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

The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors or omissions are not

because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.

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

18.2. Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the Employer and shall be treated in accordance with GCC Clause 36.

18.3. Approval/Review of Technical Documents by Project Manager

18.3.1. The Contractor shall prepare (or cause its Subcontractors to prepare) the list of drawings and documents and submit to the Project Manager for its approval within fourteen (14) days of the Effective Date, in accordance with the requirements of GCC Clause 18.2 (Program of Performance).

18.3.2. Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval thereof.

GCC Clauses 18.3.3 through 18.3.6 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.

18.3.3. Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Clause 18.3.1, the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefore and the modifications that the Project Manager proposes.

18.3.4. If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project

Manager's approval in accordance with GCC Clause 18.3.3. If the Project Manager approves the document subject to modification(s), the Contractor shall resubmit the document for Project Manager's approval within 7 (seven) days with required modification(s).

The procedure for submission of the documents by the Contractor and their approval by the Project Manager shall be discussed and finalized with the Contractor.

18.3.5. The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.

18.3.6. The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager's approval thereof, pursuant to the provisions of this GCC Clause 18.3.

19. Deleted

20. Plant and Equipment

20.1. Subject to GCC Clause 12.2, the Contractor shall design, supply or procure and transport all the Plant and Equipment in an expeditious and orderly manner to the Site.

20.2. Transportation

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

20.2.2. Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the Plant and Equipment and the Contractor's Equipment. In case of transportation by road, the Contractor shall transport all the goods only through registered common

carriers in line with "The Carriage by Road Act, 2007" including amendment thereof.

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

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

20.3. Delivery and Documents

20.3.1. Delivery Documents

Upon shipment, the Contractor shall notify the Employer with full details of the dispatch and shall furnish the documents as specified in the corresponding Appendix – 1(A): (Terms & Procedure of Payment for Supply of Goods) and 1 (B): (Terms & Procedure of Payment for Supply of Services).

20.3.2. Packing

20.3.2.1. The Contractor shall provide such packing of the Goods/ Plant and Equipment as it is required to prevent their damage or deterioration during transit to their final destination as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit and open storage. Packing case size and weights shall take into consideration,

where appropriate, the remoteness of the goods, final destination and the absence of heavy handling facilities at all points in transit.

20.3.2.2. The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract and, subject to any subsequent instruction ordered by the Employer consistent with the requirements of the Contract.

21. Installation

21.1. Setting Out/Supervision/Labor

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

If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager.

21.1.2. Contractor's Supervision: The Contractor shall give or provide all necessary superintendence during the execution of Installation Services at Site, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time superintendence. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

21.1.3. Labor:

(a) The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract.

(b) Unless otherwise provided in the Contract, the Contractor at its own expense shall be responsible for the recruitment, transportation, accommodation and catering of all labor, local or

expatriate, required for the execution of the Contract and for all payments in connection therewith.

(c) The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labor of its Subcontractors.

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

21.2. Contractor's Equipment

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

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

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

21.3. Site Regulations and Safety

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

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

21.3.1. Compliance with Labour Regulations

21.3.1.1. During continuance of the contract, the Contractor and his subcontractors shall abide at all times by all applicable existing labour enactments and rules made thereunder, regulations notifications and byelaws of the State or Central Government or local authority and any other labour law (including rules), regulations bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. The employees of the Contractor and the Sub-contractor in no case shall be treated as the employees of the Employer at any point of time.

21.3.1.2. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made thereunder, regulations or notifications including amendments.

21.3.1.3. If the Employer is caused to pay under any law as principal employer such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/ byelaws/Acts/ Rules/regulations including amendments, if any, on the part of the Contractor, the Employer shall have the right to deduct any money due to the Contractor under this contract or any other contract with the employer including his amount of performance security for adjusting the aforesaid payment. The Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

Notwithstanding the above, the Contractor shall furnish to the Employer the details/documents evidencing the Contractor's compliance to the laws applicable to establishments engaged in building and other construction works, as may be sought by the Employer. In particular the Contractor shall submit quarterly certificate regarding compliance in respect of provisions of Employees" Provident Fund and Misc. Provisions Act 1952 to the Employer. For this purpose, the Contractor as well as its Sub-Contractor(s) should have Provident Fund Code Number and all

the workers deployed by the Contractor or Sub-Contractor must be enrolled as members of Provident Fund having an Universal Account Number (UAN).

21.3.1.4. Some of the major laws applicable to establishments, including any amendment thereof, engaged in building and other construction works:

(a) Employee's Compensation Act 1923

(b) Payment of Gratuity Act 1972

(c) Employee P.F. and Miscellaneous Provision Act 1952

(d) Maternity Benefit Act 1951

(e) Contract Labour (Regulation & Abolition) Act 1970

(f) Minimum Wages Act 1948

(g) Payment of Wages Act 1936

(h) Equal Remuneration Act 1979

(i) Payment of Bonus Act 1965

(j) Industrial Dispute Act 1947

(k) Industrial Employment (Standing Orders) Act 1946

(l) Trade Unions Act 1926

(m) Child Labour (Prohibition & Regulation) Act 1986

(n) Inter-State Migrant workmen's (Regulation of Employment & Conditions of Service Act 1979

(o) The Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996

(p) Factories Act 1948

(q) Employees State Insurance Corporation Act, 1948

(r) State Labour Welfare Fund Act (as applicable within the jurisdiction of the works)

(s) The Payment of Wages Act, 1936

(t) Labour Code 2026

21.3.2. Protection of Environment

The Contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as consequence of his methods of operation.

During continuance of the Contract, the Contractor and his Subcontractors shall abide at all times by all existing enactments on environmental protection and rules made thereunder, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

Salient features of some of the major laws that are applicable are given below:

The Water (Prevention and Control of Pollution) Act, 1974, This provides for the prevention and control of water pollution and the maintaining and restoring of wholesomeness of water. "Pollution" means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.

The Air (Prevention and Control of Pollution) Act, 1981, This provides for prevention, control and abatement of air pollution. "Air Pollution" means the presence in the atmosphere of any "air pollutant", which means any solid, liquid or gaseous substance (including noise) present

in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.

The Environment (Protection) Act, 1986, This provides for the protection and improvement of environment and for matters connected therewith, and the prevention of hazards to human beings, other living creatures, plants and property. "Environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.

The Public Liability Insurance Act, 1991, This provides for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling hazardous substances and for matters connected herewith or incidental thereto. Hazardous substance means any substance or preparation which is defined as hazardous substance under Environment (Protection) Act, 1986, and exceeding such quantity as may be specified by notification by the Central Government.

21.3.2.1. (i) The Contractor shall (a) establish an operational system of managing environmental impacts, (b) carry out all the monitoring and mitigation measures set forth in the environment management plan attached to the Special Conditions of Contract, and (c) allocate the budget required to ensure that such measures are carried out. The Contractor shall submit to the Employer (quarterly) semiannual) reports on the carrying out of such measures.

(ii) The Contractor shall adequately record the conditions of roads, agricultural land and other infrastructure prior to transport of material and construction commencement, and shall fully reinstate pathways, other local infrastructure and agricultural land to atleast their pre-project condition upon construction completion.

(iii) The Contractor shall undertake detailed survey of the affected persons during transmission line alignment finalization under the Project, where applicable. and

(iv) The Contractor shall conduct health and safety programme for workers employed under the Contract and shall include

information on the risk of sexually transmitted diseases, including HIV/AIDS in such programs.

21.3.3. Safety Precautions

21.3.3.1. The Contractor shall observe all applicable regulations regarding safety on the Site.

Unless otherwise agreed, the Contractor shall, from the commencement of work on Site until Taking Over, provide:

a) fencing, lighting, guarding and watching of the Works, and

b) temporary roadways, footways, guards and fences which may be necessary for the accommodation and protection of Employer / his representatives and occupiers of adjacent property, the public and others.

21.3.3.2. The Contractor shall ensure proper safety of all the workmen, materials, plant and equipment belonging to him or to Employer or to others, working at the Site. The Contractor shall also be responsible for provision of all safety notices and safety equipment required both by the relevant legislations and the Project Manager, as he may deem necessary.

21.3.3.3. The Contractor will notify well in advance to the Project Manager of his intention to bring to the Site any container filled with liquid or gaseous fuel or explosive or petroleum substance or such chemicals which may involve hazards. The Project Manager shall have the right to prescribe the conditions, under which such container is to be stored, handled and used during the performance of the works and the Contractor shall strictly adhere to and comply with such instructions. The Project Manager shall have the right at his sole discretion to inspect any such container or such construction plant/equipment for which material in the container is required to be used and if in his opinion, its use is not safe, he may forbid its use. No claim due to such prohibition shall be entertained by the Employer and the Employer shall not entertain any claim of the Contractor towards additional safety provisions/conditions to be provided for/constructed as per the Project Manager's instructions.

