

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/Offer/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 defined in SCC.

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 matters 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.

4. Time for Commencement and Completion

- 4.1 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 - 4 (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 shall be subject to adjustment in accordance with the provisions of Appendix 2 (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.

All applicable taxes, duties and levies including Sales Tax on Work Contract for all transactions between the Contractor and his sub-contractors as well as for all transactions between the Contractor and Employer shall be included in the bid price. No claim on account of any taxes, duties or other levies or any interest therein shall be entertained by Employer.

6.2 The bidder shall include Service Tax and surcharge/cess etc. on it as applicable in their quoted bid price and Employer would not bear any additional liability on this account. Employer shall, however, deduct such tax at source as per the rules and issue necessary Certificate to the Contractor.

- 6.3 Sales Tax on works contract and other taxes, duties and levies, as brought out at para 6.1 and 6.2 above, shall be borne by the Contractor and Employer will not have any liability whatsoever in this regard. Sales Tax on works contract as per Sales Tax Act will be deducted at source by Employer and deposited with Sales Tax Authority. The award of contracts shall be on works contract basis. Income tax shall be deducted as per applicable laws.

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

- 8.2.1 The Contractor shall, within twenty-eight (28) days of the notification of contract award, provide a security in an amount equal to the advance payment calculated in accordance with the corresponding Appendix - 1 (Terms and Procedures of Payment) to the Contract Agreement, and in the same currency(ies) with initial validity of up to ninety (90) days beyond the date of Completion of the Facilities in accordance with GCC Clause 13. The same shall be extended by the Contractor time to time till ninety (90) days beyond the actual date of Completion of the Facilities, as may be required under the Contract.

- 8.2.2 The security shall be in the Form of unconditional Bank Guarantee attached hereto in Section VI - Sample Forms and Procedures. The security shall be discharged after completion of the facilities or relevant part thereof.

- Procedure for effective reduction in the Advance Payment Security

The Advance Payment Security shall be allowed to be reduced every six (06) months after First Running Account Bill/Stage payment under the Contract if the validity of the Bank Guarantee is more than one year. The cumulative amount of reduction at any point of time shall not exceed seventy five percent (75%) of the advance corresponding to cumulative value of the Facilities completed as per a certificate to be issued by the Project Manager. It should be clearly understood that reduction in the value of advance Bank Guarantee shall not in any way dilute the Contractor's responsibility and liabilities under the Contract including in respect of the Facilities for which reduction in the value of security is allowed.

8.3 CONTRACT PERFORMANCE GUARANTEE

8.3.1 As a security towards satisfactory performance of the Contract, the successful Bidder, to whom the work is awarded, shall be required to furnish a Performance Guarantee for the due performance of the Contract in the amount equivalent to ten percent(10%) of the Contract Price in favour of the Employer within 28 days from the date of Notification of award and it shall guarantee the faithful performance of the contract in accordance with the terms and conditions specified in the documents. The guarantee shall be valid upto (90) days after the end of defect liability period. The guarantee amount shall be encashed by the Employer without any condition whatsoever, in the event of defects or deficiencies which come up during the validity of the guarantee period.

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

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

8.3.3 Reduction in the security pro rata to the Contract Price of any part of the Facilities is not admissible. However, if the Defects Liability Period has been extended on any part of the Facilities pursuant to GCC Clause 18.0 hereof, the Contractor shall issue an additional security in an amount proportionate to the Contract Price of that part. The security shall be returned to the Contractor immediately after its

expiration, provided, however, that if the Contractor pursuant to GCC Clause 40.0, is liable for an extended warranty obligation, the performance security shall be reduced to ten percent (10%) of the value of the component covered by the extended warranty.

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

8.3.5 No interest shall be payable to the contractor against EMD and Contract Performance Guarantee.

8.4 Issuing Banks

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

- (a) by a Public Sector Bank located in India, or
- (b) a scheduled Indian Bank having paid up capital (net of any accumulated losses) of Rs. 1,000 Million or above (the latest annual report of the Bank should support compliance of capital adequacy ratio requirement), or
- (c) by a foreign bank or a subsidiary of a foreign bank, located in India with overall international corporate rating or rating of long term debt not less than A- (A minus) or equivalent by a reputed rating agency.

