SECTION - IV
GENERAL CONDITIONS OF CONTRACT (GCC)

GENERAL CONDITIONS OF CONTRACT (GCC)

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GENERAL CONDITIONS OF CONTRACT

1.0 DEFINITIONS

a) The "Accepting Authority" shall mean the Authority mentioned in **Schedule 'A'** attached herewith.

b) "Approval" means approval in writing by the Engineer- in-Charge.

c) "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 59.0 (Arbitration) hereof.

d) "Commissioning" means operation of the facilities (or a specific part thereof) by the Contractor as specified in the Technical Specifications and making the facility (or a specific part thereof) ready for acceptance of the Employer.

e) "Completion" means that the facilities (or a specific part thereof) have been completed operationally and structurally and put in a tight and clean condition and that all works in respect of commissioning of the facilities (or a specific part thereof) has been completed (wherever required, as per Technical Specifications).

f) "Consultant" shall mean any assignee, if any, who is appointed by the Employer for the purpose of Architectural design etc.

g) "Contract" means the Contract Agreement 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 Contract Agreement (including any amendments thereto).

i) i) The "Contractor" shall mean the individual or firm or company whether incorporated or not, who has been assigned the works and shall include legal representatives of such individual or persons composing such firm or an incorporated company or successors of such firm or company, as the case may be and permitted assigns of such individual or firm or company.

ii) "Contractor's Representatives" shall mean one of the

Contractor's employee who has been authorized with Power of Attorney by the Contractor and deputed at site for execution of work on behalf of the Contractor.

j) The "Contract Sum" shall mean:

The cost of the works arrived at after multiplying of the quantities shown in the Bill of Quantities by the item rates quoted by the Bidder for the various items and also incorporating the effect of rebate offered by the Bidder at the time of submission of Bids/Offers/tenders and /or during negotiations, if any.

k) A "Day" means calendar day of the Gregorian Calendar.

l) "Defect Liability Period" / "Guarantee Period"/ "Maintenance Period" shall mean the period during which the Contractor shall be liable for any rectification/ replacement of any defective parts of the work performed under the contract without any additional cost to the Employer.

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

n) "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.

o) "Engineer-in-Charge"/"Project Manager" shall mean the Engineer(s) appointed by the Employer or his duly authorised representative who shall direct, supervise and be in-charge of the works for purpose of this contract.

p) i) "Excepted Risks" are risks due to riots (otherwise than among Contractor's employees) and civil commotion (in so far as both these are uninsurable).

ii) Local commotion of workmen, strike or lockout affecting any of the trades employed on the work provided these have not arisen on account of Contractors failure or his noncompliance with the provisions of applicable Labour Laws/Rules.

iii) Delay on the part of other Contractors or tradesmen engaged by Employer in execution of work not forming a part of the Contract; or

iv) Any other cause which, in the absolute discretion of the authority mentioned in Schedule 'A' of GCC, is beyond the

Contractor's control over which the Contractor had no control and accepted as such by the Accepting Authority or causes solely due to use or occupation by the Employer of the part of works for which a certificate of completion has been issued.

q) "Facilities" means the Plant and Equipment to be supplied and installed by the Contractor under the contract.

r) "Force majeure" is herein defined as any cause which is beyond the control of the Contractor or the Employer as the case may be which could not be foreseen or with a reasonable amount of diligence could not have been foreseen and which substantially affects the performance of the Contract, (which shall mean) in the nature of :

i) Act of God such as Natural phenomena, including but not limited to floods, droughts, lightning, earthquakes and epidemics.
ii) Acts of any Government, including but not limited to war (declared or undeclared), priorities, quarantines, embargoes.

Provided either Party shall within Fourteen (14) days from the occurrence of such a cause notify the other in writing of such cause(s).

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

t) "Market Rate" shall be the rate as decided by the Engineer-in-Charge on the basis of the cost of materials and labour at the site where the work is to be executed, plus the percentage mentioned in item 1.0 (t) of Schedule
-A to cover all overheads and profit.

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

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

w) "SCC" means the Special Conditions of Contract.

x) "Schedule(s)" referred to in these conditions shall mean the relevant schedule(s) in Bid Form & Price Schedule (BPS) referred to in the Tender documents issued by the Employer and the amendments thereto issued from time to time.

y) "Schedule of Quantities"/ "Bill of Quantities" shall carry the same intent.

z) The "Site" shall mean the lands and /or other places on, under, in or through which the work is to be executed under the Contract including any other lands or places which may be allotted by the Employer or used for the purpose of the Contract.

aa) "Subcontractor"/"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.

bb) "Taking Over" shall mean the Employer's written acceptance of works performed under the contract after successful commissioning and performance of guarantee tests as per specifications or otherwise agreed under the contract and after necessary clearances from statutory bodies before occupation.

cc) "Temporary Works" shall mean all temporary works of every kind required for the execution, completion or maintenance of work within the period stipulated in the Contract.

dd) "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.

ee) "Urgent Works" shall mean any urgent measures which, in the opinion of the Engineer-in-Charge, becomes necessary during the progress of the work to avoid any risk of accident or failure or which becomes necessary for security of the works and / are within the Scope of the Contract.

ff) A "Week" shall mean seven days without regard to the number of hours worked in any day in that week.

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

2.0 Interpretation

2.1 Contract

The Contracts to be entered into with the successful Bidder shall be as mentioned below.

2.1.1 The Contracts to be entered into with the successful Bidder shall be a single contract covering all the Services related to Civil & Electrical works (Supply of Services Contract).

2.1.2 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.

2.1.3 The Contractor shall provide free of cost to the Employer all the engineering data, drawing and descriptive materials submitted with the bid, in at least two (2) copies to form a part of the Contract immediately after Notification of Award.

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 Sub-Clause 10.4, 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 leader 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 Sub-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 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, special courier, telegraph, facsimile or Electronic Data Interchange (EDI) to the address of the relevant party set out in the Contract Agreement, with the following provisions:

(a) Any notice sent by telegraph, facsimile or EDI shall be confirmed within two (2) days after dispatch by notice sent by special courier, except as otherwise specified in the Contract.

(b) Any notice sent by special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and conveyed to the postal authorities or courier service for transmission by special courier. Provided further that whenever the postal authorities or courier service provide a proof of delivery, the same shall also be applicable for presenting the fact of dispatch.

(c) Any notice delivered personally or sent by telegraph, facsimile or EDI shall be deemed to have been delivered on date of its dispatch.

(d) Either party may change its postal, facsimile or EDI address or addressee for receipt of such notices by ten (10) days' notice to the other party in writing.

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

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.

3.0 SCOPE AND PERFORMANCE

3.1 SCOPE OF THE WORK

Scope of the work under this Contract shall be on single source responsibility basis completely covering all the services, works and materials specified under the accompanied Technical Specifications/Bill of Quantities indicated in Bid Proposal Sheets & drawings. It will inter-alia include the following:

a) All labour, materials, tools, plants and equipment, loading, unloading, transportation and handling thereof, unless otherwise, specified elsewhere in the Tender Documents.

b) Preparatory activities including scaffoldings required to be performed for carrying out the work.

c) All necessary services required for complete installation testing and commissioning in accordance with the relevant drawings/Bill of Quantities meeting the specification requirements.

d) Receipt/storage, preservation and conservation of materials/equipment at site in accordance with the scheme/and provisions approved by Engineer-in-charge in advance.

e) Any item(s), though not covered in specification/ drawings/ schedule but are required for reliability and safety and as per good engineering practice shall be deemed to be included in the scope of work unless specifically excluded in the exclusion list.

f) All wastage of materials, their carriage /cartage and return of empties (if Applicable).

g) Furnishing of documents and signing of Contract Agreements.

h) Obtaining clearances /approvals from concerned local/ statutory bodies.

i) Spares if any.

k) To complete all activities under the Contract to the satisfaction of the Engineer-in-charge and Employer or their representative in respect of all works covered in this contract. Tenders not covering

the above entire scope of work are liable to be treated as incomplete and will accordingly be deleted from further consideration.

l) To co-ordinate with various sub-vendors involved in the works in order to complete the works in a phased and logical manner necessary for completion and handing over of entire work within the stipulated date and also to provide fronts to the contractors to be appointed by the Employer as and when required by the Engineer-in-Charge.

3.2 The work shall be strictly carried out as per POWERGRID's Technical Specifications for the subject package & as per terms & conditions mentioned in the bidding documents inter-alia including construction drawings provided by POWERGRID, if any, to the successful Bidder.

The Contractor at his cost shall arrange, secure and maintain all insurance as may be pertinent to the works and obligatory in terms of law against all perils and the responsibility to maintain adequate insurance coverage at all time during the period of contract shall be of the Contractor alone. The Contractor's failure in this regard shall not relieve him of any of his contractual responsibilities and obligations.

The perils required to be covered under the insurance shall include all risks, but not limited to fire and allied risks, miscellaneous accidents, workmen compensation risks, loss or damage in transit, theft, pilferage, riot and strikes and malicious damages, civil commotions, weather conditions, accidents of all kinds et. The Contractor shall be responsible for the safety and security of employees of the Contractor and his sub-contractors throughout execution of the works. All costs on account of insurance liabilities covered under the Contract will be on Contractor's account and will be included in the Contract Price.

Materials and components not specifically stated in the various documents forming part of the Contract but which are necessary for completion of works shall be deemed to be included in the scope. All such materials and components shall be arranged and transported by the Contractor at his cost and expense.

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 Sub-Clause 38.1 hereof, the Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in the corresponding Appendix – III (Time Schedule) to the Contract Agreement.

4.2 The Contractor shall attain Completion of the Facilities (or of a part where a separate time for Completion of such part is specified in the Contract) within the time stated under Time for Completion or within such extended time to which the Contractor shall be entitled under GCC Clause 18.0 hereof.

5.0 Contract Price

5.1 The Contract Price shall be as specified in Notification of Award/ Contract Agreement. The Contractor confirms that it has entered into this Contract on the basis of proper examination of the data relating to the subject package provided by the Employer, and on the basis of information that the Contractor could have obtained from the site and of other data readily available to it relating to the works as of the date twenty eight (28) days prior to the bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the contract.

5.2 Subject to 5.1 above, 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.

5.3 The Contract Price is inclusive of BOCW Welfare Cess. POWERGRID shall deduct BOCW Welfare Cess @ 1% of the amount of bill(s) and deposit the same with BOCW Welfare Board constituted by the State. POWERGRID shall deduct the above cess @ 1% from each progressive bill.

5.4 The Contract Price shall be subject to adjustment in accordance with the provisions of Appendix II (Price Adjustment) to the Contract Agreement. The Contract Price shall be increased or reduced on account of variation in quantity in accordance with Clause 15.0 of GCC.

6.0 TAXES, DUTIES & LEVIES

6.1 The prices that are quoted and indicated in the BPS shall include inter alia, all costs such as cost of necessary materials, their transportation to site, cost towards tools, equipment and machineries including cost of personnel that may be required for successful completion of the work as per the Technical Specifications, Vol-II including cost of site arrangement, overheads, insurance, whatsoever, as stipulated in the bidding documents for the total scope of work.

Further the price for supply of services are excluding GST, if any, payable. The GST will be reimbursable (along with subsequent variation if any), by the Employer on the supply of services made by the

Contractor but limited to the tax liability on the transaction between the Employer and the Contractor.

6.2 Employer would not bear any liability on account of any other taxes, duties, levies applicable locally.

6.3 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.