Further, any such decision of the Project Manager shall not, in any way, absolve the Contractor of his responsibilities and in case, use

of such a container or entry thereof into the Site area is forbidden by the Project Manager, the Contractor shall use alternative methods with the approval of the Project Manager without any cost implication to the Employer or extension of work schedule.

21.3.3.4. Where it is necessary to provide and/or store petroleum products or petroleum mixtures and explosives, the Contractor shall be responsible for carrying-out such provision and/or storage in accordance with the rules and regulations laid down in Petroleum Act 1934, Explosives Act, 1948 and Petroleum and Carbide of Calcium Manual published by the Chief Inspector of Explosives of India. All such storage shall have prior approval of the Project Manager. In case, any approvals are necessary from the Chief Inspector (Explosives) or any statutory authorities, the Contractor shall be responsible for obtaining the same.

21.3.3.5. All equipment used in construction and erection by Contractor shall meet Indian/International Standards and where such standards do not exist, the Contractor shall ensure these to be absolutely safe. All equipment shall be strictly operated and maintained by the Contractor in accordance with manufacturers' Operation Manual and safety instructions and as per Guidelines/rules of Employer in this regard.

21.3.3.6. Periodical examinations and all tests for all lifting/hoisting equipment & tackles shall be carried-out in accordance with the relevant provisions of Factories Act 1948, Indian Electricity Act 1910 and associated Laws/Rules in force from time to time. A register of such examinations and tests shall be properly maintained by the Contractor and will be promptly produced as and when desired by the Project Manager or by the person authorised by him.

21.3.3.7. The Contractor shall be fully responsible for the safe storage of his and his Sub-Contractor's radioactive sources in accordance with BARC/DAE Rules and other applicable provisions. All precautionary measures stipulated by BARC/DAE in connection with use, storage and handling of such material will be taken by the Contractor.

21.3.3.8. The Contractor shall provide suitable safety equipment of prescribed standard to all employees and workmen according to the need, as may be directed by the Project Manager who will also have a right to examine the safety equipment to determine their suitability, reliability, acceptability and adaptability. The

Contractor shall also provide Reflective Jackets to all workmen working on the site including different colored such Jackets to the persons working at height.

21.3.3.9. Where explosives are to be used, the same shall be used under the direct control and supervision of an expert, experienced, qualified and competent person strictly in accordance with the Code of Practice/Rules framed under Indian Explosives Act pertaining to handling, storage and use of explosives.

21.3.3.10. The Contractor shall provide safe working conditions to all workmen and employees at the Site including safe means of access, railings, stairs, ladders, scaffoldings etc. The scaffoldings shall be erected under the control and supervision of an experienced and competent person. For erection, good and standard quality of material only shall be used by the Contractor.

21.3.3.11. The Contractor shall not interfere or disturb electric fuses, wiring and other electrical equipment belonging to the Employer or other Contractors under any circumstances, whatsoever, unless expressly permitted in writing by Employer to handle such fuses, wiring or electrical equipment.

21.3.3.12. Before the Contractor connects any electrical appliances to any plug or socket belonging to the other Contractor or Employer, he shall:

a. Satisfy the Project Manager that the appliance is in good working condition;

b. Inform the Project Manager of the maximum current rating, voltage and phases of the appliances;

c. Obtain permission of the Project Manager detailing the sockets to which the appliances may be connected.

21.3.3.13. The Project Manager will not grant permission to connect until he is satisfied that;

a. The appliance is in good condition and is fitted with suitable plug;

b. The appliance is fitted with a suitable cable having two earth conductors, one of which shall be an earthed metal sheath surrounding the cores.

21.3.3.14. No electric cable in use by the Contractor/Employer will be disturbed without prior permission. No weight of any description will be imposed on any cable and no ladder or similar equipment will rest against or attached to it.

21.3.3.15. No repair work shall be carried out on any live equipment. The equipment must be declared safe by the Project Manager and a permit to work shall be issued by the Project Manager before any repair work is carried out by the Contractor. While working on electric lines/equipment, whether live or dead, suitable type and sufficient quantity of tools will have to he provided by the Contractor to electricians/workmen/officers.

21.3.3.16. The Contractors shall employ necessary number of qualified, full time electricians/electrical supervisors to maintain his temporary electrical installation.

21.3.3.17. The Contractor employing more than 250 workmen whether temporary, casual, probationer, regular or permanent or on contract, shall employ at least one full time officer exclusively as safety officer to supervise safety aspects of the equipment and workmen, who will coordinate with the Project Safety Officer. In case of work being carried out through Sub-Contractors, the Sub-Contractor's workmen/employees will also be considered as the Contractor's employees/workmen for the above purpose.

The Contractor shall deploy dedicated Safety Staff(s) (Safety Supervisors & Safety Stewards) as per the Safety Plan (as attached in Section VI – Sample Forms and Procedures) executed between the Employer and the Contractor.

In case, the Contractor fails to deploy Qualified Safety Officer(s)/Safety Staff(s) under each Contract, as specified, then the Contractor shall be responsible for payment of a sum of Rs. 15,00,000/- per quarter till the Safety Officer(s)/Safety Staff(s) is deployed, to be deposited with the Employer, which will be retained in the Safety Corpus Fund**.** Further, the Project Manager shall have the right at his sole discretion to stop the work in line with GCC Sub-Clause 21.3.3.19 till the Safety Officer(s)/ Safety Supervisor(s) /Safety Steward(s) is deployed by the Contractor.

The name and address of such Safety Officers of the Contractor will be promptly informed in writing to Project Manager with a copy to Safety Officer-In charge before he starts work or immediately after

any change of the incumbent is made during currency of the Contract.

21.3.3.18. In case any accident occurs during the construction/ erection or other associated activities undertaken by the Contractor thereby causing any minor or major or fatal injury to his employees due to any reason, whatsoever, it shall be the responsibility of the Contractor to promptly inform but no later than 24 hrs. of the occurrence of the same, to the Project Manager in prescribed form and also to all the authorities envisaged under the applicable laws.

Notwithstanding above, in case of any fatal accident, the Board of Directors of Contractor shall review the incidence and a copy of Board's resolution signed by the Director/Company Secretary of the firm alongwith action plan for avoidance of such incidences in future shall be furnished promptly but no later than 60 days, to the Employer. Besides above, the CEO of the Contractor shall meet and apprise the Employer alongwith the board resolution of the cause of the fatal accident occurred and their future action plan/safety preparedness to prevent recurrence of such accidents in future within 60 days of the occurrence of the fatal accident.

21.3.3.19. The Project Manager shall have the right at his sole discretion to stop the work, if in his opinion the work is being carried out in such a way that it may cause accidents and endanger the safety of the persons and/or property, and/or equipment. In such cases, the Contractor shall be informed in writing about the nature of hazards and possible injury/accident and he shall comply to remove shortcomings promptly. The Contractor after stopping the specific work can, if felt necessary, appeal against the order of stoppage of work to the Project Manager within 3 days of such stoppage of work and decision of the Project Manager in this respect shall be conclusive and binding on the Contractor.

21.3.3.20. The Contractor shall not be entitled for any damages/compensation for stoppage of work due to safety reasons as provided in GCC Clause 21.3.3.19 above and the period of such stoppage of work will not be taken as an extension of time for completion of work and will not be the ground for waiver of levy of liquidated damages.

21.3.3.21. It is mandatory for the Contractor to observe during the execution of the works, requirements of Safety Rules which would generally include but not limited to following:

Safety Rules

a) Each employee shall be provided with initial indoctrination regarding safety by the Contractor, so as to enable him to conduct his work in a safe manner.

b) No employee shall be given a new assignment of work unfamiliar to him without proper introduction as to the hazards incident thereto, both to himself and his fellow employees.

c) Under no circumstances shall an employee hurry or take unnecessary chance when working under hazardous conditions.

d) Employees must not leave naked fires unattended. Smoking shall not be permitted around fire prone areas and adequate fire fighting equipment shall be provided at crucial location.

e) Employees under the influence of any intoxicating beverage, even to the slightest degree shall not be permitted to remain at work.

f) There shall be a suitable arrangement at every work site for rendering prompt and sufficient first aid to the injured.

g) The staircases and passageways shall be adequately lighted.

h) The employees when working around moving machinery, must not be permitted to wear loose garments. Safety shoes are recommended when working in shops or places where materials or tools are likely to fall. Only experienced workers shall be permitted to go behind guard rails or to clean around energized or moving equipment.

i) The employees must use the standard protection equipment intended for each job. Each piece of equipment shall be inspected before and after it is used.

j) Requirements of ventilation in underwater working to licensed and experienced divers, use of gum boots for working in slushy or in inundated conditions are essential requirements to be fulfilled.

k) In case of rock excavation, blasting shall invariably be done through licensed blasters and other precautions during blasting and storage/transport of charge material shall be observed strictly.