9.0 Copy Right

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

The Employer shall however be free to reproduce all drawings, documents and other material furnished to the Employer for the

purpose of the Contract including, if required, for operation and maintenance.

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

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.

- 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 identification list, indicating the welding and Welding Operator's qualification procedure and Welding identification symbol and weld repair procedure actually used during fabrication etc.
 - b) Welding and Welder's qualification certificates.
- iii) Material 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 alongwith his Tender for the execution of work as envisaged by him alongwith 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

16.1a) 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

- (a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of

protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition

- (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii) below
- (c) remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition
- (d) In addition, the Contractor, subject to the payment specified in GCC 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:

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

- (d) costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 17.1.2
- (e) the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.

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 :

- (a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt
- (b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 44.0.
- (c) 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” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

“fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

“collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

“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 a Employer’s 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 Employer’s inspection and audit rights.

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

- (a) has abandoned or repudiated the Contract
- (b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 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

- (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause
- (d) refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Clause 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 (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 Octroi, Terminal or Sales tax and other Duties on materials obtained for the works from any source shall be borne 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.

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.

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 Workmen'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) Workmen 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.

- 22.9.2 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 from 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 CODE**
- 23.1 Safety requirements of general nature are attached hereto in Section VI - Sample Forms and Procedures.

23.2 The Contractor shall, at all times at his own expense exercise reasonable and proper precautions for the safety of all people directly or indirectly employed for the performance of the work and shall comply with the safety regulations/ instructions/ measures as given in Section VI - Sample Forms and Procedures. In addition to above, instructions /measures contained in the IS Code of practices for different works, some of important ones of which are given below, are to be referred to as relevant to each item:

1. IS: 3764 1992 Excavation work
2. IS: 7293 1974 Working with construction machinery
3. IS: 7969 1975 Handling & storage of building materials
4. IS: 3696 1987 Scaffolds & Ladders (Pt.I-Scaffolds)
5. IS: 3696 1991 Scaffolds & Ladders (Pt.II-Scaffolds)
6. IS: 818 1968 Safety and health protection in electric, gas welding and cutting operations.
7. IS : 5121 1969 Piling & other Deep foundations.
8. IS: 4130 1991 Demolition of buildings (2nd revision)(if Applicable)
9. IS: 5916 1970 Construction involving use of hot bituminous materials.
10. IS: 3016 1982 Fire protection in welding & cutting operations.

23.3 In addition to the above, the Contractor's responsibilities shall inter-alia include the following:

- i) All machinery, equipment and other sources of physical hazards shall be guarded in accordance with the requirements of the regulations and safety laws/ Acts of the Central and State Governments as well as Union territories.
- ii) In order to supervise the work from point of view of safety, the Contractor shall appoint a safety Engineer/ Office who shall report and be responsible to the Safety

Engineer and /or the Engineer in charge of the Employer.

- iii) The Contractor shall provide all necessary fencing and lights to protect the public from accidents and shall be bound to bear all the expenses for defence of every suit, action & other proceedings of Law that may be brought by any person for injury sustained owing to neglect of any of the required precautions. The Contractor shall also pay all damages and costs which may be awarded in any such suit, and proceedings to any such persons or which may with the consent of the Contractor is paid to compromise any claim by any person.
- iv) The Contractor shall observe all applicable regulations regarding safety on the Site.

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

- a) fencing, lighting, guarding and watching of the Works wherever required, and
- b) temporary roadways, footways, guards and fences which may be necessary for the accommodation and protection of Employer/his representatives and occupiers of adjacent property, the public and others.
- v) The Contractor shall ensure proper safety of all the workmen, materials, plant and equipment belonging to him or to Employer or to others, working at the Site. The Contractor shall also be responsible for provision of all safety notices and safety equipment required both by the relevant legislations and the Engineer-in-Charge, as he may deem necessary.
- vi) The Contractor will notify well in advance to the Engineer-in-Charge of his intention to bring to the Site any container filled with liquid or gaseous fuel or explosive or petroleum substance or such chemicals which may involve hazards. The Engineer-in-Charge shall have the right to prescribe the conditions, under which such container is to be stored, handled and used during the performance of the works and the Contractor shall strictly adhere to and comply with such instructions. The Engineer-in-Charge shall have the right at his sole discretion to inspect any such

container or such construction plant/ equipment for which material in the container is required to be used and if in his opinion, its use is not safe, he may forbid its use. No claim due to such prohibition shall be entertained by the Employer and the Employer shall not entertain any claim of the Contractor towards additional safety provisions/conditions to be provided for/constructed as per the Engineer-in-Charge's instructions.

