

## CONDITIONS OF CONTRACT

### 1. DEFINITION:

The following terms and expressions used herein shall have the meaning as indicated therein:-

**Purchase Order/The Contract:** Shall mean the documents forming the tenders and acceptance thereof together with the documents referred to therein including the conditions, specifications/Scope of Work, designs, drawings and instructions issued from time to time by the Purchaser/ Owner and all these documents taken together shall be deemed to form one contract.

**Applicable Law :** This contract including all matters connected with this Contract shall be governed and construed in accordance with the Indian Law both substantive and procedural and shall be subject to the exclusive jurisdiction of Indian courts at Kolkata (India).

**Contract Price:** It means the total price to be paid for the supply of materials/goods/services to the consignee.

**Supplier/Vendor/Contractor:** Shall mean the registered individual firm, Company or Corporation whether incorporated or otherwise to whom the Purchase Order/Work Order/LOA/LOI is addressed and shall include its permitted assigns and successors.

**Purchaser/Owner:** Shall mean Damodar Valley Corporation, a statutory body established under Act No. XIV of 1948 of GOI having its Corporate Office at DVC Towers, VIP Road, Kolkata ó 700 054.

**Party:** It means the owner or the bidder, as the case may be, and -Partiesø means both of them.

**Sub-Vendor/Sub Contractor :** Shall mean the person/organization/firm named in the Purchase Order/Contract for any part of the material/works to whom that part of the Purchase Order/Contract has been sublet by the vendor with the consent in writing of the -Ownerø and will include the legal representatives, successors and permitted assigns of such person.

**Equipment/Stores/Materials:** Shall mean and include equipment, stores & materials to be supplied by the vendor under the contract.

**Specification/Scope of Work :** Shall mean the Specifications and Bidding documents forming a part of the contract and also such other schedules and drawings furnished by purchaser/owner and or as may be mutually agreed upon.

**Guarantee/Warranty Period:** Shall mean the period during which the vendor shall remain liable to repair or replacement of any defective part of the Stores/Equipment/Materials supplied/works executed under the contract.

### 2. REFERENCE:

The number of the concerned Purchase Order/Work Order/LOA/LOI must appear on all correspondence, drawings, invoices, packing and shipping documents and on all documents or papers connected with the Contract.

### 3. SPECIFICATIONS AND DRAWINGS:

3.1 Any information, details etc. called for in the specification and not shown in the drawings and vice-versa shall have the same effect and meaning as if called for and shown both in the specification and drawings. In case of conflict between the specifications and drawings, the decision of the Purchaser/owner or his duly authorized representative shall be final and binding.

### 3.2 STANDARDS :

The goods/materials supplied under this contract shall conform to the standards mentioned in the Technical Specification, and, when no applicable standard is mentioned, the authoritative standard appropriate to the goods/materials issued by the concerned institution and such standard shall be the latest.

### 4. GENERAL INFORMATIONS:

#### 4.1 Single Stage Bidding :

(a) **One Part Limited/Open Tender:** Bidders are requested to Submit their offer in sealed envelope superscribing on it Enquiry/Tender No. and Date. Also indicate the Name and Address of the firm; and date of opening on the envelope. In case, earnest money is required to be deposited, the above envelope should contain two smaller sealed envelopes marked -Aø & -Bø

(i) Envelope -Aø superscribed on it òEarnest Money against Tender Notice No. and Dateö should contain the Earnest Money in desired form and also the cost of tender documents if the same is downloaded from website in DD / Pay Order in favour of Chief Accounts Officer, DVC, Kolkata-54, / Head of the Accounts of respective project.

(ii) Envelope -Bø superscribed on it -Techno-Commercial acceptance and Price Bid against Tender Notice No. and Dateö should contain quotation with price and other details.

#### (b) For two part Limited / Open Tender :

##### 1. 3 ENVELOPE BIDDING:

(i) **Envelope 'A'** superscribed on it òEarnest Money @ Cost of Tender documents against Tender Notice No. and Dateö should contain Earnest Money in desired form and also the cost of tender documents if the same is downloaded from the website in DD/Pay Order in favour of Chief Accounts Officer, DVC, Kolkata-54 / Head of the Accounts of respective project.