21.3.3.22. The Contractor shall follow and comply with all Employer's Health, Safety & Environment (HSE) Code of Conduct (as attached in Volume-II) , relevant provisions of applicable laws pertaining to the safety of workmen, employees, plant and equipment as may be prescribed from time to time without any demur, protest or contest or reservations. In case of any discrepancy between statutory requirement and Employer's HSE Code of Conduct referred above, the latter shall be binding on the Contractor unless the statutory provisions are more stringent.

21.3.3.23. In case of any conflict amongst the GCC, Safety Plan and Employer's Health, Safety & Environment (HSE) Code of Conduct in relation to the provisions of Clause 21.3 (Site Regulations and Safety), the provisions of Safety Plan shall prevail.

21.3.3.24. If the Contractor fails in providing safe working environment as per Employer's HSE Code of Conduct or continues the work even after being instructed to stop work by the Project Manager as provided in GCC Clause 21.3.3.19 above, the Contractor shall promptly pay to Employer, on demand by the Employer, recovery at the rate of Rs. 10,000/- per day or part thereof to be deposited in Safety Corpus Fund, till the instructions are complied with and so certified by the Project Manager. However, in case of accident taking place causing injury to any individual, the provisions contained in GCC Clause 21.3.3.24 shall also apply in addition to recovery mentioned in this Clause.

21.3.3.25. If the Contractor does not take adequate safety precautions and/or fails to comply with the Safety Rules as prescribed by the Employer or under the applicable law for the safety of the equipment and plant or for the safety of personnel or the Contractor does not prevent hazardous conditions which cause injury to his own employees or employees of other Contractors or Employer's employees or any other person who are at Site or adjacent thereto, then the Contractor shall be responsible for compensation to the effected employees. Permanent disablement shall have same meaning as indicated in Workmen's Compensation Act. The amount to be deposited with Employer and passed on to the person mentioned above shall be in addition to the compensation payable under the relevant provisions of the Workmen's Compensation Act

and rules framed there under or any other applicable laws as applicable from time to time. In case the Contractor does not deposit the above mentioned amount with Employer, such amount shall be recovered by Employer from any monies due or becoming due to the Contractor under the contract or any other on-going contract.

In case of any major accident, the Contractor shall withdraw its Representative (Project Manager) immediately and shall appoint its Representative (Project Manager) afresh pursuant to GCC Clause 15.2. The Contractor's Representative (Project Manager) removed hereinabove, thereafter shall not be permitted to work in any of projects/works of the Employer.

21.3.3.26. The Contractor shall also submit "Safety Plan" as per proforma specified in Section VI – Sample Forms and Procedures of the Bidding Documents alongwith all the requisite documents mentioned therein and as per check-list contained therein to the Engineer In-Charge for its approval within 28 days of the Effective Date.

Further, one of the conditions for release of first progressive payment / subsequent payment towards Services Contract shall be submission of Safety Plan alongwith all requisite documents and approval of the same by the Engineer In-Charge.

21.4. Opportunities for Other Contractors

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

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

21.4.3. The Contractor shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other contractors. The Project Manager shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Employer in regard to their work.

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

21.5. Emergency Work

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

If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine is necessary in order to prevent damage to the Facilities. In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefor. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. In case such work is not in the scope of the Contractor, the cost of such remedial work shall be borne by the Employer.

21.6. Site Clearance

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

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

21.7. Watching and Lighting

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

21.8. Work at Night and on Holidays

21.8.1. Unless otherwise provided in the Contract, no work shall be carried out during the night and on public holidays of the country where the Site is located without prior written consent of the Employer, except where work is necessary or required to ensure safety of the Facilities or for the protection of life, or to prevent loss or damage to property, when the Contractor shall immediately advise the Project Manager, provided that provisions of this GCC Clause 21.8.1 shall not apply to any work which is customarily carried out by rotary or double-shifts.

21.8.2. Notwithstanding GCC Clauses 21.8.1 or 21.1.3, if and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Employer's consent thereto, the Employer shall not unreasonably withhold such consent.

22. Test and Inspection

22.1. The Contractor shall at its own expense carry out at the place of manufacture and/or on the Site all such tests and/or inspections of the Plant and Equipment and any part of the Facilities as are specified in the Contract.

22.2. The Employer or its designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the Employer shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

22.3. Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give four weeks advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Employer and the Project Manager (or their designated representatives) to attend the test and/or inspection.

22.4. The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection.

If the Employer or Project Manager (or their designated representatives) fails to attend the test and/or inspection, or if it is agreed between the parties that such persons shall not do so, then the Contractor may proceed with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the results thereof.

22.5. The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.

22.6. In the event, any Plant and Equipment or any part of the Facilities fails to pass any test and/or inspection, the Contractor shall either rectify or replace such Plant and Equipment or part of the Facilities and shall repeat all such tests and/or inspections that may be applicable to the repaired unit/part/component in accordance with standards mentioned in the Technical Specification (as attached in Volume-II), upon giving a notice under GCC Clause 22.3.

22.7. The Contractor shall afford the Employer and the Project Manager, at the Employer's expense, access at any reasonable time to any place where the Plant and Equipment are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Contractor a reasonable prior notice.

22.8. The Contractor agrees that neither the execution of a test and/or inspection of Plant and Equipment or any part of the Facilities, nor the

attendance by the Employer or the Project Manager, nor the issue of any test certificate pursuant to GCC Clause 22.4, shall release the Contractor from any other responsibilities under the Contract.

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

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

If any parts of the Facilities or foundations have been covered up at the Site after compliance with the requirement of GCC Clause 22.9 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Employer, and the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

23. Completion of the Facilities and Operational Acceptance

23.1. Completion of the Facilities

23.1.1. Physical Completion

23.1.1.1. As soon as the Facilities or any part thereof has, in the opinion of the Contractor, been completed operationally and structurally and put in a tight and clean condition as specified in the Technical Specifications, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer in writing.

23.1.2. Pre-Commissioning

23.1.2.1. Within seven (7) days after receipt of the notice from the Contractor under GCC Clause 23.1.1.1, the Project Manager shall deploy the operating and maintenance personnel and other material as

applicable and required for Pre-commissioning of the Facilities or any part thereof.

23.1.2.2. As soon as reasonably practicable after the operating and maintenance personnel have been deployed by the Employer and other materials have been provided by the Employer in accordance with GCC Clause 23.1.2.1, the Contractor shall commence Pre-commissioning of the Facilities or the relevant part thereof, in presence of the Employer's representatives, as per procedures laid out by the Employer.

23.1.2.3. As soon as all works in respect of Pre-commissioning are successfully completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall notify the Project Manager in writing.

23.1.2.4. The Project Manager shall, within fourteen (14) days after receipt of the Contractor's notice under GCC Clause 23.1.2.3, notify the Contractor in writing of any defects and/or deficiencies.

23.1.2.5. If the Project Manager notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies and shall repeat the procedure described in GCC Clause 23.1.2.2. If in the opinion of the Contractor, the Facilities or any part thereof is now ready for Commissioning, the Contractor shall again notify the Project Manager in writing. If further defects and/or deficiencies are not notified by the Project Manager and if the Project Manager is satisfied that the Pre-commissioning of Facilities or that part thereof have been successfully completed, the Project Manager shall, within seven (7) days after receipt of the Contractor's such notice, advise the Contractor to proceed with the Commissioning of the Facilities or part thereof.

23.1.2.6. If the Project Manager fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under GCC Clause 23.1.2.4 or within seven (7) days after receipt of the Contractor's notice on completion of repeat procedure under GCC Clause 23.1.2.5, then the Pre-commissioning of the Facilities or that part thereof shall be considered to have been successfully completed as of the date of the Contractor's notice.

23.1.2.7. As soon as possible after Pre-commissioning, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which

the Employer will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.

23.1.2.8. In the event that the Contractor is unable to proceed with the Pre-commissioning of the Facilities pursuant to Clause 23.1.2 for reasons attributable to the Employer either on account of nonavailability of other facilities under the responsibilities of other contractor(s), or for reasons beyond the Employer's control, the following provisions shall apply:

When the Contractor is notified by the Project Manager that he will be unable to proceed with the activities and obligations pursuant to above GCC Clause 23.1.2.8, the Contractor shall be entitled to the following:

a) the Time of Completion shall be extended for the period of suspension without imposition of liquidated damages pursuant to GCC Clause 24.2.

b) payments due to the Contractor in accordance with the provisions specified in Appendix 1(A): (Terms & Procedure of Payment for Supply of Goods) and Appendix 1(B): Terms & Procedure of Payment for Supply of Services)), which would have not been payable in normal circumstances due to non-completion of the said activities and obligations, shall be released to the Contractor against submission of a security in the form of a bank guarantee of equivalent amount acceptable to the Employer, and which shall become null and void when the Contractor will have complied with its obligations regarding these payments,.

c) the additional charges toward the care of the Facilities pursuant to GCC Clause 31.1 shall be reimbursed to the Contractor by the Employer for the period between the notification mentioned above and the notification mentioned in GCC Clause 23.1.2.10 below. The provisions of GCC Clause 32.2 shall apply to the Facilities during the same period.