Further, any such decision of the Engineer-in-Charge shall not, in any way, absolve the Contractor of his responsibilities and in case, use of such a container or entry thereof into the Site area is forbidden by the Engineer-in-Charge, the Contractor shall use alternative methods with the approval of the Engineer-in-Charge without any cost implication to Employer or extension of work schedule.

- vii) Where it is necessary to provide and/or store petroleum products or petroleum mixtures and explosives, the Contractor shall be responsible for carrying-out such provision and/or storage in accordance with the rules and regulations laid down in Petroleum Act 1934, Explosives Act, 1948 and Petroleum and Carbide of Calcium Manual published by the Chief Inspector of Explosives of India. All such storage shall have prior approval of the Engineer-in-Charge. In case, any approvals are necessary from the Chief Inspector (Explosives) or any statutory authorities, the Contractor shall be responsible for obtaining the same.
- viii) All equipment used in construction and erection by Contractor shall meet Indian/International Standards and where such standards do not exist, the Contractor shall ensure these to be absolutely safe. All equipment shall be strictly operated and maintained by the Contractor in accordance with manufacturer's Operation Manual and safety instructions and as per Guidelines/rules of Employer in this regard.
- ix) Periodical examinations and all tests for all lifting/hoisting equipment & tackles shall be carried-out in accordance with the relevant provisions of Factories Act 1948, Indian Electricity Ad 1910 and associated Laws/Rules in force from time to time. A register of such examinations and tests shall be properly maintained by the Contractor and will be promptly produced as and when desired by the Engineer-in-Charge or by the person authorised by him.
- x) The Contractor shall be fully responsible for the safe storage of his

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

- xi) The Contractor shall provide suitable safety equipment of prescribed standard to all employees and workmen according to the need, as may be directed by the Engineer-in-Charge who will also have right to examine these safety equipment to determine their suitability, reliability, acceptability and adaptability.
- xii) Where explosives are to be used, the same shall be used under the direct control and supervision of an expert, experienced, qualified and competent person strictly in accordance with the Code of Practice/Rules framed under Indian Explosives Act pertaining to handling, storage and use of explosives.
- xiii) The Contractor shall provide safe working conditions to all workmen and employees at the Site including safe means of access, railings, stairs, ladders, scaffoldings etc. The scaffoldings shall be erected under the control and, supervision of an experienced and competent person. For erection, good and standard quality of material only shall be used by the Contractor.
- xiv) The Contractor shall not interfere or disturb electric fuses, wiring and other electrical equipment belonging to the Employer or other Contractors under any circumstances, whatsoever, unless expressly permitted in writing by Employer to handle such fuses, wiring or electrical equipment
- xv) Before the Contractor connects any electrical appliances to any plug or socket belonging to the other Contractor or Employer, he shall:
 - a. Satisfy the Engineer-in-Charge that the appliance is in good working condition;
 - b. Inform the Engineer-in-Charge of the maximum current rating, voltage and phases of the appliances;
 - c. Obtain permission of the Engineer-in-Charge detailing the sockets to which the appliances may be connected.
- xvi) The Engineer-in-Charge will not grant permission to connect until he is satisfied that;

- a. The appliance is in good condition and is fitted with suitable plug;
 - b. The appliance is fitted with a suitable cable having two earth conductors, one of which shall be an earthed metal sheath surrounding the cores.
- xvii) No electric cable in use by the Contractor/ Employer will be disturbed without prior permission. No weight of any description will be imposed on any cable and no ladder or similar equipment will rest against or attached to it.
- xviii) No repair work shall be carried out on any live equipment. The equipment must be declared safe by the Engineer-in-Charge and a permit to work shall be issued by the Engineer-in-Charge before any repair work is carried out by the Contractor. While working on electric lines/equipment, whether live or dead, suitable type and sufficient quantity of tools will have to be provided by the Contractor to electricians/workmen/officers.
- xix) Contractor employing more than 250 workmen whether temporary, casual, probationer, regular or permanent or on contract, shall employ at least one full time officer exclusively as safety officer to supervise safety aspects of the equipment and workmen, who will coordinate with the Project Safety Officer. In case of work being carried out through Sub-Contractors, the Sub-Contractor's workmen/employees will also be considered as the Contractor's employees/workmen for the above purpose.