(ii) **Envelope 'B'** superscribed on it Techno commercial bid against Tender Notice No. and Dateø should contain **required information for Qualifying Requirement** as asked in the NIT and acceptance of techno-commercial offers along with Deviation Schedule as per format given in Annexure -Cø

(iii) **Envelope 'C'** superscribed on it òPrice Bid against Tender Notice No. and Dateö should contain the Price Schedule along with the withdrawal prices for deviation, if any, as per format given in Annexure -Dø This envelope will be opened only for techno-commercially and QR complied bids based on the information submitted by the bidders at a date to be notified later on.



**PDF Complete**  
Your complimentary use period has ended.  
Thank you for using PDF Complete.

[Click Here to upgrade to Unlimited Pages and Expanded Features](#)

#### 4.4 ENVELOPE BIDDING .

Bidders are requested to submit their offer in sealed envelope superscribing on it "Tender Notice No. and Date". Also indicate the Name and Address of the firm; and date of opening on the envelope. Above sealed envelope should contain four smaller **sealed envelopes marked 'A', 'B', 'C' & 'D'**.

(I) **Envelope 'A'** superscribed on it "Earnest Money" against Tender Notice No. and Date should contain Earnest Money in desired form and also the cost of tender documents if the same is downloaded from the website in DD/Pay Order in favour of Chief Accounts Officer, DVC, Kolkata-54, / Head of the Accounts of respective project.

(ii) **Envelope 'B'** superscribed on it "Q/R" against Tender Notice No. and Date should contain **required information for Qualifying Requirement** as asked in the NIT.

(iii) **Envelope 'C'** superscribed on it "Techno Commercial Bid" against Tender Notice No. and Date should contain acceptance of **technical details and commercial terms** along with Deviation Schedule as per format given in Annexure "C".

(iv) **Envelope 'D'** superscribed on it "Price Bid" against Tender Notice No. and Date should contain the Price Schedule along with the withdrawal prices for deviation, if any, as per format given in Annexure "D". This envelope will be opened only for techno-commercially and QR complied bids based on the information submitted by the bidders at a date to be notified later on.

#### 5. BIDDING DOCUMENTS:

Each bidder shall submit with its bid the following attachments for single stage bidding :

**Attachment 1: EMD/BID SECURITY.** An EMD to be furnished in accordance with GCC Clause No. 06 and cost of bid documents separately in DD if the same is downloaded from Website.

**Attachment 2: Techno-commercial Terms & Conditions** as per Format given in Annexure "A" and Specification Booklet/Sheet.

**Attachment 3: Price schedule** as per Annexure "B". The bidder shall also provide the withdrawal price, if any, for withdrawal of techno-commercial deviations as per format given in Annexure "D" along with the price bid.

**Attachment 4: Deviation sheet** of Deviations, if any, from the commercial terms and conditions or Technical Specifications shall be listed ONLY as per format given in Annexure "C" and to be enclosed with the Techno-commercial offer.

**Attachment 5 :** Information on supporting Documents as asked in support of the qualifying requirements in accordance with this NIT.

**Attachment 6 :** Proforma and check list of Bank Guarantee against EMD.

Each bidders shall submit with its bids the following attachments for two stage bidding :

Each bidder should respond for single stage bidding with

- (i) 4-envelope (Two part tendering): Attachment 1 & 6 in envelope -Aø attachment 5 in envelope -Bø attachment 2 & 4 in envelope -Cø and attachment 3 in envelope -Dø
- (ii) 3-envelope (Two part tendering): Attachment 1 & 6 in envelope A, Attachment 2, 4 & 5 in envelope B and Attachment 3 in envelope C.
- (iii) 2- envelope (1 part tendering ): Attachment 1 & 6 in envelope A and Attachment 2, 3, 4 & 5 in envelope -Bø

#### **6. EARNEST MONEY DEPOSIT (IF APPLICABLE) :**

Every tender must accompany -Earnest Moneyø as mentioned in the Tender Notice/Enquiry in desired form as mentioned below without which the tender will not be accepted. The Earnest Money should be deposited in any of the following forms :-

a) E-payment mode has been enabled. The bidders can pay the cost of bid document and the EMD through electronic mode i.e. credit card/ debit card/ net banking. Provision for NEFT/ RTGS has also been enable, moreover in case the bidder who do not have any credit card/ debit card or net banking facilities can use NEFT/ RTGS facilities for payment by downloading the challan from the web site and submit the same to nearest bank..

b) Earnest Money can be submitted in the form of Bank Guarantee from an Indian Nationalized Bank / Schedule Bank / Foreign Bank (in the scheduled list of Reserve Bank of India), irrevocable and operative till the validity of the offer as per enclosed Proforma.