23.1.2.9. In the event that the period of suspension under GCC Clause 23.1.2.8 actually exceeds one hundred eighty (180) days, the Employer and the Contractor shall mutually agree to any additional compensation payable to the Contractor.

23.1.2.10. As and when, after the period of suspension under GCC Clause 23.1.2.8, the Contractor is notified by the Project Manager that the Facilities are ready for Pre-commissioning, the Contractor shall proceed without delay in performing all activities and obligations under the Contract.

23.1.3. Commissioning

23.1.3.1. Commissioning of the Facilities or any part thereof shall be commenced by the Contractor immediately after being advised by the Project Manager, pursuant to GCC Clause 23.1.2.5 or immediately after the Pre-commissioning is considered to be completed under GCC Clause 23.1.2.6.

23.1.3.1.1. Commissioning of the Facilities or any part thereof shall be completed by the Contractor as per procedures detailed in Employer's Pre-Commissioning and Commission Procedures (as attached in Volume-II).

23.1.3.2. The Employer shall, to the extent applicable and required deploy the operating and maintenance personnel and supply all raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other materials required for commissioning.

23.1.3.3. In the event that the Contractor is unable to proceed with the Commissioning of the Facilities pursuant to Clause 23.1.3 for reasons attributable to the Employer either on account of nonavailability of other facilities under the responsibilities of other contractor(s), or for reasons beyond the Employer's control, the provisions of GCC Clause 23.1.2.8 to 23.1.2.9 shall apply.

23.1.3.4. As and when, after the period of suspension under GCC Clause 23.1.2.8, the Contractor is notified by the Project Manager that the Facilities are ready for Commissioning, the Contractor shall proceed without delay in performing all activities and obligations under the Contract.

23.1.4. Trial - Operation

23.1.4.1. Trial – Operation of the Facilities or any part thereof shall be commenced by the Contractor immediately after the Commissioning is completed pursuant to GCC Clause 23.1.3.1.1.

23.1.4.2. Trial – Operation of the Facilities or any part thereof shall be completed by the Contractor for the continuous period of 24 hours and as per procedures detailed in Technical Specifications.

23.1.4.3. At any time after the events set out in GCC Clause 23.1.4.2 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Taking Over Certificate in the form provided in the Bidding Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as of the date of such notice.

23.1.4.4. The Project Manager shall within twenty-one (21) days after receipt of the Contractor's notice, issue a Taking Over Certificate.

23.1.5. Taking Over

23.1.5.1. Upon successful Trial – Operation of the Facilities or any part thereof, pursuant to GCC Clause 23.1.4, the Project Manager shall issue to the Contractor a Taking Over Certificate as a proof of the acceptance of the Facilities or any part thereof. Such certificate shall not relieve the Contractor of any of his obligations which otherwise survive, by the terms and conditions of Contract after issue of such certificate.

23.1.5.2. If within twenty one (21) days after receipt of the Contractor's notice, the Project Manager fails to issue the Taking Over Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Taking Over Certificate, the Facilities or the relevant part thereof shall be deemed to have been Taken Over as at the date of the Contractor's said notice.

23.1.5.3. Upon Taking Over of the Facilities or any part thereof, the Employer shall be responsible for the care and custody of the Facilities or the relevant part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.

23.2. Operational Acceptance

23.2.1.1. Operational Acceptance shall occur in respect of the Facilities or any part thereof as mentioned below:

(I) In case no Functional Guarantees are applicable, Operational Acceptance shall occur when the Facilities or part thereof have

been successfully Commissioned and Trial – Operation for the specified period have been successfully completed

(II) In case Functional Guarantees are applicable, Operational Acceptance shall occur when the Functional Guarantees are met or the Contractor has paid liquidated damages specified in GCC Clause 26.3 hereof; or

23.2.1.2. At any time after any of the events set out in GCC Clause 23.2.2.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Bidding Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as of the date of such notice.

23.2.1.3. Upon Operational Acceptance, pursuant to GCC Clause 23.2.2.2, the Project Manager shall within twenty one (21) days after the receipt of the Contractor's notice, issue to the Contractor a Operational Acceptance Certificate as a proof of the final acceptance of the Plant and Equipment. Such certificate shall not relieve the Contractor of any of his obligations which otherwise survive, by the terms and conditions of Contract after issue of such certificate. For the purpose of this Clause and the contract, date of issuance of such Operational Acceptance certificate shall be considered as Date of Operational Acceptance of the facility or part thereof.

23.2.1.4. If within twenty one (21) days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have been accepted as at the date of the Contractor's said notice.

23.3. Partial Acceptance

23.3.1. If the Contract specifies that Commissioning shall be carried out in respect of parts of the Facilities, the provisions relating to Commissioning including the Trial – Operation and Guarantee Test shall apply to each such part of the Facilities individually, and the Operational Acceptance Certificate shall be issued accordingly for each such part of the Facilities.

F. Guarantees and Liabilities

24. Completion Time Guarantee

24.1. The Contractor guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for completion is specified in the SCC) within the Time for Completion specified in the **SCC** pursuant to GCC Clause 4.2, or within such extended time to which the Contractor shall be entitled under GCC Clause 37 hereof.

24.2. If the Contractor fails to comply with the Time for Completion in accordance with Clause GCC 24 for the whole of the facilities, (or a part for which a separate time for completion is agreed) then the Contractor shall pay to the Employer a sum equivalent to half percent (0.5%) of the Contract Price plus GST payable thereon for the whole of the facilities, (or a part for which a separate time for completion is agreed) as liquidated damages for such default and not as a penalty, without prejudice to the Employer's other remedies under the Contract, for each week or part thereof which shall elapse between the relevant Time for Completion and the date stated in Taking Over Certificate of the whole of the Works (or a part for which a separate time for completion is agreed) subject to the limit of five percent (5%) of Contract Price plus GST payable thereon for the whole of the facilities, (or a part for which a separate time for completion is agreed). The Employer may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies due or becoming due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract.

The parties agree that the sum specified above is not a penalty but a genuine pre-estimate of the loss/damage which will be suffered by the Employer for default on the part of the Contractor and said amount will be payable without proof of actual loss or damage caused by such default.

25. Defect Liability

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

25.2. Unless otherwise specified in **SCC,** the Defect Liability Period shall be twenty-four (24) months from the date of Operational Acceptance of the Facilities (or any part thereof).

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

(a) improper operation or maintenance of the Facilities by the Employer

(b) operation of the Facilities outside specifications provided in the Contract

(c) normal wear and tear.

25.3. The Contractor's obligations under this GCC Clause 25.3 shall not apply to

(a) any materials that are supplied by the Employer under GCC Clause 20, are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein

(b) any designs, specifications or other data designed, supplied or specified by or on behalf of the Employer or any matters for which the Contractor has disclaimed responsibility herein

(c) any other materials supplied or any other work executed by or on behalf of the Employer, except for the work executed by the Employer under GCC Clause 25.7.

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

conduct testing of the equipment or any part thereof (or through an Employer approved third party), at its own cost, risk and expense. Such testing shall be conducted with in fourteen (14) days of receipt of defect intimation notice by the Contractor.

25.5. The Employer shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this GCC Clause 25. The Contractor may, with the consent of the Employer, remove from the Site any Plant and Equipment or any part of the Facilities at its own cost, risk and expense that are defective in nature, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

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

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

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

25.8. If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons.

Upon correction of the defects in the Facilities or any part thereof by repair/replacement, such repair/replacement shall have the Defect

Liability Period extended by a period mentioned in GCC Clause 25.2 from the time of such replacement/repair of the facilities or any part thereof.

25.8.1. At the end of the Defect Liability Period, the Contractor's Liability ceases except for latent defects. The Contractor's liability for latent defects warranty shall be limited to period of ten (10) years from the end of Defect Liability Period. For the purpose of this clause, the latent defects shall be the defects inherently lying within the material or arising out of design deficiency, which do not manifest themselves during the Defect Liability Period defined in this GCC Clause 25, but later.

25.9. Except as provided in GCC Clauses 25 and32, the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contract or at law, in respect of defects in the Facilities or any part thereof, the Plant and Equipment, design or engineering or work executed that appear after Defect Liability Period except for the liability towards obligations that may survive in terms of the Contract after Defect Liability Period, except where such defects are the result of the gross negligence, fraud, criminal or willful action of the Contractor.

26. Functional Guarantees

26.1. The Contractor guarantees that the Facilities and all parts thereof shall attain the Functional Guarantees specified in the Technical Specifications, subject to and upon the conditions therein specified.