The name and address of such Safety Officers of the Contractor will be promptly informed in writing to Engineer-in-Charge with a copy to Safety Officer-In charge before he starts work or immediately after any change of the incumbent is made during currency of the Contract.

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

Safety Rules

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

- b) No employee shall be given a new assignment of work unfamiliar to him without proper introduction as to the hazards incident thereto, both to himself and his fellow employees.
- c) Under no circumstances shall an employee hurry or take unnecessary chances when working under hazardous conditions.
- d) Employees must not have naked fires unattended. Smoking shall not be permitted around fireprone areas and adequate fire fighting equipment shall be provided at crucial locations.
- e) Employees under the influence of any intoxicating beverage, even to the slightest degree shall not be permitted to remain at work.
- f) There shall be suitable arrangement at every work site for rendering prompt and sufficient first aid to the injured.
- g) The staircases and passageways shall be adequately lighted.
- h) The employees when working around moving machinery must not be permitted to wear loose garments. Safety shoes are recommended when working in shops or places where materials or tools are likely to fall. Only experienced workers shall be permitted to go behind guard rails or to clean around energized or moving equipment.
- i) The employees must use the standard protection equipment intended for each job. Each piece of equipment shall be inspected before and after it is used.
- j) Requirements of ventilation in underwater working to licensed and experienced divers, use of gum boots for working in slushy or in inundated conditions are essential requirements to be fulfilled.
- k) In cases of rock excavation blasting shall invariably be done through licensed blasters and other precautions during blasting and storage/transport of charge material shall be observed strictly.

23.5 Accident/ Accident Reports

23.5.1 On the occurrences of any accident, Contractor shall report the same in writing to the Engineer-in-Charge immediately on the occurrence of the accident. In case of fatal accidents or those which are serious and may result in death, the report shall be made immediately to the Engineer-in-Charge in the prescribed proforma, and also to all the authorities envisaged under the applicable laws like the Local Police Authorities, workmen compensation commissioner, etc.

Also a monthly report of all accidents in prescribed proforma shall be submitted by the Contractor to the Engineer-in-Charge.

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

23.5.3 The Contractor shall not be entitled for any damages / compensation for stoppage of work due to safety reasons as specified in para GCC 23.5.2 above and the period of such stoppage of work will not be taken as an extension of time for completion of work and will not be the ground for waiver of levy of liquidated damages.

23.5.4 The Contractor shall follow and comply with all Employer Safety Rules, relevant provisions of applicable laws pertaining to the safety of workmen, employees, plant and equipment as may be prescribed from time to time without any demur, protest or contest or reservations. In case of any discrepancy between statutory requirement and Employer Safety Rules referred above, the latter shall

be binding on the Contractor unless the statutory provisions are more stringent.

23.5.5 If the Contractor fails in providing safe working environment as per Employer Safety Rules or continues the work even after being instructed to stop work by the Project Manager as provided in GCC Sub-Clause 23.5.2 above, the Contractor shall promptly pay to Employer, on demand by the Employer, compensation at the rate of Rs. 5,000/- per day of part thereof till the instructions are complied with and so certified by the Engineer-in-Charge. However, in case of accident taking place causing injury to any individual, the provisions contained in GCC Sub-Clause 23.5.6 shall also apply in addition to compensation mentioned in this Clause.