The recovery of TDS under GST/Income Tax Act and any other acts as per Govt. regulation related to this work shall be done by the Employer on behalf of 'Owner'. TDS so deducted by Employer on behalf of the 'Owner' shall be deposited with the relevant tax authorities and TDS certificates shall be issued on behalf of the Owner using PAN, TIN, TAN of Owner. Relevant challans and copies of the TDS certificates shall be forwarded to 'Owner for filing necessary returns. In case, wherever E-filing system is applicable, the relevant information would be given to the Owner for issuing TDS certificate, filing returns, etc.

6.4 Reimbursement of GST by the Employer shall be at the rate applicable on the SAC of the 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, if applicable as per the Contract Agreement, 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 SAC classification and corresponding rate of GST of an item as confirmed/deemed confirmed by the bidder in its bid and SAC and corresponding rate of GST as interpreted under any interpretation/ judgment/ Notification/ Circular 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.

6.5 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.

6.6 Employer's GSTIN number in each state/UT is published on the Employer's company website https://www.powergrid.in. While raising invoice/proforma invoice for Supply of Services, the Contractor shall invoice the Owner using the GSTIN of Employer in the state/UT in which the service or part thereof is to be rendered.

6.7 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.

7.0 INCOME TAX DEDUCTIONS

7.1 Income Tax deductions shall be made from all payments made to the Contractor as per rules and regulations in force, in accordance with the Income Tax Act prevailing from time to time.

8. Securities

8.1 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.

8.2 **Advance Payment Security – Not applicable** as no advance is payable.

8.3 **Contract Performance Guarantee**

8.3.1 The Supplier shall, within twenty-eight (28) days of the notification of award, provide Contract Performance Guarantee (CPG) for the due performance of the Contract in the amount equivalent to **Ten percent (10%)** of the Contract Price**. The performance security shall, at the contractor's option, be in the form of a crossed bank draft/pay**

order/banker certified cheque in favour of Employer as stipulated in SCC or in the Form of unconditional Bank Guarantee/Insurance Surety Bond attached hereto in the Section VI - Sample Forms and Procedures:

8.3.2 **Bank Guarantee (in the format attached as Appendix – VII** to SCC**) towards performance security 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 Supplier time to time till ninety (90) days beyond the actual Defect Liability Period, as may be required under the Contract.**

Besides, the additional claim period for the performance security in the form of Bank Guarantee/Insurance Surety Bond shall be six (06) months beyond the end of validity period of the said instrument.

8.3.2.1 If the Contractor delays submission of the performance security vis-à-vis the period specified in clause 8.3.1, 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 40.0 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 8.3.2 by the period of delay as per clause 8.3.2.1 (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 8.3.2.1 (a), an amount @ prevailing 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 8.3.2.1 (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 terminate the Contract forthwith pursuant to relevant

GCC Clause and/ or may consider the bid submitted by the Contractor in future packages as non-responsive.

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

f) The Employer shall be sole judge in above regard.

8.3.2.2 Issuing **Banks**

The Bank Guarantee for Performance Security are to be provided by the Supplier, 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 Purchaser, 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.

8.3.3 Contract Performance Security for the subject package can also be submitted online **using** POWERGRID Online Payment Utility**. The link is https://epay.powergrid.in/**

As a Contractor, following selections to be made

Payment Category	Performance Security
Sub-category	Performance Security Payment– WR2
Name of Depositor	Name of the Supplier.
Vendor Code, if applicable	POWERGRID vendor code of the Supplier
Payment Remarks	Performance Security for …….. [*enter the name of the contract and last four digits of the Contract Agreement number]*

Payment Transaction reference number shall be submitted to POWERGRID for verification.

8.3.4 **Alternately, bidder may opt for submission of Contract Performance Guarantee in form of Security Deposit. An amount of 10% amount of RA bill shall be deducted from each Running Bill of the successful bidder till total reaches 10 % of Contract Value. Security Deposit shall be released within 30 days from the date of successful completion of Warranty Period/ Defect Liability Period. No interest shall be payable to the Contractor against SD.**

In case, the bid security submitted by the successful bidder shall be converted into initial security deposit, if the same had been submitted in form of a crossed Bank Draft/Pay Order or paid through POWERGRID Online Payment Utility. The balance amount of 10% of the Contract price shall be deducted from the first Running Bill of the successful bidder.

8.3.5 **Forfeiture of Contract Performance Guarantee**:

In case the contractor fails to carry out the work or perform or observe any of the conditions of the contract, the **Contract Performance Guarantee** shall be forfeited, without prejudice to any other right or remedy of POWERGRID to which it is entitled**.**

8.3.6 Reduction in Contract Performance Guarantee pro rata to the Contract Price of any part of the Goods and related services is not admissible.

9.0 Copy Right

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

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

9.2 The copyright in all drawings, documents and other materials containing data and information furnished to the Contractor by the Employer/Owner herein shall remain vested in the Employer/Owner.

10.0 Confidential Information

10.1 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 10.

10.2 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.

10.3 The obligation of a party under GCC Sub-Clauses 10.1 and 10.2 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.

10.4 The above provisions of this GCC Clause 10 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.

10.5 The provisions of this GCC Clause 10 shall survive termination, for whatever reason, of the Contract.

11.0 QUALITY ASSURANCE PROGRAMME

11.1 The quality programme shall be designed in such a way that adequate confidence is generated in the Employer and in themselves so that the work is completed within the cost and time schedule with post execution rejections and modifications of work tending towards zero.

The various field and laboratory tests involved as per the Quality Plan/ Technical Specifications/ directions of Engineer-in-charge are to be carried out by the successful Bidder (contractor) at his own cost and no

additional payment shall be considered on this account. The Bidders should take into account his aspect while submitting their offers.

11.2 With the above in view, it is also contemplated that Quality Assurance Programme shall be followed by the Contractor right from the inception to completion of the Work in all stages as per agreed Quality Assurance Programme

11.3 **Quality Assurance Documents**

11.3.1 The Contractor shall submit the following Quality Assurance documents at prescribed stages during stage checks and /or completion of final inspection:

i) Record of the inspection and various tests with checks and verifications of all customer inspection points, approved sketches, if used, as well as final inspection and test reports and records.

ii) Where it is to be done :

a) Welder indetification list, indicating the welding and Welding Operator's qualification procedure and Welding identification symbol and weld repair procedure actually used during fabrication etc.

iii) Welding and Welder's qualification certificates.

iv) All inspection and test procedures Non destructive (ND) and other examinations, procedure, stress temperature charts and other repair procedures actually adopted during fabrication.

v) All deviations/rectification, formats and reports used to remove /make good deficiencies in respect of various non-conformities observed and recorded during execution.

vi) The Employer or his authorised representative reserves the right to carryout quality audit and quality surveillance of the systems and procedures of the contractor's Quality Management System at "prior to", "during" and "post" execution stages of the works.

12.0 INSURANCE

Tender price shall include all the costs to be incurred for fulfilling all the insurance requirements and costs under the Contract clause 41.0 and its various sub-clauses of this GCC is relevant.

Insurance such as transit insurance of materials, third party & workmen

insurance, insurance of tools and tackles and Plant and equipment or any other insurance more specifically detailed in clause 41.0 and its various sub-clauses of this GCC is relevant shall be arranged by the Contractor at his cost and expense. -

13.0 TIME THE ESSENCE OF CONTRACT

The time and the date(s) of completion of each agreed milestone(s) as stipulated in Contractor's Tenders and accepted by the Employer without or with modification, if any, and so incorporated in the Notification of Award shall be deemed to be the essence of Contract. The Contractor shall organize the resources and mobilize so as to commence the execution of work within (15) days from the date of Notification of Award unless agreed and specified earlier. The work shall be performed in time and to achieve the schedule of targets/ key milestone dates, the Contractor shall have to plan and adequately mobilize all the resources (Equipment and Manpower) to the satisfaction of the Engineer-in-Charge. This however, does not imply that the Contractor shall be handed over all fronts and given clearances for the complete work. Handing over of fronts and clearances shall be in stages and in sequential requirements to meet the milestone wise completion schedule. The Bidder shall submit a master Network in line with the time schedule indicated in work schedule of the documents. The network shall clearly indicate major key events in areas like Bidder's site mobilization, including all excavation requirements for soil/ soft hard rock, dewatering where required, earthwork, piling where required concreting, foundation, superstructure etc. The Bidder shall also furnish a work plan along with his Tender for the execution of work as envisaged by him along with the methodology of construction, details of major equipment, tools and plants required, their present deployment and the equipment, tools and plants proposed to be brought from other works/ newly purchased and the period by which equipment will be available at the site of work, the proposed deployment of manpower etc. The Bidder shall submit a detailed time schedule of all activities giving sequence of principal activities pertaining to the complete work covered under the Contract. A detailed network of all activities pertaining to the works for completion of the work within the schedule completion period shall be discussed and mutually agreed with the successful bidder at the post bid and pre-award discussion. Such agreed network shall form a part of the contract and all Contractor's activities shall be performed strictly in accordance with such agreed Network. The Engineer-in-Charge shall in consultation with the Contractor, however, have the right to review the progress and modify the work schedule suiting the site conditions or any other requirement. In the event of any disagreement on the work schedule the decision of Engineer-in-Charge shall be final and binding on the contractor.

14.0 DISCREPANCIES AND ADJUSTMENT OF ERRORS

14.1 The Tender Document forming the Contract are to be taken as mutually explanatory of one another, detailed drawing being followed in preference to scale measurements and Special Conditions in preference to General Conditions.

14.2 In case of discrepancy between Bill of Quantities, Specifications and/or the Drawings, the following order of preference shall be observed:

a) Description in the Bill of Quantities.

b) Particular Specifications and Special Conditions, if any

c) Approved Drawings cleared for Construction.

d) N.I.T. Provisions, Specifications and General Conditions of Contract

14.3 If there are varying or conflicting provisions in any one of the document forming a part of the Contract, the Engineer-in- Charge shall be the deciding authority with regard to the intention of interpretation of such discrepancies.

14.4 Any error in description, quantity or unit in Bill of Quantities or any omission there from shall not vitiate the Contract or release the Contractor from the execution of any part of the works comprised therein according to drawings and specifications or from any of his obligations under the Contract. Any financial implications payable or recoverable arising from the above are to be settled under provisions of the Contract.

15.0 DEVIATIONS/ VARIATIONS EXTENT & PRICING

15.1 The Engineer-in-Charge shall have powers (i) to make alteration in, omission from, additions to, or substitutions in the original specifications, drawings, designs and instructions that may appear to him to be necessary or advisable during the progress of the work, and (ii) to omit a part of the works in case of non-availability of a portion of the site or for any other reasons, and the Contractor shall be bound to carry out the Works in accordance with any instructions given to him in writing by the Engineer-in-Charge and such alterations, omission, additions or substitutions shall form a part of the contract and any altered, additional or substituted work which the Contractor may be directed to do in the manner above specified as part of the Works, shall be carried out by the Contractor on the same conditions in all

respects including price on which he agreed to do the main work. Any alterations, omissions, additions or substitutions which radically change the original nature of the Contract shall be ordered by the Engineer-in-Charge as a deviation and in the event of any deviation being ordered which in the opinion of the Contractor changes the original nature of the Contract, he shall nevertheless carry it out and the disagreement, if any, so to the nature of work and the rate to be paid therefore shall be resolved in accordance with Clause 59 'Arbitration'.

15.2 The time for completion of the Works shall, in the event of any deviations resulting in additional cost over the Contract Sum being ordered, be executed as follows if requested by the Contractor.

a) In the proportion which the additional cost of the altered, additional or substituted work, bears to the original Contract Sum; plus

b) 25% of the time calculated in (a) above or such further additional time as may be considered reasonable by the Engineer-in-Charge.