26.2. If, for reasons attributable to the Contractor, the minimum level of the Functional Guarantees specified in the Technical Specifications are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet at least the minimum level of such Guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and / or additions, and shall request the Employer to repeat the Guarantee Test until the minimum level of the Guarantees has been met. If the Contractor eventually fails to meet the minimum level of Functional Guarantees, the Employer may consider termination of the Contract pursuant to GCC Clause 39.2.2 and recover the payments already made to the Contractor.

26.3. If, for reasons attributable to the Contractor, the Functional Guarantees specified in the Technical Specifications are not attained either in whole or in part, but the minimum level of the Functional Guarantees specified in the Technical Specifications is met, the Contractor shall, at the Contractor's option, either

(a) make such changes, modifications and/or additions to the Facilities or any part thereof that are necessary to attain the Functional Guarantees at its cost and expense within a mutually agreed time and shall request the Employer to repeat the Guarantee Test, or

(b) pay liquidated damages to the Employer in respect of the failure to meet the Functional Guarantees in accordance with the provisions in the **SCC**.

26.4. In case the Employer exercises its option to accept the equipment after levy of liquidated damages, the payment of liquidated damages under GCC Clause 26.3, upto the limitation of liability specified in the **SCC**, shall completely satisfy the Contractor's guarantees under GCC Clause 26.3, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.

27. Equipment Performance Guarantees

27.1. The Contractor guarantees that the Equipments, named in the **SCC**, shall attain the rating and performance requirements specified in Appendix – 5 (Guarantees, Liquidated Damages for Non – Performance), subject to and upon the conditions therein specified.

27.2. If the guarantees specified in Appendix – 5 (Guarantees, Liquidated Damages for Non – Performance) are not established, then the Employer shall, at the Employer's discretion either

(a) reject the equipment, or

(b) accept the equipment after assessing liquidated damages in accordance with the provision in the **SCC** against the Contractor and such amounts shall be deducted from the Contract Price or otherwise recovered from the Contractor.

27.3. In case the Employer exercises its option to reject the equipment, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the equipment or any part thereof as may be necessary to meet the specified guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall request the Employer to repeat the Test until the level of the specified guarantee has been met.

27.4. Whenever the Employer exercises its option to accept the equipment after levy of liquidated damages, the payment of liquidated damages under GCC Clause 27.2, upto the limitation of liability specified in the **SCC**, shall completely satisfy the Contractor's guarantees under GCC Clause 27.2, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof.

28. Indemnity against infringement of Intellectual Property

28.1. The Contractor shall, subject to the Employer's compliance with GCC Clause 28.2, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any Intellectual Property including patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in the country where the Site is located; and (b) the sale of the products produced by the Facilities in any country.

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

28.2. If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in GCC Clause 28.1 by any party including but not limited to the Original Equipment Manufacturer and design consultant, the Employer shall promptly

give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

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

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

29. Limitation of Liability

29.1. Except in cases of gross negligence or willful misconduct,

(a) the Contractor and the Employer shall not be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and

(b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed 110% of the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to indemnify the Employer with respect to patent infringement.

G. Risk Distribution

30. Transfer of Ownership

30.1. Ownership of the Plant and Equipment (including spare parts) to be imported into India shall be transferred to the Employer upon loading on to the mode of transport to be used to convey the Plant and Equipment from the country of origin to that country and upon endorsement of the dispatch documents in favour of the Employer.

30.2. Ownership of the Plant and Equipment (including spare parts) procured in India, shall be transferred to the Employer upon loading on to the mode of transport to be used to carry the Plant and Equipment from the works/warehouse/ any other place from where the Contractor wishes to supply the goods to the site and upon endorsement of the dispatch documents in favour of the Employer.

30.3. Ownership of the Contractor's Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.

30.4. Ownership of any Plant and Equipment in excess of the requirements for the Facilities shall revert to the Contractor upon Completion of the Facilities or at such earlier time when the Employer and the Contractor agree that the Plant and Equipment in question are no longer required for the Facilities provided quantity of any Plant and Equipment specifically stipulated in the Contract shall be the property of the Employer whether or not incorporated in the Facilities.

30.5. Notwithstanding the transfer of ownership of the Plant and Equipment, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to GCC Clause 31 (Care of Facilities) hereof until Completion of the Facilities and Taking Over pursuant to GCC Clause 23 or the part thereof, if any, as per GCC Clause 1.1(e) in which such Plant and Equipment are incorporated.

31. Care of Facilities

31.1. The Contractor shall be responsible for the care, custody, control of the Facilities or Plant and Equipment(s) or any part thereof until the date of Taking Over Certificate pursuant to GCC Clause 23 or, where the Contract provides for Completion of the Facilities in parts, until the

date of Operational Acceptance of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to GCC Clause 25. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by any use or occupation by the Employer or any third party (other than a Subcontractor of the Contractor) authorized by the Employer of any part of the Facilities.

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

32.1. The Contractor shall indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any existing Employer's Property and/or Contractor's Property and/or any other public/third party property, arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of the Employer, its contractors, employees, officers or agents.

32.2. If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under GCC Clause 32.1, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

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

32.3. Notwithstanding anything in this Contract to the contrary, it is agreed that neither the Contractor nor the Employer shall be liable to the other party for loss of production, loss of profit, loss of use or any other indirect or consequential damages.

33. Insurance

33.1. The Contractor shall take necessary insurance policies of appropriate value so as to protect the Services against any perils and as required to be covered for performance of the scope of Services under this Contract, excluding the insurance policies which is not specifically mentioned in this Contract and shall include, but not be limited to, cover for fire and allied risks, miscellaneous accidents, loss or damage in transit, theft, pilferage, riot and strikes and malicious damages, civil commotion, weather conditions, accidents of all kinds, etc. The scope of such insurance shall be adequate to cover the replacement/reinstatement cost of the Services for all risks up to and including delivery of goods and other costs till the Services are delivered at Site. Details of the insurance obtained for the purposes of this Contract is as below:

a) **Marine Cargo Policy/ Transit Insurance Policy** during transportation of the Equipment for one hundred and fifteen per cent (115%) of the Contract Value with fifty per cent (50%) escalation clause

b) **Erection All Risks Policy (EAR) / Contractor All Risk Policy Insurance** - during storage, erection and commissioning covering all the perils provided in the policy as a basic cover and the add-on coverage of earthquake, terrorism, sabotage, extended maintenance cover for Defect Liability Period, design defect, 50-50 clause, 72 hours clause, loss minimization clause, waiver of subrogation clause (for projects of more than Rs.100 crores, cover for offsite storage/fabrication (over Rs.100 crores) for one hundred and fifteen per cent (115%) of Contract Value plus one hundred and fifteen per cent (115%) of OSM with fifty per cent (50%) escalation clause.

c) **Third Party Liability Insurance –** INR 10 crores for single occurrence/multiple occurrences in aggregate for the entire policy period.

d) **Automobile Liability Insurance –** The Contractor shall ensure that all the vehicles deployed by them or its Sub-contractors (whether or not owned by them) in connection with the Scope of Services are duly insured as per Applicable Laws

e) **Workmen Compensation Policy –** The Contractor shall ensure that all the workmen employed by the Contractor and/or its Sub-contractor for the scope of Services are adequately covered under the Workmen Compensation Policy.

f) **Contractor's Plant and Machinery (CPM) Insurance –** Employer (including without limitation any consultant, servant, agent, employee or any other contractor/sub-contractor of Employer) shall not in any circumstances be liable to the Contractor for any loss or damage to any of Contractor's Equipment or for any loss, liabilities, costs, claims, actions or demands, which the Contractor may incur, or which may be made against it as a result of or in connection with any such loss or damage.

33.2. The identity of the insurers and the form of the insurance policies shall be subject to the approval of Employer, and such approval shall not be reasonably withheld by Employer. The Contractor shall obtain all these insurances within twenty (20) days from the date of handover of the Site or the part thereof to the Contractor by Employer.

33.3. Employer shall be named as co-insured under all insurance policies listed in Clause 33.1, except for Third Party Liability Insurance and Workmen Compensation Policy. The Contractor's Sub-Contractors shall be named as co-insureds under all the insurance policies as listed in Clause 33.1 obtained by the Contractor except Marine Cargo Policy/Transit Insurance Policy, and Workmen Compensation Policy.

33.4. The Contractor shall amend the policy as and when required on the request of beneficiary for inclusion of banker's/ Lender's / trustees' name and other necessary clauses as per the requirement of such bankers/ Lenders / trustees.

33.5. The Contractor shall take the insurance for an amount equivalent to hundred and fifteen per cent (115%) of complete Contract Value with no escalation clause.

33.6. Notwithstanding the extent of insurance cover and the amount of claim available from the underwriters, the Contractor shall be liable to make good the full replacement/rectification value of all equipment/materials forming part of Services and to ensure their availability as per the Project requirements. The insurance policies shall be submitted by Contractor within thirty (30) days after the date of handover of the Site or the part thereof to the Contractor by the Employer.