23.5.6 If the Contractor does not take adequate safety precautions and/or fails to comply with the Safety Rules as prescribed by Employer or under the applicable law for the safety of the equipment and plant or for the safety of personnel or the Contractor does not prevent hazardous conditions which cause injury to his own employees or employees of other Contractors or Employer's employees or any other person who are at Site or adjacent thereto, then the Contractor shall be responsible for payment of a sum as indicated below to be deposited with the Employer, which will be passed on by Employer to such person or next to kith and kin of the deceased:

a.	Fatal injury or accident causing death	Rs. 1,000,000/- per person
b.	Major injuries or accident causing 25% or more permanent disablement	Rs. 100,000/- per person

Permanent disablement shall have same meaning as indicated in Workmen's Compensation Act. The amount to be deposited with Employer and passed on to the person mentioned above shall be in addition to the compensation payable under the relevant provisions of the Workmen's Compensation Act and rules framed there under or any other applicable laws as applicable from time to time. In case the Contractor does not deposit the above mentioned amount with Employer, such amount shall be recovered by Employer from any monies due or becoming due to the Contractor under the contract or any other on-going contract.

23.5.7 If the Contractor observes all the Safety Rules and Codes, Statutory Laws and Rules during the currency of Contract awarded by the

Employer and no accident occurs then Employer may consider the performance of the Contractor and award suitable 'ACCIDENT FREE SAFETY MERITORIOUS AWARD' as per scheme as may be announced separately from time to time.

23.6 In the event of persistent default by the Contractor in observance of safety requirements which lead to unsafe working and/or accidents, on any grounds whatsoever, including employment of inexperienced worker or workers not using safety wears, or any other causes which result in serious accidents on the works, the Engineer-in-Charge shall give notice for termination of Contract if he considers necessary in similar manner as provided under the clause for cancellation of the Contract in full or part.

23.7 The Contractor shall also submit 'Safety Plan' as per proforma specified in Section VI - Sample Forms and Procedures of the Bidding Documents alongwith all the requisite documents mentioned therein and as per check-list contained therein to the Engineer In-Charge for its approval within 60 days of award of Contract.

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

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 licensee 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.

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.

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 Contract 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 the following percent of Contract Value for every week of delay or part thereof.

- a) Completion period (as originally stipulated) not exceeding 6 months @1%
- b) Completion period (as originally stipulated) exceeding 6 months and not exceeding 2 years @0.5%
- c) Completion period (as originally stipulated) exceeding 2 years @0.5%

However, total amount of liquidated damages for delay under the contract will be subject to a maximum of the following percent of the total Contract price.

- a) Completion period (as originally stipulated) not exceeding 6 months @10%
- b) Completion period (as originally stipulated) exceeding 6 months and not exceeding 2 years @7.5%

- c) Completion period (as originally stipulated) @5%
exceeding 2 years

The amount of compensation may be adjusted or set off against any sum payable to the Contractor under this or any other Contract with the Employer.

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 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 Unless otherwise specified in SCC, the Defect Liability Period shall be twelve (12) months from the date of Taking Over /Completion of Works/Facilities (or any part thereof).

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

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 minimise 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 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 to protect his interest and interests of the Employer against all perils detailed herein. The form and the limit of such insurance as defined herein together with the underwriter in each case shall be acceptable to the Employer. However, irrespective of such acceptance, the responsibility to maintain adequate insurance coverage at all time during the period of Contract shall be of Contractor alone. The Contractor's failure in this regard shall not relieve him of any of his contractual responsibilities and obligations. The insurance covers to be taken by the Contractor shall be in the name of the Employer. Contractor shall, however, be authorised to deal directly with the Insurance Company or Companies and shall be responsible in regard to maintenance of all insurance covers.

41.3 The perils required to be covered under the insurance shall include, but not be limited to fire and allied risks, miscellaneous accidents (erection risks) workman compensation risks, loss or damage in transit, theft, pilferage, riot and strikes and malicious damages, civil commotion, weather conditions, accidents of all kinds, etc. The scope of such insurance shall be adequate to cover the replacements/ reinstatement cost of the Work/ equipment/ materials for all risks. The insurance policies to be taken should be on replacement value basis and/or incorporating escalation clause. Notwithstanding the extent of insurance cover and the amount of claim available from the underwriters, the Contractor shall be liable to make good the full replacement/ rectification value of all work/ equipment / materials and to ensure their availability as per Project requirements. The insurance coverage shall also include but not be limited to the following:

- a) Third party liability insurance with a minimum coverage of Rs.100,000/- (Rupees one hundred thousand only) for each occurrence.
- b) Employer's liability and worker's compensation insurance in respect of the Personnel of Contractor in accordance with the relevant provision of the applicable law, as well as with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate.