Rates for such additional, altered or substituted work shall be determined by the Engineer-in-Charge as follows:

i) If the rate for additional, altered or substituted item(s) of work is/ are specified in the Contract for the work, the Contractor is bound to carry out the additional, altered or substituted work at the same rate as per specified in the Contract for the work.

ii) If the rate for any additional, altered, or substituted item(s) of work is/are not specifically provided in the Contract for the work, such rate will be derived from the rates for a similar class of work as are specified in the Contract for the work. The opinion of the Engineer- in-Charge as to whether or not the rates can be reasonably so derived from the item in this contract will be final and binding on the Contractor.

iii) If the rate for any additional, altered or substituted item of work cannot be determined in the manner specified in sub-paras (i) and (ii) above, then such item of work shall be carried out at the rate entered in the Schedule of Rates mentioned in Schedule 'A' item no. 15(iii) plus / minus the percentage by which the Tendered amount of the works actually awarded is higher or lower than the estimated amount of the works actually awarded.

iv) If the rate for any altered, additional or substituted item of work cannot be determined in the manner specified in sub-paras (i) to (iii) above, then the rate for such item of work shall be worked out

on the basis of Schedule of Rates specified in sub-para (iii) above plus/minus the percentage which the tendered amount of scheduled items bear with the estimated amount of scheduled items based on the schedule "A" item No.15(iii). (The Schedule items mean the items appearing in the Schedule of Rates mentioned in Schedule "A" items No.15(iii) of this contract.). Provided always that if rate(s) for such part(s) of an item(s) not specified in Schedule of Rates the rate(s) for such part(s) will be determined by the Engineer-in-Charge on the basis of the purchase price as supported by the vouchers unless the Engineer-in- Charge finds the purchase price unreasonable, in the later event the price shall be determined on the basis of market rate(s) prevailing during the fortnight following the date of the order. (Market rate as defined in clause 1.0(t) shall be applicable).

v) If the rate for any altered, additional or substituted item of work cannot be determined in the manner specified in sub-paras (i) to (iv) above, the Contractor shall within 14 days of the date of receipt of the order to carry out the said work, inform the Engineer-in-Charge under advice to the Accepting Authority of the rate which he proposes to claim for such item of work, supported by analysis of the rate claimed, and the Engineer-in-Charge shall, within three months thereafter giving due consideration to the rate claimed by the Contractor, determine the rate on the basis of market rate(s). In the event of the Contractor failing to inform the Engineer-in-Charge within the stipulated period of time, the rate which he proposes to claim, the rate for such item shall be determined by the Engineer-in-Charge on the basis of market rate(s).

vi) (A) Except in case of items of work below ground surface, as it exists at the time of commencement of work (See (B) below), quantities of which may change due to site Conditions, provisions contained in sub-conditions (i) to (v) above shall not apply to:

a) that value of any Contract items, Substituted item or Contract-cum-Substituted item is in excess of the original value of the item plus the percentage mentioned in Schedule 'A' item no. 15(vi)Aa (Applicable to Lump sum Contracts, Measurement Contracts based on item rates and Percentage Rate Contracts).

b) that value of deviations ordered on any individual trade item included in the contract as is in excess of the percentage mentioned in Schedule 'A', item No. 15(vi)Aa (Applicable to Lump-sum-Contracts only).

c) that value of all items not already included in the Contract, as is in excess of the percentage mentioned in Schedule "A", item No. 15(vi)Ab of the Contract.

(B) In case of items of work below ground surface as it exists at the time of commencement of work, quantities of which may change due to site conditions, provision contained in sub-conditions (i) to (v) above shall not apply to:

a) items of any individual trade which exceed by more than the percentage mentioned in Schedule A item no. 15(vi)Ba of the value of that trade included in the Contract as a whole unless the Contractor and the Engineer-in- Charge agree to a higher percentage for any particular item.

b) the value of any item not included in the Contract in excess of 5% of the Contract Sum whichever is higher.

NOTE: Individual trade means sub-heads into which the Bill of Quantities as provided in the Contract has been divided and in the absence of any such provision in the Contract, the Sub-heads as given in the Schedule of Rates will be applicable.

15.3 In the case of Contract items, Substituted items, Contract-cum-Substituted items, or additional items which exceed the limits laid down in sub-para(vi) of Condition 15.2 above, the Contractor may, within fourteen days of receipt of order or occurrence of the excess claim revision of the rates, supported by proper analysis, for the work in excess of the above- mentioned limits, provided that if the rates so claimed are in excess of the rates specified in the Bill of Quantities or of those derived in accordance with the provisions of sub-para (i) to (iv) of Condition 15.2 by more than five per cent, inform the Engineer-in-Charge under advice to the Accepting Authority and the Engineer-in-Charge shall, within three months of receipt of the claim supported by the analysis, after giving due consideration to the analysis of the rates submitted by the Contractor, determine the rates on the basis of market rates and if the rates so determined exceed the rates specified in the Bill of Quantities or those derived in accordance with the provisions of sub paras (i) to (iv) condition 15.2 by more than five percent, the Contractor shall be paid in accordance with the rates so determined. Rates within the stipulated period, or if the rates determined by the Engineer-in-Charge within a period of three months of receipt of the claim supported by analysis are within five percent of the rates specified in the Bill of Quantities or those determined in accordance with the provisions of sub-paras (i) to (iv) of condition 15.2, the Engineer-in-

Charge shall make payment at the rates as specified in the Bill of Quantities or those already determined under sub-paras (i) to (iv) condition 15.2 for the quantities in excess of the limits laid down in sub-para (vi) of Condition 15.2.

15.4 The provisions of the preceding paragraph shall also apply to the decrease in the rates of items, for the work in excess of the limits laid down in sub para (vi) of Condition 15.2 provided that such decrease is more than five percent of rates specified in the Bill of Quantities or of those derived in accordance with the provisions or sub-paras (i) to (iv) of Condition 15.2 and the Engineer-in-Charge may after giving notice to the Contractor within two months of receipt of order by the Contractor or occurrence of the excess and after taking into consideration any reply received from him within fourteen days of receipt of the notice, revise the rates for the work in question within two months of expiry of the said period of 14 days having regard to the market rates.

16.0 SUSPENSION OF WORKS

16.1 a) The Contractor shall, on receipt of the order-regarding suspension of work in writing of the Engineer-in-Charge, suspend the progress of the works or any part thereof for such time and in such manner as the Engineer-in-Charge may consider necessary for any of the following reasons :

i) On account of any default on part of the Contractor; or

ii) for improper execution of the works or part thereof for reasons other than the default of the Contractor; or

iii) for safety of the works or part thereof. The Contractor shall, during such suspension, properly protect and secure the works to the extent necessary and carryout the instructions given on that behalf by the Engineer-in-Charge.

b) If the suspension is ordered for reasons (ii) and (iii) in sub- para (a).

i) The Contractor shall be entitled to an extension of the time equal to the period of every such suspension plus 25% of such suspended period.

ii) If the total period of all such suspension exceeds thirty days, the Contractor shall, in addition, be entitled to compensation, in respect of salaries and/or wages paid by the Contractor to his employees and labour at site, remaining idle during the period of suspension, adding thereto the percentage mentioned in Schedule A item no. 16(b)(ii) to cover indirect expenses of the Contractor, provided the Contractor submits his claim supported by details to the Engineer-in-Charge under advice to the Accepting Authority within 14 days of the expiry of the period of 30 days.

c) If the works or part thereof is suspended on the orders of the Engineer-in-charge for more than three months at a time, except when suspension is ordered for reason, (i) in sub-para (b) above, the Contractor may after receipt of such order serve a written notice on the Engineer-in-charge under advice to the Accepting Authority requiring permission within fifteen days from receipt by the Engineer- in-charge of the said notice, to proceed with the works or part thereof in regard to which progress has been suspended and if such permission is not granted within that time, the Contractor, if he intends to treat the suspension, where it affects only a part of the works as an omission of such part by the Condition 15 or where it affects the whole of the works, as an abandonment of the works by the Employer shall within 10 days of expiry of such period of 15 days give notice in writing of his intention and future course of action to Engineer-in-Charge under advice to the Accepting Authority. In the event of the Contractor treating the suspension as an abandonment of the Contract by Employer, he shall have no claim to payment. If any compensation on account of any profit or advantage which he may have derived from the execution of the work in full but which he could not derive in consequence of the abandonment, he shall, however, be entitled to compensation, as the Accepting Authority may consider reasonable, in respect of salaries and/or wages paid by him to his employees and labour at Site, remaining idle in consequences thereof and of materials collected which could not be utilised on the works, any major equipment, remaining idle resulting from such suspension adding to the total thereof the percentage mentioned in Schedule A item no. 16(c) to cover indirect expenses of the Contractor, provided the Contractor submits his claim supported by the details to the Engineer-in-Charge under advice to the Accepting Authority within 28 days of the expiry of the period of 3 months.

17.0 Termination

17.1 Termination for Employer's Convenience

17.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 17.1.

17.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 17.1.1 the Contractor shall either immediately or upon the date specified in the notice of termination

17.1.2.1 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

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

17.1.2.3 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

17.1.2.4 In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 17.1.3, 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.

17.1.3 In the event of termination of the Contract under GCC Sub-Clause 17.1.1, the Employer shall pay to the Contractor the following amounts:

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

17.1.3.2 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

17.1.3.3 any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges

17.1.3.4 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 Sub-Clause 17.1.2

17.1.3.5 the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered

by paragraphs (a) through (d) above.

17.2 Termination for Contractor's Default

17.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefor to the Contractor, referring to this GCC Sub-Clause 17.2 :

17.2.1.1 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

17.2.1.2 if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 44.0.

17.2.1.3 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 Sub-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, non-competitive 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" is

(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.

17.2.2 If the Contractor

17.2.2.1 has abandoned or repudiated the Contract

17.2.2.2 has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 16.1(b)) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed

17.2.2.3 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

17.2.2.4 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 13.0 at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended,

then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 17.2.

17.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 17.2.1 or 17.2.2, 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.

17.2.4 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.

17.2.5 Subject to GCC Sub-Clause 17.2.6, 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 Sub-Clause 17.2.3. 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.

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

If the sum that the Contractor is entitled to be paid, pursuant to GCC Sub-Clause 17.2.5, 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 Sub-Clause 17.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due the Contractor under GCC Sub-Clause 17.2.5, 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.

17.3 In this GCC Clause 17, 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.

17.4 In this GCC Clause 17, 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 - I (Terms and Procedures of Payment) to the Contract Agreement.

18.0 EXTENSION FOR DELAY

18.1 If the work is delayed by:

i) Force Majeure and /or

ii) Excepted Risks, as defined in para (p) and (r) of Clause 1.0 (Definitions) then upon the happening of any of aforesaid events, causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer-in-Charge but shall nevertheless make constantly his best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-Charge for proceeding with the works.

18.2 Request for extension of time, on grounds to be eligible for consideration of extension, shall be made by the Contractor in writing within Fourteen days of the happening of the event causing delay. The Contractor may, also, if practicable, indicate in such a request the period for which extension is desired.

18.3 In any such case the Authority mentioned in Schedule-A may give a fair and reasonable extension of time for completion of the work. Such extension shall be communicated to the Contractor by the Engineer-in-Charge in writing, latest within one month of the date of receipt of such request and required clarifications, if any, by the Engineer-in-Charge.

18.4 In case the Contractor's performance is delayed due to any act of omission on the part of the Employer or his authorised agents, the Contractor shall be given due extension of time for the completion of the works, to the extent such omission on the part of the Employer has caused delay in the Contractor's performance of the contract. Regarding reasonableness or otherwise of the extension of time, the decision of the Engineer-in-Charge shall be final.

19.0 TOOLS, PLANTS & EQUIPMENT

19.1 The Contractor shall arrange at his own expense all tools, plant and equipment (hereinafter referred to as T&P) required for execution of the work.