33.7. In the event of loss or damage, the Contractor shall be solely responsible to lodge the claims and settle the same. The Contractor shall proceed with repair or replacement of the goods without waiting for settlement of the claim. It is further clarified that neither extension of completion schedule nor any extra claim shall be admissible on account of insurance.

33.8. Copy of such insurance policies shall be submitted to the Employer prior to commencement of the scope of Services.

33.9. All insurances should have mandatory clause of terrorism.

33.10. Any and all deductibles and all Losses or damages in excess of the insured limits (unless expressly provided otherwise herein) in the insurance policies required by Clause 33 shall be assumed, by, for the account of, and at the sole risk of the Contractor, unless otherwise expressly stated in this Contract.

33.11. Insurance Policies not to limit Contractor's Liability

33.12. The required policies referred to and set forth in this Clause shall in no way affect, nor are they intended as a limitation of, the Contractor 's liability with respect to its performance of the Services.

33.13. In the event of inability of insurers to provide insurance cover in the sums and with the deductibles and other conditions as set forth in this Clause and/or Clause XX shall not absolve the Contractor of the risks and liabilities required for the successful performance and completion of the scope of Services under this Contract.

34. Change in Laws and Regulations

34.1. If, after the date seven (07) days prior to the date of Bid Submission, any law, regulation, ordinance, order or by-law having the force of law

is enacted, promulgated, abrogated or changed in India (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Contractor and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. These adjustments shall be applicable for all transactions between the Employer and the Contractor for supply of goods and services under the Contract but shall not be applicable on procurement of raw materials, intermediary components etc. by the Contractor for which the Employer shall be the sole judge. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the Appendix-2 (Price Adjustment).

35. Force Majeure

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

(a) war, hostilities or warlike operations (whether war be declared or not), invasion, act of foreign enemy and civil war,

(b) rebellion, revolution, insurrection, mutiny, usurpation of government, conspiracy, riot and civil commotion

(c) earthquake, landslide, volcanic activity, flood or cyclone, or other inclement weather condition, nuclear and pressure waves or other natural or physical disaster,

35.2. Neither party shall be considered to be in default or in breach of his obligations under the Contract to the extent that performance of such obligation is prevented by any circumstances of Force Majeure, which arises after date of Notification of Award.

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

35.4. The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with GCC Clause 37. However, Employer shall not provide any cost escalation/over-run/prolongation resulting from time over-run due to force majeure activities.

H. Change in Contract Elements

36. Change in the Facilities

36.1. During the execution of the Contract, the Employer may direct the Contractor to undertake any additional work in addition to the Scope of Work by issuing a notice in writing ("Change Order"). The Contractor shall immediately undertake such additional work and the payment shall be processed at the unit rate specified in the BOQ/ Billing Breakup. If unit rate or prices for any such items/work are not specified in the BOQ/ Billing Breakup, the price for such items shall be discovered on the basis of Delhi Schedule of Rates ("DSR") prevailing at the time of such Change Order or prevailing market rate for the items not specified in DSR.

36.2. Changes made necessary because of poor workmanship/omission of the Contractor in the performance of its obligations under the Contract shall not be deemed as a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

37. Extension of Time for Completion

37.1. The Time(s) for Completion specified in the SCC shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

(a) any Change in the Facilities as provided in GCC Clause 36

(b) any occurrence of Force Majeure as provided in GCC Clause 35

(c) any suspension order given by the Employer under GCC Clause 38 hereof or reduction in the rate of progress pursuant to GCC Clause 38.2 or

(d) any changes in laws and regulations as provided in GCC Clause 34 or

by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

37.2. Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Employer and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Employer's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to Arbitration, pursuant to GCC Clause 42.

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

38. Suspension

38.1. The Employer may request the Project Manager, by notice to the Contractor, to order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the effective date of the suspension and the reasons therefor. The Contractor shall thereupon suspend performance of such obligation (except those obligations necessary for the care or preservation of the Facilities) until ordered in writing to resume such performance by the Project Manager.

If, by virtue of a suspension order given by the Project Manager, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may give a notice to the Project Manager requiring that the Employer shall, within twenty-eight (28) days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC

Clause 36, excluding the performance of the suspended obligations from the Contract.

If the Employer fails to do so within such period, the Contractor may, by a further notice to the Project Manager, elect to treat the suspension, where it affects a part only of the Facilities, as a deletion of such part in accordance with GCC Clause 36 or, where it affects the whole of the Facilities, as termination of the Contract under GCC Clause 39.1.

38.2. If the Contractor's performance of its obligations is suspended or the rate of progress is reduced pursuant to this GCC Clause 38, then the Time for Completion shall be extended in accordance with GCC Clause 37.1, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension or reduction shall be paid by the Employer to the Contractor in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Contractor's default or breach of the Contract.

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

39. Termination

39.1. Termination for Employer's Convenience

39.1.1. The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Clause 39.1.

39.1.2. Upon receipt of the notice of termination under GCC Clause 39.1.1, the Contractor shall either immediately or upon the date specified in the notice of termination

(a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition

(b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii) below

(c) remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors" personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition

(d) In addition, the Contractor, subject to the payment specified in GCC Clause 39.1.3, shall

(i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination

(ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors.

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

39.1.3. In the event of termination of the Contract under GCC Clause 39.1.1, the Employer shall pay to the Contractor the following amounts:

(a) the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination

(b) the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the Site and in the repatriation of the Contractor's and its Subcontractors" personnel

(c) costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Clause 39.1.2

39.2. Termination for Contractor's Default

39.2.1. The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its

reasons therefor to the Contractor, referring to this GCC Clause 39.2:

(a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt

(b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 40.

(c) in case of any damage or loss incurred by the Employer or to the Facilities by actions resulting from gross negligence of the Contractor

(d) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Clause:

"Corrupt Practice" means offering, giving, receiving, or soliciting anything of value to influence the action of Employer official(s) in the procurement process.

"Fraudulent Practice"" means any act including suppression/ misrepresentation of facts, submissions of forged/ false documents, making false declarations etc. that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial gain or benefit, or to avoid an obligation, or to influence procurement process to the detriment of interest of the Employer, including collusive practices among bidders (prior to or after bid submission) to establish bid prices at artificial, noncompetitive levels and to deprive Employer of the benefits of competitive prices.

"collusive practice" shall also include an arrangement between two or more parties designed to achieve an illegitimate purpose to the detriment of interest of Employer.

"coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

"Obstructive practice" means

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/ or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation,

or

(bb) acts intended to materially impede the exercise of the contractual rights or audit or access to information.

In persuasions of its policy, the Employer will sanction a firm or individual, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a contract.

39.2.2. If the Contractor

(a) has abandoned or repudiated the Contract

(b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Clause 38.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed

(c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause

(d) refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Clause 16.2 at

rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended,

then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Clause 39.2.

39.2.3. Upon receipt of the notice of termination under GCC Clauses 39.2.1 or 39.2.2, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,

(a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition

(b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below

(c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination

(d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors

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

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

arising out of the Employer's use of such equipment, any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the Employer considers expedient for the supply and installation of the Facilities.

Upon completion of the Facilities or at such earlier date as the Employer thinks appropriate, the Employer shall give notice to the Contractor that such Contractor's Equipment will be returned to the Contractor at or near the Site and shall return such Contractor's Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.

39.2.5. Subject to GCC Clause 39.2.6, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities executed as of the date of termination, the value of any unused or partially used Plant and Equipment on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Clause 39.2.3. Any sums due to the Employer from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.

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

If the sum that the Contractor is entitled to be paid, pursuant to GCC Clause 39.2.5, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price or the entire Facilities if entire Facilities have been completed or the price for part of the Facilities if part of the Facilities have been completed, the Contractor shall be liable for such excess.

If such excess is greater than the sums due the Contractor under GCC Clause 39.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due the Contractor under GCC Clause 39.2.5, the Employer shall pay the balance to the Contractor. For facilitating such payment the Employer shall encash the Bank Guarantees of the Contractor available with the Employer and retain such other payments due to the Contractor under the Contract in question or any other Contract that the Employer may have with the Contractor.

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

39.3. In this GCC Clause 39, the expression "Facilities executed" shall include all work executed, Installation Services provided, and all Plant and Equipment acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.

39.4. In this GCC Clause 39, in calculating any monies due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to the corresponding Appendix 1(A): (Terms & Procedure of Payment for Supply of Goods) and 1(B): (Terms & Procedure of Payment for Supply Services).

40. Assignment

40.1. Neither the Employer nor the Contractor shall, without the express prior written consent of the other party (which consent shall not be unreasonably withheld), assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or thereunder.

I. Resolution of Disputes

41. Settlement of Disputes

41.1. 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, to the extent possible, amicably by mutual consultation.