41.4 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:

- a) 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.
- b) 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

- c) 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.

- 41.5 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.
- 41.6 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.
- 41.7 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.

- 41.8 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.
- 41.9 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.
- 41.10 The aforesaid insurance policy/policies shall provide that they shall not be cancelled until the Engineer-in-Charge has agreed to their cancellation.
- 41.11 The Contractor shall prove to the Engineer-in-Charge from time to time that he has taken out all the insurance policies referred to above and has paid the necessary premiums for keeping the policies alive till the project is taken over in accordance with the definition of Taking Over, as defined in this document elsewhere.
- 41.12 The Contractor shall ensure that similar insurance policies are taken out by his sub-contractors (if any) and shall be responsible for any claims or losses to the Employer resulting from their failure to obtain adequate insurance protection in connection thereof. The Contractor shall produce or cause to be produced by his sub-contractors (if any)

as the case may be, the relevant policy or policies and premium receipts as and when required by the Engineer-in-charge.

- 41.13 If the Contractor shall fail to effect and keep in force the insurance referred to above or any other insurance which he/they may be required to effect under the terms of the Contract then and in any such case the Employer may, without being bound to effect and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose and from time to time deduct the amount so paid by the Employer from any money due or which may become due to the Contractor or recover the same as a debt due from the contract.

Or

- 41.A.0 Contractor's Liability and Insurance (To be incorporated in those Contracts only in which execution of work involves considerable risk or loss or damage, such as works at across river crossing and/or at steep and difficult terrain and at high attitudes).
- 41.A.1 From commencement to completion of the Works, the Contractor shall take full responsibility and shall take such care and precautions as would prevent loss or damage and would minimise loss or damage to the maximum extent possible. The Contractor shall be liable also for all damage or loss that may occur to the works or any part thereof and all Employer's T&P(if Any) from any cause whatsoever save and except the Excepted Risk and shall at his own cost repair and make good the same so that at completion, the Works and all Employer's T&P shall be in good order and conditions and in conformity in every respect with the requirements of the Contract and instructions of the Engineer-in-Charge.
- 41.A.2 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 to protect his interest and interests of the Employer against all perils detailed herein. The form and the limit of such insurance as defined herein together with the underwriter in each case shall be acceptable to the Employer. However, irrespective of such acceptance, the responsibility to maintain adequate insurance coverage at all time during the period of Contract shall be of Contractor alone. The Contractor's failure in this regard shall not relieve him of any of his contractual responsibilities and obligations. The insurance covers to be taken by the Contractor shall be in the

name of the Employer. Contractor shall, however, be authorised to deal directly with the Insurance Company or Companies and shall be responsible in regard to maintenance of all insurance covers.

41.A.3 The perils required to be covered under the insurance shall include, but not be limited to fire and allied risks, miscellaneous accidents (erection risks) workman compensation risks, loss or damage in transit, theft, pilferage, riot and strikes and malicious damages, civil commotion, weather conditions, accidents of all kinds, etc. The scope of such insurance shall be adequate to cover the replacements/ reinstatement cost of the Work/ equipment/ materials for all risks. The insurance policies to be taken should be on replacement value basis and/or incorporating escalation clause. Notwithstanding the extent of insurance cover and the amount of claim available from the underwriters, the Contractor shall be liable to make good the full replacement/ rectification value of all work/ equipment / materials and to ensure their availability as per Project requirements. The insurance coverage shall also include but not be limited to the following:

- a) Third party liability insurance with a minimum coverage of Rs.100,000/- (Rupees one hundred thousand only) for each occurrence.
- b) Employer's liability and worker's compensation insurance in respect of the Personnel of Contractor in accordance with the relevant provision of the applicable law, as well as with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate.

41.A.4 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 the following provisions shall have effect :

- a) The Contractor shall, as may be directed in writing by the Engineer-in-Charge, remove from the Site any debris and so much to the Works as shall have been damaged, taking to Employer's store such Employer's T&P, articles and/or materials as may be directed.