20.0 MATERIALS

20.1 The Contractor shall at his own expense, provide all materials required for the works. All the materials shall conform to the makes, specified in the approved makes of materials enclosed with the specification.

20.2 All materials to be provided by the Contractor shall be in conformity with the specifications laid down in the Contract and the Contractor shall, if requested by the Engineer-in- Charge, furnish proof to the satisfaction of Engineer-in- Charge that the materials so comply to the specifications and as well provide samples for approval of the Engineer-in- Charge that the materials so comply prior to supplies or their use in the works, (approved samples are to be maintained/ preserved by the Contractor carefully during progress of works).

20.3 Accordingly, the Contractor shall, at his own expense and without delay, supply to the Engineer-in-Charge samples of all the materials to be used in the works. The Engineer-in- Charge shall within seven days of supply of samples or within such further period as he may require, intimate to the Contractor in writing whether samples are approved by him or not. If samples are not approved, the Contractor shall forthwith arrange to supply to the Engineer-in-Charge for his approval fresh samples complying with the specifications laid down in the Contract.

20.4 The Engineer-in-Charge shall have full powers to order removal of any or all of the materials brought to site by the Contractor which are not in accordance with the Contract specifications or do not conform in character or quality to samples approved by him. In case of default on the part of the Contractor in removing rejected materials the Engineer-in-Charge shall be at liberty to have them removed by other means. The Engineer-in-Charge shall have full powers to procure proper materials from other sources to be substituted for rejected materials and in the event of the Contractor refusing to comply, he may cause the same to be used in the works provided that all costs, which may spend upon such removal and/or substitution shall be borne by the Contractor, of which, the Engineer-in-Charge shall keep the Contractor informed at every stage.

20.5 **Patents & Royalties**

The Contractor shall indemnify the Employer, its representatives or employee of the Employer against any action, claim or proceedings relating to infringement or use of any Patent or Design or any alleged Patent or Design rights and shall pay any royalties or other charges which may be payable in respect of any article or material or part thereof included in the Contract. In the event of any claim being made or action being brought against the Employer or any agent, servant or

employee of the Employer in respect of any such matters as aforesaid, the Contractor shall immediately be notified thereof and the Contractor shall be at liberty, at his own expenses to settle any dispute or to conduct any litigation that may arise therefrom, provided that such indemnity shall not apply when such infringement has taken place in complying with the specific directions issued by the Employer; but the Contractor shall pay royalties or other charges payable in respect of any such use, the amount so paid being reimbursed to the Contractor only if the use was the result of any drawings and/or specifications issued after submission of the Tender.

20.6 As brought in clause 6.0 and subject to as hereinafter provided all charges on account of GST on materials obtained for the works from any source shall be borne by the Contractor. The liability of the Employer shall be limited to reimbursement of GST on the supply of services made by the Contractor. The Input Tax Credit (ITC) available, if any, under GST as per the relevant Government laws wherever applicable has, however, been taken into account by the Contractor.

20.7 The Engineer-in-Charge shall be entitled to have tests carried out as specified in the Contract for any materials supplied by the Contractor other than those for which, as stated above, satisfactory proof has already been furnished, at the cost of the Contractor and Contractor shall provide at his expense all facilities which the Engineer-in-Charge may require for the purpose. For the tests which are not specified in the Contract but are required by the Engineer-in-Charge, the Contractor shall provide all facilities required for the purpose and the charges for these tests shall be borne by the Contractor only if the tests disclose that the said materials are not in accordance with the provision of the Contract. The cost of materials consumed in tests shall be borne by the Contractor in all cases except when otherwise provided.

20.8 In addition the Contractor shall perform/submit at his own cost such tests/ samples as may be required by the Engineer- in-Charge.

20.9 Proprietary Materials

The following materials, when brought to site, shall be inspected by the Employer.

a) Water Proofing compound (if applicable).

b) Cement

c) Steel

d) Primer/ Paints/ Varnish etc.

e) Bitumen (if Applicable)

f) Chemical for anti-termite treatment (if Applicable)

g) Any other materials as per discretion of the Employer.

20.9.1 The quantity of proprietary materials shall be measured and recorded in the Measurement Books and signed by the Contractor and the Engineer-in-Charge as a check to ensure that the quantities have been brought to site for incorporation in the work.

20.9.2 Proprietary materials brought at site shall be stored as directed by Employer and those already recorded in Measurement Book, shall be suitably marked for identification.

20.9.3 The Contractor shall ensure that the proprietary materials are brought to site in original sealed containers or packings bearing manufacturer's markings and brands (except where the quantity required is fraction of the smallest packing). Materials not complying with the requirement shall be rejected. The empty containers of such proprietary materials shall not be destroyed /disposed off without the permission of Engineer-in-Charge.

20.9.4 The Contractor shall produce receipted vouchers showing quantities of the materials to satisfy Engineer-in-Charge that the materials comply with the specifications. These vouchers shall be endorsed, dated and initiated by Engineer-in-Charge giving the Contract numbers and name of work and certified copy of each such voucher signed by the Contractor will be kept on record. The provisions of this clause may be relaxed if the quantity/purchase cost of material is considerably very small.

21.0 CEMENT & STEEL FOR THE WORK

21.1 The Contractor shall make his own arrangements for all the construction materials including cement and steel as are required for proper completion of the project. The materials to be incorporated in the work are required to confirm the CPWD/ IS standards/ the specification, as applicable indicated elsewhere herein the contract documents.

21.2 Cement and Cement Godown

Cement shall be procured by Contractor conforming to CPWD/ IS standards/ the specification, as applicable and only directly from the reputed manufacturers which will have to be got approved from the Employer in advance. Relevant vouchers and test certificates will be produced as and when required.

The cement shall be stored by the Contractor in such suitable covered

and lockable stores, well protected from climate and atmosphere's effect, which shall be locked by the Contractor. Employer may also choose to put a double lock. The cement godown shall be constructed by the Contractor as per specifications at his own cost. The cement will remain under double lock, one from the Employer & one from Contractor. The cement in bags shall be stored in godowns in easy countable position. Cement bags shall be used on first IN first OUT basis. Cement stored for beyond 90 days will be required to be tested at Contractor's cost before use in works.

21.3 **Steel & Steel Stockyard**

Steel conforming to CPWD/ IS standards/ the specification, as applicable shall be procured by the Contractor directly preferably from SAIL, TISCO /RASHTRIYA ISPAT NIGAM.

Contractor shall make advance planning for procurement of steel directly from SAIL/TISCO/RASHTRIYA ISPAT NIGAM. The contractor is to arrange to stock all types of steel in accordance with I.S Standard. To avoid any rusting etc., proper storing arrangements shall be made by the Contractor to store the steel in different diameter-wise stacks at his own cost.

Test certificates for each consignment of steel shall be furnished. However, the number of mandatory tests of steel as per CPWD norms/ IS standards/ the specification, as applicable may be got carried out by the Contractor as per the directions of Engineer-in-Charge for incorporating the materials in the work, at no additional cost of procurement from any source other than SAIL, TISCO or RASHTRIYA ISPAT NIGAM.

21.4 The Contractor shall maintain and submit proper records towards ascertaining the quantities of cement & steel received at site and consumed in the work and shall also submit the theoretical vs Actual Consumption Statements alongwith each third RA Bill i.e. 3rd, 6th, 9th etc. in respect of these materials. Proper record /registers shall be maintained towards the receipt of these materials indicating the quantity of receipt, size of bars, agency from where received, make /manufacturer, date & challan No. etc. and also towards day- to-day consumption of these materials (cement only) in the work and all such entries will be open for inspection of Employer.

21.5 Any under-consumption of cement, i.e. actual consumption being less than theoretical consumption plus allowable variation as given below, shall be recovered at twice the prevailing market rate of cement.

Allowable variation for under consumption of cement:2% (two percent)

21.6 Keeping in view minimum wastage in the item of reinforcement steel, actual consumption would be atleast 1% more than the theoretical consumption including authorised overlaps & chairs etc. Should the actual consumption be less than 1.01 times the theoretical consumption, the difference between actual consumption and 1.01 times the theoretical consumption shall be recovered at twice the prevailing market rate of steel.

21.7 Nothing extra shall be payable if actual sectional weights of various sizes of steel are more than weight specified in IS code.

21.8 a) Materials required for the works, brought by the Contractor shall be stored by the Contractor only at places approved by the Engineer-in-Charge, storage and safe custody of material shall be responsibility of the Contractor.

b) Employer's officials concerned with the Project shall be entitled at any time to inspect and examine any materials intended to be used in or on the works, either on the site or at factory or workshop or other place(s) where such materials are assembled, fabricated, manufactured or at any place(s) where these are lying or from which these are being obtained and the Contractor shall give such facilities as may be required for such inspection and examination free of cost.

c) All materials brought to the site shall become and remains the property of the Employer and shall not be removed off the site without the prior written approval of the Engineer-in-Charge. But whenever the works are finally completed and advance, if any, in respect of any such material is fully recovered, the Contractor shall at his own expenses forthwith remove from the site all surplus material original supplied by him and upon such removal, the same shall become the property of the Contractor.

22.0 LABOUR

22.1 Valid License for Labour

The Contractor shall obtain a valid license under the contract labour (R&A) Act 1970 and the contract labour Act Central Rules 1971, before the commencement of work.

22.2 Labour Safety Provision

The Contractor shall be fully responsible to observe the labour safety provisions.

22.3 **Observance of Labour Laws**

22.3.1 The Contractor shall be fully responsible for observance of all labour laws and other laws applicable in this matter and shall indemnify and keep indemnified the Employer against effect or non-observance of any such laws. The Contractor shall be liable to make payment to all its employees and make compliance with labour laws. If Employer is held liable as "Principal Employer" to pay contributions etc. under legislation of Govt. or Court decision in respect of the employees of the Contractor, then the Contractor would reimburse the amount of such contributions so paid by 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).**

22.3.2 **EPF Contribution**

As per latest amendments to P.F. Act, employees/workers engaged by Contractor are to be provided P.F coverage from the very first day of their employment. In compliance to this, the Contractor is to submit a monthly statement for deductions /subscriptions. In case of the Contractor not being registered with the EPF authorities or in absence of the required statement, 25% of the authenticated and certified wages bill or 5% of the value of work done, whichever is less, shall be withheld by Employer and shall be released only after the production of the clearance certificate from the EPF
/ ESI Authorities that no dues on this account is outstanding.

22.4 **Labour Records**

The Contractor shall submit, by the 4th & 19th of every month to the Engineer-in-Charge a true statement, showing in respect of the second half of the preceding month and the first half of the current month, respectively, of the following data:

1) The number of the labour employed by him (category- wise)
2) The working hours

3) The wages paid to them.

4) The accidents that occurred during the said fortnight showing the circumstances under which they happened and the extent of damage and injury caused.

5) The number of female workers who have been allowed Maternity Benefits and the amount paid to them.

6) An eligibility register of the labour for the purpose of EPF is required to be maintained at site which will have regular certification after due confirmation of the record and the facts by the Engineer-in-Charge or his authorised representative.

7) Any other information required by Engineer-in-Charge.

22.5 **Certificate of Labour Officer**

Contract Performance Guarantee of the Contractor shall not be refunded till the clearance certificate from the Labour Officer is obtained by the Contractor and submitted to the Employer.

22.6 The Contractor shall employ labour in sufficient numbers either directly or through Sub-Contractor to maintain the required rate of progress and of quality to ensure workmanship of the degree specified in the Contract and to the satisfaction of the Engineer-in-Charge. The Contractor shall not employ in connection with the works any Child Labour.