Overseas bidder in case of participation is permitted to submit the Bank Guarantee from Foreign Bank which are included in the scheduled list of Reserve Bank of India, copy of which is annexed in Annexure-F. However, any Foreign Bank not mentioned here but subsequently included in the scheduled list of RBI in the course of bidding shall be accepted. Such inclusion of Bankø name to be obtained from the website of RBI ó [www.rbi.org.in](http://www.rbi.org.in) .

The Bank Guarantee currency shall be same as currency of Price Bid. In case the bidder arranges to submit BG in INR from Nationalized or Schedule Bank through their trade relation and quote the bid in USD/EURO, the same shall be accepted.

c) Earnest money can also be deposited through E-payment to Damodar Valley corporation ,A/c Noí í í í í .. ,Name of prescribed bank....., branch....., IFSC code Noí í í í ., MICR code Noí í í í . The bidder is required to furnish the transaction reference No. for the e-payment made to DVC.

d) DVC Bonds duly endorsed in favour of DVC.

e) Attested photocopy of certificate issued by DVC as permanent EMD account holder.

f) Post Office National Savings Certificate having face value equal to the EMD value and duly endorsed in favour of DVC.

g) **Pay Order/DD to be made in favour of DVC .**

No Bank Guarantee shall be accepted for EMD amount upto Rs. 50,000/-However, EMD

exceeding Rs.50000/- may be accepted in any of the above forms.

The offer accompanied by B.G. against EMD will only be considered valid on acceptance of the Bank Guarantee. The offer not accompanied by EMD or specified EMD in proper form as defined above shall not be considered as valid tender for opening provided necessary stipulations are made in the NIT.

i) Earnest Money will be refunded only to the unsuccessful Tenderer within 15 days after finalisation of Tender and no interest will be paid for the same.

ii) The amount of Earnest Money will be refunded to the successful tenderer, after acceptance of their Security Deposit-cum-Performance B.G. /successful completion of the order.-

iii) Small Scale Industries registered with NSIC shall be exempted from the payment of Earnest Money. Small Scale Industries seeking such exemption must enclose valid registration certificate from the appropriate Govt. authority giving details such as validity, stores etc., failing which exemption will not be granted.

#### **7. CONDITIONS FOR FORFEITURE OF EMD :**

The EMD may be forfeited

1. In case the purchase order/work order is not executed by the vendor in full.
2. For failure of tenderers to accept the order / LOI / LOA placed within the validity period of their offer,
3. Any bidder withdraws/varies his offer within the bid validity period before finalisation of the tender.
4. If the bidder does not accept the arithmetical correction of its bid price.
5. For failure to submit security cum performance BG within 30 days from the last day of the specified time limit as stipulated in the PO/LOI/LOA.
6. If the acceptance of order is not received within the stipulated period.
7. If the Bidder does not withdraw any deviation listed in Statement of Deviations at the cost of withdrawal indicated by him,
8. If the Bidder refuse to withdraw, without any cost to the Owner, any deviation not listed in Statement of Deviations but found elsewhere in the Bid,
9. On providing false or incorrect information in respect of qualifying requirement etc.
10. In case the L1 bidder for any item fails to produce the documents within the specified period of 10 days in case of domestic tenders and 15 days in case of global tenders, or if any of the information furnished by L1 bidder on-line is found to be false by the Tender Committee during verification of documents.

#### **8. PRICE BASIS.**

Price mentioned in the Purchase Order/Work Order/Turnkey Project Contracts shall be firm till execution of the contract unless stated otherwise.

The bids may be invited either on firm price basis or on variable price basis but not on both. Tender Inviting Authority may invite any or all the items / components in supply / works / turnkey project tenders on variable price basis i.e. few items / components of a NIT may be on variable price basis and remaining items / components of the same NIT may be on firm price basis.