41.2. If the parties fail to resolve such a dispute or difference by mutual consultation at the execution site level, then the dispute shall be referred by the Contractor to the Project Manager, who, within a

period of thirty (30) days after being requested by Contractor to do so, shall give written notice of his decision.

41.2.1. The decision/instruction of the Project Manager shall be deemed to have been accepted by the Contractor unless notified by the Contractor of his intention to refer the matter for Arbitration within thirty (30) days of such decision/instruction.

41.2.2. In the event the Project Manager fails to notify his decision as aforesaid within thirty (30) days, the Contractor, if he intends to go for Arbitration, shall notify his intention to the Project Manager within 30 days of expiry of the first mentioned period of thirty days failing which it shall be deemed that there are no dispute or difference between the Employer and the Contractor.

41.3. In case of dispute or difference between the Employer and the Contractor, if the Employer intends to go for Arbitration, he shall notify such intention to the Contractor.

42. Arbitration

42.1. All disputes or differences in respect of which the decision, if any, of the Project Manager and/or the Head of the Implementing Authority has not become final or binding as aforesaid shall be settled by arbitration in the manner provided herein below:

42.2. The arbitration shall be conducted by three arbitrators, one each to be nominated by the Contractor and the Employer and the third to be appointed by both the arbitrators in accordance with the Indian Arbitration & Conciliation Act 1996 or any statutory modification thereof. If either of the parties fails to appoint its arbitrator within sixty (60) days after receipt of a notice from the other party invoking the Arbitration clause, the arbitrator appointed by the party invoking the arbitration clause shall become the sole arbitrator to conduct the arbitration. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus regarding appointment of presiding Arbitrator, within a period of 30 days from the appointment of the arbitrator appointed subsequently, the presiding arbitrator shall be appointed by Courts as per the provisions of Arbitration & Conciliation Act 1996 or any statutory modification thereof.

42.3. The Arbitrator's fees shall be as agreed upon by the Arbitrators in line with the Arbitration & Conciliation Act. However, the expenses incurred by each party in connection with the preparation,

presentation, etc. of its proceedings shall be borne by each party itself. The cost of arbitral proceedings inter-alia including the Arbitrators" fee, logistics and any other charges shall be equally shared by both parties.

42.4. The language of the arbitration proceedings and that of the documents and communications between the parties shall be English. The arbitration shall be conducted in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 or any statutory modification thereof. The venue of arbitration shall be New Delhi.

42.5. The decision of the majority of the arbitrators, as the case may be, shall be final and binding upon the parties. In the event of any of the aforesaid arbitrators dying, neglecting, resigning or being unable to act for any reason, it will be lawful for the parties to nominate another arbitrator in place of the outgoing arbitrator.

42.6. During settlement of disputes and arbitration proceedings, both parties shall be obliged to carry out their respective obligations under the Contract.

Appendix – 1(A): Terms & Procedure of Payment for Supply of Goods

In accordance with the provisions of GCC Clause 11 (Terms of Payment), the Employer shall pay the Contractor in the following manner and at the following times, on the basis of the BOQ/ Billing Breakup submitted by the Contractor in accordance with Clause 5. Payments will be made in the currencies quoted by the Bidder unless otherwise agreed between the parties. The Contractor may make applications for payment in respect of part deliveries as work proceeds.

1. **Terms of Payment**

(a) Ten per cent (10%) of the ex-works Supply Price (without Taxes and Duties, and freight and insurance) paid as interest free advance ("Advance Payment 1") upon compliance to the conditions mentioned below by the Contractor:

(i) Submission of Advance Bank Guarantee 1 of an amount equivalent to Advance Payment 1 in accordance with GCC Clause 11.2 and;
(ii) Submission of Performance Bank Guarantee of ten per cent (10%) of the Contract Price.
(iii) Detailed PERT Network/Bar chart and its approval by the Employer.

(b) Eighty percent (80%) of the ex-works Supply Price plus one hundred percent (100%) of the Taxes and Duties, Freight and insurance shall be paid within thirty (30) days on a progressive basis, on (a) receipt of respective Supplies at Site on pro-rata basis, (b) issue of material receipt note (MRN)/ material received and handing over voucher (MRHOV) and (c) certification and submission of invoices along with supporting documents as listed below:

(i) evidence of dispatch (R/R or receipted L/R)
(ii) Contractor's GST invoice, packing list identifying contents of each shipment
(iii) insurance policy/ certificate
(iv) manufacturer's/ Contractor's guarantee certificate of quality
(v) material inspection clearance certificate
(vi) dispatch instruction for dispatch of relevant Supplies issued by Employer's representative
(vii) test certificate, if any,
(viii) e-way bills.

(c) Five per cent (5%) of the Supply Price (without Taxes and Duties, and freight and insurance) shall be paid within thirty (30) days after attainment of Commissioning by the Contractor in accordance with GCC Clause 23.1.3 of the Facility (or any part thereof) and after certification of invoices and submission of other requisite documents required by Employer.

(d) Balance five per cent (5%) of the Supply Price (without Taxes and Duties, and freight and insurance) shall be paid within thirty (30) days after Operational Acceptance of the complete Facility and after certification of invoices and submission of other requisite documents required by Employer including

submission of the Performance Bank Guarantee in accordance with GCC Clause 11.3.

2. **Payment Procedure:**

To facilitate the payments after Advance Payment 1, the BOQ/ Billing Breakup submitted by the Contractor under Clause 5 (Bill of Quantity) of GCC shall be used. Any payment under the Contract, subsequent to the Advance Payment 1, shall be made only upon certification by the Project Manager (which shall not be unreasonably withheld) as per the procedure laid down below:

(a) Issuance of invoices

For the delivery of Supplies or any part thereof, the Contractor shall raise and deliver to Employer the invoice for the corresponding delivery of Goods accompanied by such supporting documentation and certifications, as mentioned in Clause 1 (b), in this Appendix. The submission of invoices (along with all the supporting documents including material receipt note/ bill of lading, and any additional documents required under Applicable Laws as required by Employer) by the Contractor and payment of such invoices by Employer shall be in compliance with Applicable Laws. The Contractor shall raise the invoices on Employer with Employer's address, PAN card number and the GST registration number. As and when an invoice is received from the Contractor, Employer shall release the payments promptly within thirty (30) days from the date of receipt of such undisputed invoice, except in case of any inconsistency or discrepancy, in which case sub-article (b) below will apply.

(b) Review of invoices and deficient invoices

Employer will check any invoice sent by the Contractor against the delivery of the related Supplies or any part thereof within ten (10) Business Days of the receipt of the invoice. In case of any inconsistency, the invoice will be sent back to the Contractor for correction within ten (10) Business Days of the receipt of the invoice. The Contractor shall then re-submit the invoice after the necessary corrections.

Employer Project Manager shall review each invoice for the purpose of approving or disapproving payment.

(c) Disputed invoices

Employer shall have the right to dispute such amounts ("Disputed Amount") as set out in the invoice within ten (10) days of receipt of such invoice, which it believes have been wrongly invoiced by the Contractor. If Employer decides to dispute any amounts set out in the invoice, it shall only make payments towards such amounts which it approves to be correctly invoiced ("Undisputed Amount") and shall state in writing the reasons for paying such lesser sum. Any dispute regarding Disputed Amounts must be raised by the Contractor within thirty (30) Business Days of receipt of payment. During the pendency of any such dispute and the resolution thereof, the Contractor shall continue to provide the Goods

and/or perform its obligations in accordance with the provisions of this Contract and/or any other contracts, provided Employer continues to honour its payment obligations in relation to the undisputed amounts under the Contract. The payment for Disputed Amounts, on resolution in accordance with the procedure set out in GCC Clause 41, shall be paid within thirty (30) days from the date of resolution.

(d) Payment Mechanism

All payments shall be made within thirty (30) days of submission of an undisputed invoice by the Contractor, complete in all respects and supported by all requisite documents and fulfilment of stipulated conditions hereunder, by electronic payment mechanism (e-payment) to the account of Contractor designated by written notice to Employer. Payments to Contractor shall be made in Indian Rupees to such accounts as are designated by the Party receiving payment.

7.3 Payments Not Waiver or Acceptance of Supply

No payment made by Employer under this Contract shall constitute a waiver of any claim or right Employer may have at that time or thereafter, including claims regarding unsettled liens, warranty rights, and indemnification obligations of the Contractor. No payment made by Employer under this Contract shall be considered or deemed to represent that Employer has inspected the Scope or checked the quality or quantity of the Scope or that Employer knows or has ascertained how or for what purpose the Contractor has used the sums previously paid and shall not be deemed or construed as an approval or acceptance of any Scope or as a waiver of any claim or right Employer may have hereunder. Any shortfall or additional payment that is made by Employer shall be reconciled in subsequent payments to be made to the Contractor.