Labour having "Recognition of Prior Learning"(RPL) Certification (under Pradhan Mantri Kaushal Vikas Yojana(PMKVY)) can also be employed by the Contractor.

22.7 The Contractor shall pay to labour employed by him either directly or through his other sub-Contractor wages not less than fair wages as defined in the Contractors's Labour Regulations.

Payment of wages to Labour shall be regulated by Minimum Wages Act provisions and the Contractor should, to the satisfaction of Engineer-in-Charge, provide documentary evidence or otherwise regarding his actual disbursement of wages to Labour.

22.8 During continuance of the contract, the Contractor and his sub-contractors shall abide at all times by all applicable existing labour enactments and rules made thereunder, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws and 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.

22.9 The Contractor shall comply with the provisions of Employee's Compensation Act 1923, Payment of Gratuity Act 1972, Employee P.F and Miscellaneous Provision Act 1952, Maternity Benefit Act 1951, Contract Labour (Regulation & Abolition) Act 1970, Minimum Wages Act, 1948, Payment of Wages Act 1936, Equal Remuneration Act 1979, Payment of Bonus Act 1965, Industrial Disputes Act, 1947, Industrial Employment (Standing Orders) Act 1946, Trade Unions Act 1926, Child Labour (Prohibition & Regulation) Act 1986, Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979, The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996, Employees State Insurance Act 1948 (wherever made applicable by appropriate Government) and Mines Act 195, or any modifications thereof or any other law relating thereto and rules made thereunder from time to time.

(a) **Employee's** Compensation Act 1923: The Act provides for compensation in case of injury by accident arising out of and during the course of employment.

(b) Payment of Gratuity Act 1972: Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years service or more or on death at the rate of 15 days wages for every completed year of service. The Act is applicable to all establishments employing 10 or more employees.

(c) Employee P.F. and Miscellaneous Provision Act 1952: The Act provides for monthly contribution by the employer plus workers @10% or 8.33%. The benefits under the Act are:

(i) Pension or family pension on retirement or death, as the case may be.
(ii) Deposit linked insurance on death in harness of the worker.
(iii) Payment of P.F. accumulation on retirement/death etc.

(d) Maternity Benefit Act 1951: The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.

(e) Contract Labour (Regulation & Abolition) Act 1970: The Act provides for certain welfare measures to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided, by the Principal

Employer by law. The Principal Employer is required to take Certification of Registration and the Contractor is required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ 20 or more labour contract labour.

(f) Minimum Wages Act 1948: The Employer is supposed to pay not less than the Minimum Wages fixed by appropriate Government as per provision of the Act if the employment is a scheduled employment. Construction of Buildings, Roads, Runways are scheduled employments.

(g) Payment of Wages Act 1936: It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.

(h) Equal Remuneration Act 1979: The Act provides for payment of equal wages for work of equal nature to Male and Female workers and for not making discrimination against Female employees in the matters of transfers, training and promotions etc.

(i) Payment of Bonus Act 1965: The Act is applicable to all establishments employing 20 or more employees. The Act provides for payments of annual bonus subject to a minimum of 8.33% of wages and maximum of 20% of wages to employees drawing Rs. 3500/- per month or less. The bonus is to be paid to employees getting Rs. 2500/- per month or above upto Rs. 3500/- per month shall be worked out by taking wages as Rs. 2500/- per month only. The Act does not apply to certain establishments. The newly set-up establishments are exempted for five years in certain circumstances. Some of the State Governments have reduced the employment size from 20 to 10 for the purpose of applicability of this Act.

(j) Industrial Dispute Act 1947: the Act lays down the machinery the procedure for resolution of Industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.

(k) Industrial Employment (Standing Orders) Act 1946: It is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and get the same certified by the designated Authority.

(l) Trade Unions Act 1926: The Act lays down the procedure for registration of trade unions of workmen and employers. The Trade Unions registered under the Act have been given certain immunities from civil and criminal liabilities.

(m) Child Labour (Prohibition & Regulation) Act 1986: The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of children in all other occupations and processes. Employment of Child Labour is prohibited in Building and Construction Industry.

(n) Inter-State Migrant workmen's (Regulation of Employment & Conditions of Service Act 1979: The Act is applicable to an establishment which employs 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The Inter-State migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, traveling expenses from home upto the establishment and back, etc.

(o) The Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996 : All the establishments who carry on any building or other construction work and employ 10 or more workers are covered under this Act. All such establishments are required to pay cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures at the Building or construction work and other welfare measures, such as Canteens, First-Aid facilities, Ambulance, Housing accommodations for workers near the work place etc. The Employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the government.

(p) Factories Act 1948: The Act lays down the procedure for approval at plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrences to designated authorities. It is applicable to premises employing 10 persons or more with aid of power or 20 or more persons without the aid of power engaged in manufacturing process.

22.9.1 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 Sub-contractors 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.

22.9.1.1

(i) 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.

22.9.2 The Contractor shall be liable to pay his contribution and the employees contribution to the State Insurance Scheme in respect of all labour employed by him for the execution of the Contract, in accordance with the provisions of "The Employees State Insurance Act, 1948" as amended from time to time. In case the Contractor fails to submit full details of his account of labour employed and the contribution payable, the Engineer-in-Charge shall recover from the running bills of the Contractor an amount of contribution as assessed by him.
The amount so recovered shall be adjusted against the actual contribution payable for Employees State Insurance.

22.10 If the Employer is caused to pay under any law as Principal Employer such 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 form the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

22.11 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 under, regulations or notifications including amendments.

22.12 In the event of the Contractor committing a default or breach of any of the provisions of the aforesaid Contractors Labour Regulations as amended from time to time or furnishing any information or submitting or filling any Form /Register/ Slip under the provisions of these Regulations which is materially incorrect then on the Report of

the Inspecting Officers as defined in the Contractors Labour Regulations the Contractor shall without prejudice to any other liability pay to the Employer a sum not exceeding Rs.100 as liquidated damages for every default, breach or furnishing, making, submitting, filling materially incorrect statement as may be fixed by the Engineer-in-Charge and in the event of the Contractor's default continuing in this respect, the liquidated damages may be enhanced to Rs.500 per day for each day of default subject to a maximum of ten percent of the estimated cost of the works put to Tender. The Engineer-in-Charge shall deduct such amount from bills or security deposit of the Contractor and credit the same to the Welfare Fund constituted under Regulations. The decision of the Engineer-in-Charge in this respect shall be final and binding.

22.13 Model Rules for Labour Welfare: The Contractor shall at his own expense comply with or cause to be complied with specific provisions relating to welfare and amenities to workmen contained in relevant labour legislation and Model Rules for Labour Welfare as appended to these conditions or rules framed by Government from time to time for the protection of health and for making sanitary arrangements for workers employed directly or indirectly on the works. In case the Contractor fails to make arrangements as aforesaid, the Engineer-in-Charge shall be entitled to do so and recover the cost thereof from the Contractor.

22.14 Wherever five or more inter-State Migrant Workmen are to be employed by the Contractor either directly or through other sub-contractor he will do so only after informing the Engineer-in-Charge and will obtain a licence from the Licensing Officer appointed by appropriate Government.

22.14.1 In case five or more Inter-State Migrant Workmen are employed by the Contractor, he shall carry out all the duties and obligations of the Contractor as defined in Chapter IV of Inter-State Migrant Workmen (R.E.C.S) Act, 1979 and comply with the provisions and implement measures relating to Wages, Welfare, and other facilities to be provided to Inter- State Migrant Workmen as contained in Chapter-V of the said Act.

22.14.2 The fixed date of payment of Wages to such Workmen will be notified by the Contractor in advance and firm arrangements will be made by him to ensure the presence of a representative of Employer on the date and time of payment of Wages, in consultation with the Engineer-in-Charge. In case of any short fall in payment of wages or non-payment of due wages by the Contractor, the Engineer-in-Charge will be competent to pay equivalent amount to the entitled Workmen directly and recover the same from the Contractor either from his dues or

deposits.

23.0 SAFETY PROVISION

23.1 **Safety Provision shall be as per Appendix – V to Special Conditions to the Contract (SCC).**

24.0 CONTRACTORS USE OF LAND FOR SITE OFFICE ETC.

24.1 The Contractor shall not be permitted to enter on (other than for inspection purposes) or take possession of the site until instructed to do so by the Engineer-in-Charge in writing. The portion of the site to be occupied by the Contractor shall be defined and/or marked on the site plan, failing which these shall be indicated by the Engineer-in-Charge at site and the Contractor shall on no account be allowed to extend this operation beyond these areas. In respect of any land allotted to the Contractor for purposes of or in connection with the contract, the Contractor shall be a licencee subject to the following and such other terms and conditions as may be imposed by licencer:

i) that he shall pay a nominal licence fee of Rs. 1 per year or part of a year for use and occupation, in respect of each and every separate area of land allotted to him.

ii) that such use or occupation shall not confer any right of tenancy of the land to the Contractor.

iii) that the Contractor shall be liable to vacate the land on demand by the Engineer-in-Charge.

iv) that the Contractor shall have no right to any construction over this land without the written permission of the Engineer-in-Charge. In case, he is allowed to construct any structure, he shall have to demolish and clear the same before handing over the completed work unless agreed to the contrary. The Contractor shall provide if necessary or required on the site all temporary access thereto and shall alter, adapt and maintain the same as required from time to time and shall clear them away as and when no longer required and as and when ordered by the Engineer-in-Charge and make good all damage done to the site.

25.0 SETTING OUT THE WORKS

25.1 The Engineer-in-Charge shall supply dimensioned drawings, levels and other information necessary to enable the Contractor to set out the works and the Contractor shall set out the works and be responsible for the accuracy of the same. He shall rectify at his own cost and to the

satisfaction of the Engineer-in-Charge any error found at any stage which may arise through inaccurate setting out unless such error is based on incorrect data furnished in writing by the Engineer- in-Charge, in which case the cost of rectification shall be borne by the Employer. The Contractor shall protect and preserve all bench marks used in setting out works till end of the Defect Liability Period unless the Engineer-in-Charge directs their earlier removal.

26.0 SITE DRAINAGE

26.1 All water which may accumulate on the site during the progress of the works, or in trenches and excavations, shall be removed and drained out from the site to the satisfaction of the Engineer-in-Charge by the Contractor at his expense.

27.0 NUISANCE

27.1 The Contractor shall not at any time do, cause or permit any nuisance on site or do anything which shall cause unnecessary disturbance or inconvenience to Owner, Tenants or Occupiers of other properties near the site and to the public generally.

28.0 MATERIALS OBTAINED FROM EXCAVATION

Materials of any kind obtained from excavation on the site shall remain the property of the Owner and shall be disposed of as the Engineer-in-Charge may direct.

29.0 TREASURE, RELIC, MONUMENT & FOSSILS, ETC.

All fossils, coins, articles of value of antiquity and structures and other remains or things of geological or archaeological interest discovered on the site shall be the absolute property of the Owner and the Contractor shall take reasonable precautions to prevent his workmen or any other person from removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal, acquaint the Engineer-in-Charge with such discovery and carry out the Engineer-in-Charge's directions as to the disposal of the same at the expense of the Employer.

30.0 SECURITY & PROTECTION OF TREES

30.1 Trees designated by the Engineer-in-Charge shall be protected from damage during the course of the works. Where necessary, such trees shall be protected by providing temporary fencing.

30.2 The Contractor shall provide and maintain at his own expense all lights,

guards, fencing and watching when and where necessary or required by the Engineer-in-Charge for the protection of the works or for the safety and convenience of those employed on the works or the public.