- b) The Contractor shall, as may be directed in writing by the Engineer-in-charge, proceed with the erection and completion of the Works under and in accordance with the provisions and Conditions of the Contract; and
- c) These will be added to the Contract Sum, and the net amount due, ascertained in the same manner as for deviations, or as assessed by Engineer-in-charge for payment, in respect of the re-execution of the Works lost or damaged, the replacement of any T&P and of any materials and articles lost or damaged but not incorporated in the Bill of Quantities of the Contract on the day when the loss or damage occurred and the removal by the Contractor as provided above of Employer's T&P articles and/or materials to the Employer's store and as well as for the debris and damaged Works referred to above including therein and the compensation paid by him, under any 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, which are not covered for compensation under Contract requirements of insurance.

41.A.5 Provided always that the Contractor shall not be entitled to payment under the above provisions in respect of so much loss or damage as have been occasioned by any failure on his part to perform his obligations under the Contract or not taking precautions to prevent loss or damage or minimise the amount of such loss or damage.

41.A.6 Without limiting the obligations and responsibilities under this Condition the Contractor shall insure the Works (from commencement to completion), the Employer's T&P hired by the Contractor and all materials at Site, to their full value, against the risk of loss or damage from whatever cause arising other than the Force Majeure and Excepted Risks. The said insurance shall be in the joint names of Employer and the Contractor and the Contractor shall deposit with the Engineer-in-charge the said policy or policies. All money payable by the insurers under such policy or policies shall be recovered by the Employer and shall be paid to the Contractor in instalments by the Engineer-in-Charge for the purpose of rebuilding or replacement or repair of the Works and/or goods destroyed or damaged as the case may be. Provided however if the amount payable by the insurers in respect of any

claim under such a policy is not in excess of the amount if mentioned in Schedule-A the same may be recovered by the Contractor directly from the insurers and shall be utilised by him for the purpose of rebuilding or replacement or repair of the Works and/or goods destroyed or damaged as the case may be.

- 41.A.7 If the Contractor has a blanket insurance policy for all his works and the policy covers all the items to be insured under this Condition, the said policy shall be assigned by the Contractor in favour of the Employer; provided however, if any amount is payable under the policy by the insurers in respect of Works other than the work under this Contract the same may be recovered by the Contractor directly from the insurers.
- 41.A.8 Where the Employer, building or a part thereof is rented by the Contractor he shall insure the entire 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.A.9 The Contractor shall indemnify and keep indemnified the Employer against all losses and claims for injuries or damage to any person or any property whatsoever which may arise out of or in consequence of the construction and maintenance of the works, and shall also indemnify 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 and Force Majeure conditions.
- 41.A.10 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 part and any part of which is used by him for storing combustible materials), or to any person (including any employee of the Employer) by or arising out of carrying out the Contract.
- 41.A.11 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 Workman's compensation Act, 1947, Industrial Disputes Act, 1947, and Maternity Benefit Act, 1961 or any modifications thereof or any other Law relating thereof and rules made there under from time to time or as consequence of any accident or injury to any workman or other persons in or about the Works, whether in the employment of the Contractor not save and except where such accident or injury has resulted from any act of the Employer, its 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 such 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.

- 41.A.12 The aforesaid insurance policy/policies shall provide that they shall not be cancelled till the Engineer-in-Charge has agreed to their cancellation.
- 41.A.13 The Contractor shall prove to the Engineer-in-Charge from time to time that he has taken out all the insurance policies referred to above and has paid the necessary premiums for keeping the policies alive till the project is taken over in accordance with the definition of Taking Over, as defined in this document elsewhere.
- 41.A.14 The Contractor shall ensure that similar insurance policies are taken out by his sub-contractors (if any) and the Contractor shall be responsible for any claims or losses to the Employer resulting from their failure to obtain adequate insurance protection in respect thereof. The Contractor shall produce or cause to be produced by his sub-contractors (if any) as the case may be, the relevant policy or policies and premium receipts as and when required by the Engineer-in- Charge.
- 41.A.15 If the Contractor and/or his sub-contractors (if any) shall fail to effect and keep in force the insurance referred to above or any other insurance which he/they may be required to effect under the terms of the Contract then and in any such case the Employer may, without being bound to, effect and keep in force any such insurance and pay

such premium or premiums, as may be necessary for that purpose and from time to time deduct the amount so paid by the Employer from any moneys due or which may become due to the Contractor or recover the same as a debt due from the Contractor.