The bids may be invited on variable price basis. In such cases Standard Price Variation Formula, based on PV formula published by IEEMA / CACMAI or similar recognised sources or adopted by power utilities like NTPC / PGCIL etc shall be indicated in the bid document. Bid document shall also indicate the standard source of different indices (for labour / material / exchange rate etc.) used in the PV formula for purpose of calculation of variable component. The base date for different indices for the purpose of calculating price variation will normally be considered 30 days prior to the last date of submission of price bid or as indicated in the bid document. The cut off date for different indices in the PV formula for the purpose of calculating price variation may be considered as 2 to 4 months ahead of scheduled delivery period or as decided by TIA to be indicated component-wise in the bid document. The PV formula shall be stipulated by DVC in the bid document with or without any ceiling limit as decided by Tender Inviting Authority. In case of non-publication of applicable indices on a particular date, which happens to be applicable date for price adjustment purposes, the published indices prevailing immediately prior to the particular date will be applicable.

Such bids shall be evaluated on the basis of offered price without any loading on account of price variation. In case a specific ceiling limit is mentioned in the bid document, payment shall, however, be restricted to the actual extent of variation that would take place limited to the ceiling limit. For bids on variable price basis without any ceiling limit, payment will also be effected on actuals as per PV formula without any ceiling limit.

No price variation beyond scheduled contractual delivery/completion period will be allowed. Where it has been There shall also be no price variation on the advance payment component, if any.

In case of any bidder offering firm price against NIT stipulation of variable price basis or variable price against NIT stipulation of firm price basis, it will be considered as deviation and bidder shall declare the cost of withdrawal of the same along with the price bid, failing which the offer will be considered unresponsive and to be rejected.

#### **9. TAXES, LEVIES AND DUTIES :**

Manufacturers / Contractors shall quote statutory taxes and duties (Sales Tax, VAT, Excise Duty, E. Cess, Customs Duty, Service Tax, Municipal Tax, Octroi, Levies and any other duties) as applicable against documentary evidence on the date of bid opening and shall be shown separately in the offer. This shall be to the account of the Damodar Valley Corporation (DVC),

unless otherwise mentioned in the Purchase Order /Work Order. Any upward/downward variation in statutory taxes and duties after bid opening and up to the scheduled delivery period/work completion period shall be to the Damodar Valley Corporation account. Since such statutory taxes shall be on the account of DVC, benefits of any decrease in the same shall be retained by the DVC irrespective of decrease taking place during period of submission of bid and opening of bid. Taxes & duties shall always be paid at actual. Any upward variation in statutory taxes and duties beyond the contractual delivery period/work completion period will not be paid by DVC if the reasons of the delay are attributable to the vendor. Entry Tax / Octroi/ or any new taxes & duties imposed by statutory bodies after opening of the bid as applicable will be to the account of DVC at actual as per rate ruling within contractual delivery period/work completion period, if applicable.

Changes in the tax rate dependant on the volume of turn over shall not come under the purview of reimbursement and should be spelt out in the bid documents itself.

Bidders, other than manufacturers shall quote all-inclusive price up to the consignee's end, clearly indicating the quantum of CST/VAT, if applicable and F&I Charges embedded in all-inclusive FOR Destination Price.

For turnkey contracts/any other similar contracts, the bidder shall quote price of all the items manufactured by them and to be directly supplied to DVC with ruling rates of taxes and duties which would be reimbursed at actual including variations, if any, against documentary evidence at the time of supply, up to contractual completion period. All taxes and duties applicable on materials / equipment supplied as finished goods to DVC through Sub-vendor / Sub-contractor as bought out items are to be included in the price quoted by the bidder for such items, which will remain firm throughout the pendency of the contract. This will also cover raw material, component, special assembly procured for manufacturing finished goods, material/equipment to be supplied to DVC either directly by the contractor or through Sub Vendor. However, taxes and duties charged by the concerned State Govt. / Local Statutory Body for entry into the destination state / site viz. (a) Octroi, (b) Entry / Exit Tax, (c) Additional Toll Tax, (d) Special Toll Tax, (e) Turnover Tax etc. or any other taxes and duties having the same spirit and purpose shall be to the account of DVC as applicable as per rate ruling within contractual delivery period/work completion period.

Service Tax as applicable on service that are provided directly by the contractor to the DVC shall be indicated separately in the bid price schedule with the ruling rate and will be reimbursed at actual including variation, if any, up to contractual completion period, on production of documentary evidence. However, Service Tax on services that is not provided directly by the contractor to DVC viz., transportation, insurance etc. shall be included in the bid price itself and shall not be considered separately.