31.0 CONTRACTOR'S SUPERVISION

31.1 The Contractor shall either himself supervise the execution of the works or shall appoint a competent representative approved by the Engineer-in-Charge. If the Contractor has himself not sufficient knowledge and experience to be capable of receiving instructions or cannot give his full attention to the works, the Contractor, shall at his own expense, employ as his accredited representative an engineer approved by the Engineer-in Charge. Orders given to the contractor's representative shall be deemed to have the same force if these had been given to the Contractor himself. If the Contractor fails to appoint a suitable representative as directed by the Engineer-in-Charge, the Engineer-in-Charge shall have full power to suspend the execution of the works until such date as a suitable representative is appointed and the Contractor shall be held responsible for the delay so caused to the works.

31.2 **Progress Report**

During execution of the Contract, the Contractor shall furnish monthly Progress Report to POWERGRID in a format as specified by the Owner or the Engineer-in-Charge indicating the progress achieved during the month. The Contractor shall also furnish any other information that is necessary to ascertain progress, if called for by the Engineer-in-Charge.

31.3 **Co-operation with other Agencies**

The Contractor shall attend at his cost all the meeting with the Engineer-in-Charge and other Sub-Contractors for the Contract. The Contractor shall attend such meetings as and when required and fully co-operate, with such persons and agencies involved.

32.0 INSPECTION AND APPROVAL

32.1 All works embracing more than one process stage shall be subject to examination and approval at each stage thereof or one stage as per instruction of Engineer-in-Charge. The Contractor shall give due notice to the Engineer-in-Charge or his authorised representative when each stage is ready. In default of such a notice, the Engineer-in-Charge shall be entitled to appraise the quality by such measures as considered appropriate, at the cost of the Contractor.

32.2 No work shall be covered up or put out of view without the approval of the Engineer-in-Charge or his authorised representative and the Contractor shall afford full opportunity and facility for examination and measurement of any of the work which is about to be covered up

or put out of view, this applies to examination of foundation also before permanent work is placed thereon. The Contractor shall give due notice in writing to the Engineer-in-Charge or his authorised representative whenever any such work or stage of work including foundation work is ready for examination prior of start of concreting or covering up of the foundation and the Engineer-in-Charge or his representative shall without reasonable delay, unless he considers it unnecessary and advises the Contractor in writing accordingly, attend for the purpose of examining and measuring such work or of examining such foundations. In the event of the failure of the Contractor to give such notice in writing he shall, if required by the Engineer-in-Charge, uncover and dismantle such work at his own expense.

32.3 The Engineer-in-Charge or his representative shall have powers at any time to inspect and examine any part of the works and the Contractor shall give such facilities as may be required for such inspection and examination.

32.4 The work will also be subjected to the inspection by the Chief Technical Examiner of the Chief Vigilance Commissioner (CVC) and the Contractor shall make necessary arrangements whenever required for this inspection without any additional cost to the Owner.

33.0 DUTIES AND POWERS OF ENGINEER-IN-CHARGE'S REPRESENTATIVE AND ENGINEER-IN-CHARGE SHALL INCLUDE THOUGH NOT LIMITED TO THE FOLLOWING

33.1 The duties of the representative of the Engineer-in-Charge are to watch and supervise the Works and to test and examine any materials to be used and ensure workmanship level required in the works.

33.2 The Engineer-in-Charge may from time to time in writing delegate to his Representative any of the powers and authorities vested in the Engineer-in-Charge by the Employer. Any written instruction or written approval given by the representative of the Engineer-in-Charge to the Contractor within the terms of such delegation be binding on the Contractor as though it has been given by the Engineer- in-Charge.

33.3 Decision of the Engineer-in-Charge shall be final and binding on the Contractor in respect of:

i) Measurements.

ii) Quality and workmanship.

iii) Ordering variations, deviations, substitutions items, additions, deletions in the works including rescheduling and change of

sequence of construction.

iv) All other matters for implementation of Contract delegated to Engineer-in-Charge by the Employer.

34.0 REMOVAL OF WORKMEN

34.1 The Contractor shall employ in and about the Execution of the works only such persons as are skilled and experienced in their several trades and the Engineer-in-Charge shall be at liberty to object to and require the Contractor to remove from the works any person employed by the Contractor in or about the execution of the works who in the opinion of the Engineer-in-Charge misconducts himself or is incompetent or negligent towards proper performance of his duties and such person shall not be again employed in the Works without permission of the Engineer-in-Charge.

35.0 UNCOVERING AND MAKING GOOD

The Contractor shall uncover any part of the Works and/or make openings in or through the same as the Engineer-in- Charge may from time to time direct for his verification and shall reinstate and make good such part to the satisfaction of the Engineer-in-Charge. If any such part subsequently found, on uncovering of works, to be executed in accordance with the Contract, the expenses of uncovering and / or making opening in or through reinstating and making good the same shall be borne by the Employer. In any other case all such expenses shall be borne by the Contractor.

36.0 WORK DURING NIGHT OR ON SUNDAYS AND HOLIDAYS

36.1 Subject to any provisions to the contrary contained in the Contract, none of the permanent works shall be carried out during night or on Sundays or on authorised holidays without the permission in writing of the Engineer-in-Charge and subject to the Engineer-in-Charge having satisfied himself to the Contractor's adequacy of supervision, quality assurance and safe working environments including lighting and ventilation etc.

37.0 COMPLETION CERTIFICATE

37.1 As soon as the work is completed, the Contractor shall give notice of such completion to the Engineer-in-Charge and within thirty (30) days of receipt of such notice the Engineer- in-Charge shall inspect the work and shall furnish the contractor with a Certificate of Completion indicating (a) date of Completion (b) defects to be rectified by the Contractor and /or (c) items for which payment shall be made at

reduced rates. No Certificate of Completion shall be issued nor shall the work be considered to be completed till the Contractor shall have removed from the premises on which the work has been executed all scaffolding, sheds and surplus materials (except such as are required for rectification of defects) rubbish and all hutments and sanitary arrangements provided for his workmen on the site in connection with the execution of the work, as have been erected by the Contractor or the workmen and cleaned all dirt from the parts of building(s) in upon or about which the work has been executed or of which he may have had possession for the purpose of the execution thereof and cleaned floors, gutters and drains, eased doors and sashes, oiled locks and fastening labelled key clearly and handed them over to the Engineer- in-Charge and made the whole premises fit for immediate occupation or use to the satisfaction of the Engineer-in- Charge. If the Contractor shall fail to comply with any of the requirements of this conditions as aforesaid, on or before the date of completion of the works, the Engineer-in-Charge may at the expense of the Contractor fulfill such requirements and dispose of the scaffoldings, surplus materials and rubbish, etc. as he thinks fit and the Contractor shall have no claim in respect of any such scaffoldings, surplus materials except for any sum actually realised by the sale thereof less the cost of fulfilling the requirements and any other amount that may be due from the Contractor. If the expense of fulfilling such requirements is more than the amount realised on such disposal as aforesaid, the Contractor shall forthwith on demand pay such excess within 30 days.

If at any time before completion of the entire work items or group of items, for which separate periods of completion have been specified, have been completed, the Engineer-in- Charge can take possession of any part of the same.

37.2 Taking Over

Upon successful completion of all tests to be performed at site on work/equipment materials furnished by the Contractor, the Employer shall issue to the Contractor a Taking over Certificate as a proof of the final acceptance of the work/equipment /materials. Such certificate shall not unreasonably be withheld nor will the Employer delay the issuance thereof on account of minor omissions or defects which do not affect the use and operation of the building and/or cause any serious risk to the work /equipment/ materials. Such certificates shall not relieve the Contractor of any of his obligations which otherwise survive by the terms and conditions of the Contract after issue of such certificate.

38.0 LIQUIDATED DAMAGES FOR DELAY BY CONTRACTOR

38.1 If the Contractor fails to complete the work including successful trial operation, where applicable, and clear the site on or before the Contractual ~~or extended~~ date of completion, he shall, without prejudice to any other right or remedy of the Employer on account of such breach, pay to the Employer as liquidated damages, not as penalty, a sum equivalent to 0.05% (zero point zero five percent) of the Contract Price for the whole of the facilities (or a part for which a separate time for completion is agreed), for each day 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 for the whole of the facilities (or a part for which a separate time for completion is agreed).

38.2 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.

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

38.4 No bonus will be given for earlier Completion of the Facilities or part thereof.

39.0 GUARANTEE

39.1 The Contractor shall warrant that the work executed by the Contractor and the materials used therein shall be of approved quality and in accordance with prescribed specifications and the Contract document and is free from any defects in the materials, design, workmanship and any other defects whatsoever during the period as specified against clause 40.0 of GCC commencing immediately upon handing over the work to Employer.

39.2 In the event of any emergency where in the judgement of the Engineer-in-Charge, delay and any repairs or adjustments as required could cause serious loss or damage such as carried out by the Engineer-in-Charge or a third party chosen by the Engineer-in-Charge without advance notice to the Contractor, the cost of such repairs and works shall be paid by the Contractor or by the surety under the Contract. In the event such action is taken by the Engineer-in-Charge, the Contractor would be notified promptly. This shall however not relieve the

Contractor from his responsibilities & liabilities under the Terms and Conditions of the Contract.

39.3 At the end of defect liability period Contractor's liability ceases except for any defects that by their nature come to notice later. Action shall be taken for rectification of such defects, as per provisions in the Contract and covered by appropriate Guarantee clause from the Contractor.

40.0 DEFECTS LIABILITY PERIOD

40.1 The Defect Liability Period shall be twelve (12) months reckoned from the date of Completion of works under the contract.

The Contractor shall be responsible to make good and remedy at his own expense within such period, any defect which may develop or may be noticed before the expiry of Defect Liability Period and which arises from either:

a) Any defective workmanship or

b) An act of commission, of the Contractor during the defect liability period.

The Contractor shall make good the defects & damages immediately at his own cost to match the original specifications to the satisfaction of the Engineer-in-Charge.

41.0 CONTRACTOR'S LIABILITY AND INSURANCE

(A) Contractor's Liability

41.1 From commencement to completion of the works, the Contractor shall take full responsibility for the care thereof and shall take precautions to prevent any loss or damage with a view to minimize loss or damage to the maximum extent possible and shall be liable for any part thereof including any loss to all the Employer's T&P from any cause whatsoever (save and except the Excepted Risks) and shall at his own cost repair and make good the same so that on completion, the works and all Employer's T&P shall be in good order and condition and in conformity with the requirements of the Contract and instructions of the Engineer-in-Charge.

41.2 In the event of any loss or damage to the works or any part thereof or to any T&P or to any material or articles at the site from any of the Excepted Risks, or force majeure the following provisions shall apply:

41.11.1 The Contractor shall, as may be directed in writing by the Engineer-in-charge, remove from the site any debris and such

portions of the works as have been damaged, and transporting to the Employer's store such Employer's T&P articles and/or materials as may be directed by Engineer-in-charge or his representative.

41.11.1 The Contractor shall, as may be directed in writing by the Engineer-in-charge, proceed with the construction, erection and completion of the works under and in accordance with the provisions and conditions of the Contract; and

41.11.1 Any payments in respect of aforesaid, as decided by Engineer-in-Charge shall be added to the Contract Sum. The net amount due shall be ascertained in the same manner as for deviations or as prescribed for payment. The net amount payable shall also include adjustment in respect of the undernoted formats :

Any re-execution of the works lost or damaged; the replacement of any T&P and/or any materials and articles lost or damaged, but not incorporated in the works on the day when the loss or damage occurred and the removal of the same by the Contractor of Employer's T&P articles and/or materials to the Employer's store and of debris and damaged works referred to therein as well as the compensation paid by him under the law for the time being in force, to any workman employed by him for any injury caused to him or to the workman's legal successors for loss of the workman's life.