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.

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 incompleted 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 carry out 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.

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 - 1 (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.
- 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-2, 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, notwithstanding 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

Except where otherwise provided in the contract all questions and disputes relating to the meaning of the specifications, design, drawings and instructions herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of the person in the capacity of General Manager of the Power Grid Corporation of India Limited, and if the General Manager is unavailable or unwilling to act, to the sole arbitration of some other person appointed by the Chairman and Managing Director, POWERGRID, willing to act as such arbitrator. There will be no objection if the arbitrator so appointed is an employee of the Power Grid Corporation of India Limited, and that he had to deal with the matters to which the Contract relates and that in the course of his duties as such he has expressed views on all or any of the matters in dispute or difference. The arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason as aforesaid at the time of such transfer, vacation of office or inability to act, Chairman and Managing Director, Power Grid Corporation of India Limited shall appoint another person to act as arbitrator in accordance with the terms and conditions of the Contract. It is also a term of this contract that no person other than a person appointed by CMD, POWERGRID as aforesaid should act as arbitrator and if for any reason that is not possible the matter is not to be referred to arbitration at all.

The above shall except otherwise stipulated apply to Contracts whose value does not exceed Rs. Fifty lakhs. For Contract Value exceeding Rs. Fifty lakhs, in the event of any differences/disputes which cannot be resolved amicably, aggrieved party as Claimant shall serve a notice of his/ their disagreement /dispute having arisen on the opposite party (Respondent) calling upon later to nominate his/their

nominee as arbitrator within three months of the date of such notice and that in the event of failure in nominating arbitrator by the Respondent within three months of the notice by the claimant, the arbitrator nominated by the Claimant shall become the Sole Arbitrator.

Where, however, if both the party nominates one arbitrator each i.e. Contractor nominates one person to act as arbitrator and POWERGRID nominate one arbitrator. As required under Indian Arbitration and Conciliation Act, 1996 both the arbitrators shall appoint umpire, before entering into the reference of disagreement/dispute before the two arbitrators enter into the reference.

Subject as aforesaid the provisions of the Indian Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactment thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceeding under this clause. It is a term of the Contract that the party invoking the arbitration shall specify the dispute/ disputes to be referred to arbitration under this clause together with the amount/ amounts claimed in respect of each such dispute.

The arbitrator(s) may from time to time with consent of parties enlarge the time, for making and publishing the award.

The work under the Contract shall, if reasonably possible, continue during the arbitration proceedings and no payments due or payable to the Contractor shall be withheld on account of such proceedings.

The arbitrator / Arbitrators shall be deemed to have entered on the reference on the date he/they issue notice to both the parties fixing the date of hearing and holding the arbitration proceedings referred to him/them.

The venue of arbitration shall be such place as may be fixed by the arbitrators in his/their sole discretion.

The award of the arbitrators/umpire as the case may be shall be reasoned, final, conclusive and binding on all parties to his Contract.

The cost of arbitration shall be borne by the parties to the dispute; as may be decided by the arbitrator(s).

In the event of dispute or differences arising between one public sector enterprise and a Govt. department or between two public sector enterprises the above stipulations shall not apply, the provisions of BPE office memorandum No.BPE/GL-001-76/MAN/2(110-75-BPE(gmi-10 DATED 1ST Jan, 1976 or its amendments for arbitration shall be applicable.

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.

End of Section - General Conditions of Contract

SCHEDULE-A

REFERENCE TO GENERAL CONDITIONS OF CONTRACT

Clause No. of GCC

1.0 (a)	Accepting Authority	C.M.D., POWERGRID or his authorized executive, New Delhi.
1.0 (t)	Market Rate percentage addition to cover over heads and profit addition to cover over heads and profit	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 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
59.0	Authority for appointing arbitrator	Chairman & Managing Director, POWERGRID