7.4 Payment of Sub-contractors

The Contractor shall promptly pay, in accordance with the terms and conditions set forth in the respective sub-contracts, each sub-contractor the amount to which said sub-contractor is entitled.

7.5 Due Dates for Payment

Payment shall be made upon fulfilment of the conditions specified in Clause 1(a) of this Appendix and receipt of the Contractor's undisputed invoice along with all necessary supporting documents for such Payment.

7.6 Inland Transportation, In-transit Insurance, Loading & unloading Charges

Inland transportation, In-transit insurance charges, loading and unloading charges shall be paid to the Contractor on pro-rata basis, as per the unit rates indicated in the Contract Agreement, after receipt of materials/items at site and on presentation of the Bill of supply or any other documents prescribed under

GST Law alongwith supporting documents by the Contractor. However, these charges will be subject to a limitation that the aggregate of all invoices does not exceed the total amount indicated in the Contract Agreement.

It is the Employer understanding that as per extant provisions, on the charges for supply of services related to Inland transportation, in transit insurance charges, Loading and unloading charges by the Contractor to the Employer, GST is not payable. The Contractor is, however, advised to check the position from their own sources. If payable, the same shall be to the Contractor's account and Employer shall not reimburse any GST on this account.

7.7 Set off

Employer shall have the right to set off any dues payable to it against payments due to the Contractor under any undisputed invoice. Employer shall notify the Contractor for the same within a reasonable time.

*****End of Appendix-1(A)*****

Appendix – 1(B): Terms & Procedure of Payment for Supply of Services

In accordance with the provisions of GCC Clause 11 (Terms of Payment), the Employer shall pay the Contractor in the following manner and at the following times, on the basis of the BOQ/ Billing Breakup submitted by the Contractor in accordance with Clause 5. Payments will be made in the currencies quoted by the Bidder unless otherwise agreed between the parties. The Contractor may make applications for payment in respect of part deliveries as work proceeds.

1. **Terms of Payment**

(a) Ten per cent (10%) of the Service Price (including GST) paid as interest free advance ("Advance Payment 2") upon compliance to the conditions mentioned below by the Contractor:

(i) Submission of Advance Bank Guarantee 2 of an amount equivalent to Advance Payment 2 in accordance with GCC Clause 11.2 and;
(ii) Submission of Performance Bank Guarantee of ten per cent (10%) of the Contract Price.
(iii) Detailed PERT Network/Bar chart and its approval by the Employer.

(b) Eighty five percent (85%) of the Service Price (including GST) within thirty (30) days on pro-rata basis after certification of invoices, JMC and submission of other requisite documents required by Employer.

(c) Five percent (5%) of Service Price (including GST) shall be paid within thirty (30) days after Operational Acceptance of the complete Facility and after certification of invoices and submission of other requisite documents required by Employer including submission of the Performance Bank Guarantee in accordance with GCC Clause 11.3.

2. **Payment Procedure:**

To facilitate the payments after Advance Payment 2, the BOQ/ Billing Breakup submitted by the Contractor under Clause 5 (Bill of Quantity) of GCC shall be used. Any payment under the Contract, subsequent to the Advance Payment 2, shall be made only upon certification by the Project Manager (which shall not be unreasonably withheld) as per the procedure laid down below:

(a) Issuance of invoices

For the delivery of Services or any part thereof, the Contractor shall raise and deliver to Employer the invoice for the corresponding delivery of Services accompanied by such supporting documentation and certifications, as mentioned in Clause 1 (b), in this Appendix. The submission of invoices (along with all the supporting documents including material receipt note/ bill of lading, and any additional documents required under Applicable Laws as required by Employer) by the Contractor and payment of such invoices by Employer shall be in compliance with Applicable Laws. The Contractor shall raise the invoices on

Employer with Employer's address, PAN card number and the GST registration number. As and when an invoice is received from the Contractor, Employer shall release the payments promptly within thirty (30) days from the date of receipt of such undisputed invoice, except in case of any inconsistency or discrepancy, in which case sub-article (b) below will apply.

(b) Review of invoices and deficient invoices

Employer will check any invoice sent by the Contractor against the delivery of the related Supplies or any part thereof within ten (10) Business Days of the receipt of the invoice. In case of any inconsistency, the invoice will be sent back to the Contractor for correction within ten (10) Business Days of the receipt of the invoice. The Contractor shall then re-submit the invoice after the necessary corrections.

Project Manager shall review each invoice for the purpose of approving or disapproving payment.

(c) Disputed invoices

Employer shall have the right to dispute such amounts ("Disputed Amount") as set out in the invoice within ten (10) days of receipt of such invoice, which it believes have been wrongly invoiced by the Contractor. If Employer decides to dispute any amounts set out in the invoice, it shall only make payments towards such amounts which it approves to be correctly invoiced ("Undisputed Amount") and shall state in writing the reasons for paying such lesser sum. Any dispute regarding Disputed Amounts must be raised by the Contractor within thirty (30) Business Days of receipt of payment. During the pendency of any such dispute and the resolution thereof, the Contractor shall continue to provide the Goods and/or perform its obligations in accordance with the provisions of this Contract and/or any other contracts, provided Employer continues to honour its payment obligations in relation to the undisputed amounts under the Contract. The payment for Disputed Amounts, on resolution in accordance with the procedure set out in GCC Clause 41, shall be paid within thirty (30) days from the date of resolution.

(d) Payment Mechanism

All payments shall be made within thirty (30) days of submission of an undisputed invoice by the Contractor, complete in all respects and supported by all requisite documents and fulfilment of stipulated conditions hereunder, by electronic payment mechanism (e-payment) to the account of Contractor designated by written notice to employer. Payments to Contractor shall be made in Indian Rupees to such accounts as are designated by the Party receiving payment.

7.3 Payments Not Waiver or Acceptance of Supply

No payment made by the Employer under this Contract shall constitute a waiver of any claim or right Employer may have at that time or thereafter, including

claims regarding unsettled liens, warranty rights, and indemnification obligations of the Contractor. No payment made by Employer under this Contract shall be considered or deemed to represent that Employer has inspected the Scope or checked the quality or quantity of the Scope or that Employer knows or has ascertained how or for what purpose the Contractor has used the sums previously paid and shall not be deemed or construed as an approval or acceptance of any Scope or as a waiver of any claim or right Employer may have hereunder. Any shortfall or additional payment that is made by Employer shall be reconciled in subsequent payments to be made to the Contractor.

7.4 Payment of Sub-contractors

The Contractor shall promptly pay, in accordance with the terms and conditions set forth in the respective sub-contracts, each sub-contractor the amount to which said sub-contractor is entitled.

7.5 Due Dates for Payment

Payment shall be made upon fulfilment of the conditions specified in Clause 1(a) of this Appendix and receipt of the Contractor's undisputed invoice along with all necessary supporting documents for such Payment.

7.6 Set off

Employer shall have the right to set off any dues payable to it against payments due to the Contractor under any undisputed invoice. Employer shall notify the Contractor for the same within a reasonable time.

*****End of Appendix-1(B)*****

Appendix - 2: Price Adjustment

PRICE ADJUSTMENT

The prices shall remain firm and fixed during the currency of the Contract.

*****End of Appendix-2*****

Appendix - 3: Time Schedule

TIME SCHEDULE

1. The Project Completion Schedule shall be as follows:

	Activities	Completion Date from the effective date of Contract
	Operational Acceptance by the Employer of:	
Name of the Project	Implementation of 1 No. of 400kV line bay at Ishanagar S/s for RE interconnection of 630 MW Barethi Solar Park of M/s NTPC Renewable Energy Limited	**31.03.2027**

1.1 The activity(ies) under the Contractor's programme for Project Completion shall be in the form of a master network (MNW) and shall identify the various activities like design, engineering, supply, installation, factory testing, transportation to site, site testing and commissioning, trial operation, Taking Over and Operational Acceptance etc. of the Facilities or specific part thereof (where specific parts are specified in SCC). The network shall conform to the above Project Completion Schedule.

This master network will be discussed and agreed before Award in line with above, engineering drawing and data submission schedule shall also be discussed and finalised before Award. Liquidated damages for delay in successful Completion of the Facilities or specific part thereof (where specific parts are specified in SCC) and Operational Acceptance at rates specified in Clause 24 of GCC shall be applicable beyond the date specified above.

1.2 The Employer reserves the right to request minor changes in the work schedule at the time of Award of Contract to the successful Bidder.

1.3 The successful Bidder shall be required to prepare detailed Network(s) and project implementation plans & programmes and finalise the same with the Employer as per the requirement specified in Technical Specifications, which shall from a part of the Contract.

1.4 Time for Completion is the essence of Contract.

*****End of Appendix-3*****

Appendix - 4: Supply by the Employer

-----None-----

*****End of Appendix-4*****

Appendix - 5: Guarantees, Liquidated Damages for Non-Performance

----Not Applicable---

*****End of Appendix-5*****

----- End of Section-IV (GCC) -----