41.3 Provided always that the Contractor shall not be entitled to payment under the above provisions in respect of such loss or damage as has been occasioned by any failure on his part to perform his obligations under the Contract or not having taken precautions to prevent loss or damage or minimise the amount of such loss or damage.

41.4 Where Employer's building or a part thereof is rented by the Contractor he shall insure the entire building against damage and fire risks if the building or any part thereof is used by him for the purpose of storing or using materials of combustible nature, as to which the decision of the Engineer-in-Charge shall be final and binding.

41.5 The Contractor shall indemnify and keep indemnified the Employer against all losses and claims for injuries or damage to any persons or any property whatsoever which may arise out of or in consequence of the construction and maintenance of works and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of or in relation thereto. Provided always that nothing herein contained shall be deemed to render the Contractor liable for or in respect of or to indemnify the Employer against any

compensation or damage caused by the Excepted Risks.

41.6 Before commencing execution of the work, the Contractor shall, without in any way limiting his obligations and responsibilities under this condition, insure against any damage, loss or injury which may occur to any property (excluding that of the Employer but including the Employer's building rented by the Contractor wholly or in a part and any part of which is used by him for storing combustible materials), or to any person (including an employee of the Employer) or arising out of carrying out of the Contract works.

41.7 The Contractor shall at all times indemnify the Employer against all claims, damages or compensation under the provisions of Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employer's Liability Act, 1938, the Workmen's Compensation Act, 1923, Industrial Disputes Act, 1947 and the Maternity Benefit Act, 1961 or any modifications thereof or any other law relating thereto and rules made thereunder from time to time or as a consequence of any accident or injury to any workman or other persons in or about the Works, whether in the employment of the Contractor or not, save and except where such accident or injury has resulted from any act of the Employer his agents or servants, and also against all costs, charges and expenses of any suit, action or proceedings arising out of such accident or injury and against all sum or sums which may with the consent of the Contractor be paid to compromise or compound any claim. Without limiting his obligations and liabilities as above provided, the Contractor shall insure against all claims, damages or compensation payable under the Workmen's Compensation Act, 1923 or any modification thereof or any other law relating thereto.

(B) Insurance

41.8 The Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth in **Appendix-III** to Contract Agreement in the sums and with the deductibles and other conditions specified.

42.0 FACILITIES TO OTHER CONTRACTORS

42.1 The Contractor shall, in accordance with the requirements of the Engineer-in-Charge afford all reasonable facilities to other Contractors engaged concurrently on separate Contracts in connection with the works and for departmental labour and labour of any other agency or authorised authority or statutory body which may be employed at the Site for execution of any work not included in the Contract or of any Contract which the Employer may enter into in connection with or ancillary to the works.

43.0 NOTICES TO LOCAL BODIES

43.1 Contractor shall comply with and give all notices required under any Governmental authority, instrument, rule or order made under any Act of Parliament, State laws or any regulation or bye-laws of any local authority relating to the works. He shall before making any variation from the Contract drawings necessitated by such compliance give to the Engineer-in-Charge a written notice giving reasons for the proposed variation and obtain the Engineer-in-Charge's instructions thereon before undertaking any such variations under instructions from any authority other than Engineer-in- Charge.

43.2 The Contractor shall pay and indemnify the Employer against any liability in respect of any fees or charges payable under any Act of Parliament, State laws or any Government instrument, rule or other and any regulations or bye-laws of any local authority in respect of the works.

44.0 SUB-LETTING OF WORK

44.1 Contractor shall not further sub-contract any portion of the Contract without the prior written approval of the Accepting Authority. Employment of the piece rate workers on piece rate works shall not be deemed to be sub-contracting provided that complete responsibility under the Labour Regulation Act/Labour Laws in force shall solely rest on Contractor/ agency who employs further sub-contractor and that too with prior approval of Engineer-in-Charge.

Further, the Contractor shall not subcontract any work to a sub-contractor/sub vendor from such countries which shares a land border with India unless such subcontractor/sub vendor fulfills all requirement in regard to 'Bidder from a country which shares a land border with India' as per ITB clause 2.1.

44.2 The Contractor shall furnish the details of items, components, raw materials, services etc. procured from MSEs and consumed for completion of scope of works under the contract. The details shall be furnished as per the format enclosed at Section VI: Forms, Volume-I of the bidding documents at the time of raising bills for payment against the supplies made/works done.

45.0 INSTRUCTIONS AND NOTICES

45.1 Subject to as otherwise provided in this Contract, all notices to be given on behalf of the Employer and all other actions to be taken on its behalf may be given or taken by the Engineer- in-Charge or any officer for the

time being entrusted with the functions, duties and powers of the Engineer-in-Charge.

45.2 All instructions, notices and communications, etc. under the Contract shall be given in writing and if sent by registered post to the last known place of abode or business of the Contractor shall be deemed to have been served on the date when in the ordinary course of post these would have been delivered to him. It is a condition of this Contract that the Employer shall not be responsible for postal delays/defaults in delivery.

45.3 The Contractor or his Agent shall be in attendance at the site(s) during all working hours and shall superintend the execution of the works with such additional assistance in each trade as the Engineer-in-Charge may consider necessary. Orders/ instructions given to the Contractor's agent shall be considered to have the same force as if they had been given to the Contractor himself.

45.4 The Engineer-in-Charge shall communicate or confirm the instructions to the Contractor in respect of the execution of work in "Works Site Order Book" maintained in the office of the Engineer-in-Charge and the Contractor or his authorised representative shall confirm receipt of such instructions by signing the relevant entries in this Book. If required by the Contractor he shall be furnished a certified true copy or a photostat copy of such instruction(s).

46.0 FORECLOSURE OF CONTRACT IN FULL OR IN PART DUE TO ABANDONMENT OR REDUCTION IN SCOPE OF WORK

46.1 If at any time after acceptance of the Tender and execution of the agreement, the Employer shall decide to abandon or reduce the scope of the works for any reason whatsoever and hence not require the whole or any part of the works to be carried out, the Engineer-in-Charge shall give notice in writing to that effect to the Contractor and the Contractor shall have no claim to any payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the works in full but which he did not derive in consequence of the foreclosure of the whole or part of the works.

46.2 The Contractor shall be paid at Contract rates full amount for works executed at site and, in addition, a reasonable amount as certified by the Engineer-in-Charge for the items hereunder mentioned which could not be utilised on the work to the full extent because of the foreclosure:

a) Any expenditure incurred on preliminary site work, e.g.

temporary access roads, temporary labour huts, staff quarters and site offices; storage accommodation and water storage tanks.

b) i) The Employer shall have the option to take over Contractor's materials or any part thereof either brought to Site or of which the Contractor is legally bound to accept delivery from suppliers (for incorporation in or incidental to the work) provided, however, the Employer shall be bound to take over the materials or such portions thereof as the Contractor does not desire to retain. For materials taken over or to be taken over by the Employer, cost of such materials shall, however, take into account purchase price, cost of transportation and deterioration or damage which may have been caused to materials whilst in the custody of the Contractor and provided that the rates and price at which the supplies have been made by suppliers are not higher than and are reasonable in the range of market rates.

ii) For Contractor's materials not retained by the Employer reasonable cost of transporting such materials from Site to Contractor's permanent stores or to his other works, whichever is less, shall be payable by the Employer. If materials are not transported to either of the said places, no cost of transportation shall be payable.

c) Reasonable compensation for transport of T&P from site to Contractor's permanent stores or to his other works.

d) The sum payable to the Contractor towards such compensation or remedies available (arising out of foreclosure of Contract in full or in part due to abandonment or reduction in scope of Works) shall however not exceed those claimable and payable to their sub-contractors under respective Sub-Contracts.

46.3 Any amount due to the Contractor under this Agreement may be adjusted against any amount or any other dues which may at any time, thereafter become due to the Contractor under this Agreement.

46.4 The Contractor shall, if required by the Engineer-in-Charge, furnish to him the books of account, wage books, time sheets and other relevant documents as may be necessary to enable him to certify the reasonable amount payable under this condition.

47.0 TERMINATION OF CONTRACT ON DEATH

If the Contractor is an individual or a proprietary concern and the individual or the proprietor dies and if the Contractor is a partnership

concern and one of the partners dies then unless the Accepting Authority is satisfied that the legal representatives of the individual Contractor or of the proprietor of the proprietary concern and in the case of partnership, the surviving partners, are capable of carrying out and completing Contract, the Accepting Authority shall have Powers to cancel the Contract in respect of its in-completed part without the Employer being in any way liable to payment of any compensation to the estate of the deceased Contractor and/or to the surviving partners of the Contractor's firm on account of the cancellation of the Contract. The decision of the Accepting Authority to the effect the legal representatives of deceased Contractor or the surviving partners of the Contractor's firm cannot carryout and complete the Contract shall be final and binding on the parties. In the event of such cancellation, the Employer shall not hold the estate of the deceased Contractor and/or the surviving partners of the Contractor's firm liable for any damages for not completing the Contract.

48.0 LIABILITY FOR DAMAGE, DEFECTS OR IMPERFECTIONS AND RECTIFICATION THEREOF

48.1 If the Contractor or his workman or employees shall damage or destroy any part of the building in which they may be working or any building, road, fence, etc. contiguous to the premises on which the work or any part of it is being executed, or if any damage shall happen to the work while in progress the Contractors shall upon receipt of a notice in writing in that behalf make the same good at his own expense. If it shall appear to the Engineer-in-Charge or his representative prior to the expiration of the Defects Liability period, that any works has been executed with unsound, imperfect or unskilled workmanship or that any materials or articles, provided by the Contractor for execution of the work are unsound or of a quality inferior to that contracted for, or otherwise not in accordance with the Contract, or that any defect, shrinkage or other faults have appeared or have been detected in the work arising out of defective or improper materials or workmanship, the Contractor shall, upon receipt of a notice in writing in that behalf from the Engineer-in- Charge, forthwith rectify or remove and re-construct the work so specified in whole or in part, as the case may require or as the case may be, and/ or remove the materials or articles so specified and provide other proper and suitable materials or articles at his own expense, notwithstanding that the same may have been inadvertently passed, certified and paid for and in the event of his failing to do so within the period to be specified by the Engineer-in-Charge in his notice aforesaid, the Engineer-in-Charge may rectify or remove and re-execute the work and/or remove and replace with others the materials or articles complained of, as the case may be, by other means at the risk and expense of the Contractor.

48.2 In case of repairs and maintenance works, splashes and droppings from white-washing printing, etc., shall be removed and surfaces cleaned simultaneously with completion of these items of work in individual rooms, quarters or premises, etc., where the work is done, without waiting for completion of all other items of work in the Contract. In case the Contractor fails to comply with the requirements of this condition, the Engineer-in-Charge shall have the right to get the work done by other means at the cost of the Contractor. Before taking such action, however, the Engineer-in-Charge shall give three days' notice in writing to the Contractor.

48.3 **Risk and Cost**

During the period of construction and also during defect liability period, if the contractor fails to rectify any defect pointed out to him, the same shall be got done by POWERGRID at the risk and cost of contractor and recovered from the Contract Performance Guarantee or any other amount payable to the Contractor.

49.0 URGENT WORKS

If any urgent work (in respect whereof the decision of the Engineer-in-Charge shall be final and binding) becomes necessary and the Contractor is unable or unwilling at once to carry it out, the Engineer-in-Charge may by his own or other work people carry it out as he may consider necessary. If the Urgent work shall be such as the Contractor is liable under the Contract to carry out at his expenses all expenses incurred on it by the Employer shall be recoverable from the Contractor and be adjusted or set off against any sum payable to him.

50.0 SPECIFICATIONS

50.1 The materials and workmanship shall conform with the provisions laid down in the specifications issued to the Bidder by the Employer.

51.0 WATER, ELECTRICITY & LAND

Water, Electricity & land for Contractor's site office, store, workshop etc., as per the requirement shall be arranged by the Contractor at their own cost. EMPLOYER will not entertain any claim whatsoever in this regard.

52.0 EMPLOYER'S LIEN ON EQUIPMENT

The Employer shall have lien on all equipment including those of the Contractor brought to the site for the purpose of erection, testing and commissioning of the equipment to be supplied and erected under the contract. The Employer shall continue to hold the lien on all such

equipment throughout the period of contract. No material brought to the site shall removed from the site by the Contractor and/or his sub-Contractors without the prior written approval of the Engineer-in-Charge.

53.0 VALUATION AND PAYMENT

53.1 Records and Measurement

The Engineer-in-Charge shall except as otherwise stated ascertain and determine by measurement the value in accordance with the Contract work done.

53.2 All item having a financial value shall be entered in Measurement Book, level book etc. prescribed by the Employer so that a complete record is obtained of all work performed under the Contract.

53.3 Measurement shall be taken jointly by the Engineer-in-Charge or his authorised representative and by the Contractor or his authorised representative and signed by both parties in token of their correctness and acceptance.

53.4 Before taking measurements of any work the Engineer-in- Charge or the person deputed by him for the purpose shall give a reasonable notice to the Contractor. If the Contractor fails to attend or send an authorised representative for measurement after such a notice or fails to countersign or to record his objection within a week from the date of measurement, then in any such event measurements taken by the Engineer-in-Charge or by the person deputed by him shall be taken to be correct measurements of the work.

53.5 The Contractor shall, without extra charge, provide necessary assistance, labour and other things necessary for measurements.

53.6 Measurements shall be signed and dated by both parties on the site on completion of measurement. If the Contractor objects to any measurements recorded on behalf of the Employer a note to that effect shall be made in the Measurement Book against the item objected to and such note shall be signed and dated by both parties engaged in taking the measurement. The decision of the Accepting Authority on any such dispute or difference or interpretation shall be final and binding on both the parties and shall be beyond the scope of the settlement of disputes by Arbitration in respect of all Contract items, substituted items, extra items and deviations.

54.0 METHODS OF MEASUREMENT

54.1 Except where any general or detailed description of the work is shown, Bill of Quantities shall be deemed to have been prepared and measurements shall be taken in accordance with the procedure set forth in the Schedule of Rates/ Specification notwithstanding any provision in the relevant Standard Method of Measurement or any general or local custom. In the case of items which are not covered by the Schedule of Rates/Specification, measurements shall be taken in accordance with the relevant Standard Method of Measurement issued by the Bureau of Indian Standards.

55.0 TERMS OF PAYMENT

55.1 The Contract Price shall be paid as specified in the corresponding Appendix - I (Terms and Procedures of Payment) to the Contract Agreement. The procedures to be followed in making application for and processing payments shall be those outlined in the same Appendix I.

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

56.0 CONTRACT PRICE ADJUSTMENT

56.1 Bids shall confirm to the price adjustment provisions as detailed in Appendix – II, Section-VI, Conditions of Contract. A bid submitted on a fixed price basis will not be rejected but the price adjustment will be treated as zero.

57.0 SETTLEMENT OF DISPUTES

57.1 Any dispute(s) or difference(s) arising out of or in connection with the contract shall, to the extent possible, be settled amicably between the parties.

57.2 If any dispute or difference of any kind whatsoever shall arise between the Employer and the contractor, arising out of the Contract for the performance of the Works whether during the progress of the Works or after its completion or whether before or after the termination, abandonment or breach of the Contract, it shall, in the first place, be referred to and settled by the Engineer-in-Charge, who within a period of thirty (30) days after being requested by either party to do so, shall give written notice of his decision to the Employer and the Contractor.

57.3 Save as hereinafter provided, such decision in respect of every matter so referred shall be final and binding upon the parties until the completion of the Works and shall forthwith be given effect to by the Contractor who shall proceed with the Works with all due diligence, whether he or the Employer requires arbitration as hereinafter

provided or not.

57.4 If after the Engineer-in-Charge has given written notice of his decision to the parties, no claim to arbitration has been communicated to him by either party within thirty (30) days from the receipt of such notice, the said decision shall become final and binding on the parties.

57.5 In the event of the Engineer-in-Charge failing to notify his decision as aforesaid within thirty (30) days after being requested as aforesaid, or in the event of either the Employer or the Contractor being dissatisfied with any such decision, or within thirty (30) days after the expiry of the first mentioned period of thirty (30) days, as the case may be, either party may require that the matters in dispute be referred to arbitration as hereinafter provided.

58.0 OVERPAYMENTS AND UNDER PAYMENTS

58.1 Wherever any claim for the payment of a sum of money to the Employer arises out of or under this Contract against the Contractor, same may be deducted by Employer from any sum then due or which at any time thereafter may become due to the Contractor under this contract and failing that under any other Contract with the Employer or from any other sum due to the Contractor from the Employer which may be available with the Employer or from his Contract Performance Guarantee or he shall pay the claim on demand.

58.2 The Employer reserves the right to carry out post payment audit and technical examination of the final bill including all supporting vouchers, abstracts, etc. the Employer further reserve the right to enforce recovery of any overpayment when detected, not withstanding the fact that the amount of the final bill may be included by one of the parties as an item of dispute before an arbitrator appointed under Condition 60.0 of this Contract and notwithstanding the fact that the amount of the final bill figures in the arbitration award.

58.3 If as a result of such audit and technical examination any overpayment is discovered in respect of any work done by the Contractor or alleged to have been done by him under the Contract, it shall be recovered by the Employer from the Contractor by any or all of the methods prescribed above, if any underpayment is discovered, the amount shall be duly paid to the Contractor by the Employer.

58.4 Provided that the aforesaid right of the Employer to adjust overpayments against amounts due to the Contractor under any other Contract with the Employer shall not extend beyond the period of two years from the date of payment of the final bill or in case the final bill is MINUS bill, from the date the amount payable by the Contractor under

the MINUS final bill is communicated to the Contractor.

58.5 Any amount due to the Contractor under this Contract as underpayment may be adjusted against any amount against this Contract or any other dues which may at any time, thereafter become due before payment is made to the Contractor, from him to the Employer on any other Contract or account whatsoever.

59.0 ARBITRATION

59.1 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.

59.2 The arbitration shall be conducted by a sole arbitrator in case the amount of claim is less than Rs. 25 Crore and by three member arbitral tribunal in case the amount of claim is greater than Rs. 25 Crore.

Sole Arbitration

The sole Arbitrator shall be chosen from a panel of empaneled Arbitrators maintained by POWERGRID. The same shall comprise of retired Judges and retired Senior executives of PSUs other than POWERGRID. Further, the choice of sole Arbitrator shall be governed by the amount of claim in the following manner:

Sl No.	Claim amount	Work Experience/ Qualifications
1	< Rs. 10 Crore	**Sole Arbitrator -** Retired Senior Executives of PSUs other than POWERGRID/ Retired Distt Court Judges/ Retired High Court Judges.
2	Rs. 10 Crore - Rs. 25 Crore	**Sole Arbitrator -** Retired High Court Judges/ Retired Supreme Court Judges

(a) In case of invocation of arbitration by POWERGRID, POWERGRID shall, within 30 days, send a list of names of 3 arbitrators from its list/database of Arbitrators and the contractor shall within the period of further 30 days select any one person to act as "Sole Arbitrator", which will be confirmed by POWERGRID and matter will be referred to such appointed Arbitrator for further arbitration proceedings.

(b) In case of invocation of arbitration by the Contractor, the Contractor shall request POWERGRID for its database of Arbitrators/ chose from the list of Arbitrators available on POWERGRID's website, and the contractor shall, within 30 days, select any one Arbitrator from the above to act as "Sole Arbitrator", which will be confirmed

by POWERGRID within 30 days and matter will be referred to such appointed Arbitrator for further arbitration proceedings.

If the parties fail to appoint sole arbitrator within sixty (60) days after receipt of a notice from the other party invoking Arbitration, the appointment of sole arbitrator shall be done by Courts as per the provisions of Indian Arbitration and Conciliation Act, 1996 or any statutory modification thereof.

Three-member Arbitral Tribunal

The arbitration shall be conducted by three arbitrators, who are retired High Court/Supreme Court Judges, 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. 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.

59.3 The cost of arbitral proceedings inter-alia including the Arbitrators' fee, logistics and any other charges shall be equally shared by both parties.

In case of Sole Arbitrator, the fees to be paid to the sole Arbitrator shall be as per the terms of empanelment in POWERGRID whereas in case of the three-member tribunal, the Arbitrators' 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.

59.4 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 Vadodara**.

59.5 The decision of **the sole arbitrator/ 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 **sole arbitrator/ 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 sole arbitrator/ another**

arbitrator in place of the outgoing arbitrator.

59.6 Notwithstanding the above, in case the contractor is a Central Public Sector Enterprise (CPSE)/Government Organization or Department then the **dispute/ difference (other than those related to taxation matters)** between the Employer and the Contractor shall be settled through Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD) as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22.05.2018 **and DPE OM No. DPE-GM-05/0003/2019-FTS-10937 dated 20.02.2020**. The decision through AMRCD will be final and binding on all the concerned.

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

60.0 LAWS & JURISDICTION OF CONTRACT

60.1 This contract shall be governed by the Indian Laws for the time being in force.

60.2 The laws applicable to the contract shall be the laws in force in India. The courts of Delhi shall have exclusive jurisdiction in all matters arising out of this contract, including execution of arbitration awards under clause 59.0 contained herein.

61.0 LIMITATION OF LIABILITY

61.1 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 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.

62.0 CODES AND STANDARDS

62.1 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.

63.0 APPROVAL OF STATUTARY/GOVT. BODIES

The Contractor shall wherever required, obtain approval of the Statutory/ Govt./Local bodies for and on behalf of the Owner, during the construction and after completion of the project. However, the owner may also help the contractor to the extent of writing letters to the local bodies for expediting approval, if required. The fee/charges levied by the Statutory/Govt./Local bodies shall be reimbursed to the contractor on production of documentary proof.

End of Section – General Conditions of Contract

SCHEDULE-A

REFERENCE TO GENERAL CONDITIONS OF CONTRACT

Clause No. of GCC	*Parameter*	*Values*
1.0 (a)	Accepting Authority	ED (WR-II), POWERGRID or his authorized Executive.
1.0 (t)	Market Rate percentage addition to cover over heads and profit addition to cover over	15 per cent
15(iii)	Schedule of Rates applicable	CPWD-DSR latest for civil works
15 (vi)A	Deviation Limit for Items of Works other than those below ground surface	
15vi) Aa	Permissible deviation limit for any contract item, substituted item in excess of the original value of item.	25% for individual item. However, limit of deviation for overall Contract value shall be 25%.
15 (vi) Ab	Permissible deviation limit for items of works not already included in the Contract.	25 per cent
15 (vi) B	Deviation Limit for item of Work below ground surface	
15 (vi) Ba	Permissible deviation limit for an individual trade item.	± 100 per cent
16.0	Suspension of work.	
16.0 (b) (ii)	Percentage payable to cover Contractor's indirect expenses for suspension exceeding thirty days and not exceeding 3 months	4 per cent
16 (c)	Percentage payable to cover Contractor's indirect expenses for suspension exceeding 3 months	5 per cent
18	Authority competent to decide if "any other cause" of delay is beyond Contractor's control	Engineer-in-Charge
22.4	Distribution return of number and description by trades of workmen employed on works to be submitted to Engineer-in- Charge	Fortnightly