Works Contract Tax (WCT) at the admissible rate wherever applicable , will normally be included in bid price. DVC will, however, deduct WCT from the vendor's bill/invoice and deposit the same to the concerned authorities as per statutory provisions.

Beyond contractual completion period, DVC will normally accept lower of the tax liability either

on the scheduled or actual date of completion unless the contractor is not responsible for the delay and/or it is otherwise decided by the authority granting the extension of time. Changes in the tax rate dependant on the volume of turn over shall not come under the purview of reimbursement and should be spelt out in the bid documents itself.

For reimbursement of Sales / VAT / Service Tax, self-attested/notarized copy of registration certificate will normally be accepted as documentary evidence.

In case of change of source of supply from Sub Vendor to bidder or Sub Vendor to contractor (if approved by DVC), no additional payment shall be made by DVC towards reimbursement of taxes and duties as they are deemed to be included in the contract price.

In the event of change of source of supply from bidder/contractor to Sub Vendor (if approved by DVC), taxes and duties will be reimbursed at actual against documentary evidence restricted to the amount of taxes and duties as originally payable to the bidder in terms of the contract.

#### **10. DISCREPANCIES IN THE BID & TREATMENT THEREOF:**

The bids shall also be checked for computational error, if any, to arrive at the computed price, as per provisions in the following:

É In case of discrepancy between the original and copies of bid, the original bid will be considered correct.

É If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity of any item, or between sub-total and the total price, the unit or sub-total price shall prevail, and the total price shall be corrected accordingly.

É If there is a discrepancy between words and figures, the amount in words will prevail.

É If there is a discrepancy between the quantity specified by DVC in the bidding document and that indicated by the bidder in his bid, the former shall be taken to arrive at the computed price on pro-rata basis.

É In case the unit rate of an item is not quoted but the total price is indicated, the same shall be taken to arrive at the computed price. The computed price arrived at, as above, shall be considered for the purpose of award also.

É If the bidder does not accept the correction of errors as worked out by above methodology, its bid will be rejected and the earnest money will be forfeited.

**11. OFFER VALIDITY:** -Quotation must be kept valid for at least 90/180 days or as decided by Tender Inviting Authority from the date of opening of the Enquiry / Tender and to be indicated in the NIT. If any bidder offers bid having validity shorter than that asked in the NIT, bid should not be rejected outrightly. Bidder should be persuaded to accept NIT stipulation.

#### **12. CLARIFICATIONS ON BID DOCUMENT:**

Bidder may seek clarifications on the bidding documents (GCC + SCC, if any + Technical Specification Booklet + NIT {Tender Notice} along with annexure + Proforma & Check List of

---



DS against EMD), if required, upto 7 days before the scheduled bid opening date. Any clarification sought by the bidders must be sent in writing to the Tender Inviting Authority.

Besides this, a Pre-bid Conference may also be held at the Tender Inviting Office at the discretion of Tender Inviting Authority. If agreed by Tender Inviting Authority, date, time and place for holding the Pre-bid Conference to be mentioned in the bidding document (NIT).

### **13. AMENDMENT OF BIDDING DOCUMENTS :**

At any time prior to the deadline for submission of bids, the owner may, for any reason, whether at its own initiative, or in response to the clarifications requested by the prospective Bidders, amend the bidding documents except QR after due approval of Tender Inviting Authority.

The amendment will be notified in writing or by telephone/fax/e-mail to all prospective Bidders that have received the bidding documents and will be binding on them. Bidders are required to immediately acknowledge receipt of any such amendment, and it will be assumed that the information contained therein have been taken into account by the Bidder in his bid.

In order to give reasonable time to prospective bidders to take the amendment into account in preparing their bid, the owner may, at his discretion, extend the deadline for the submission of bids.

Any addendum/corrigendum/extension, if required, pertaining to Open NIT published through press advertisement will be hoisted in DVC website only and will not be published in Newspaper again. Bidders may be requested to visit DVC website regularly for any addendum/corrigendum/extension till opening of said NITs. This stipulation to be incorporated in the original press advertisement for the NIT.

In case of change in technical parameter/ specification/ scope of work, selling and submission date to be extended.

### **14. COST COMPENSATIONS FOR DEVIATIONS :**

Deviations specifically declared by the bidders in the respective **Deviation Schedules of as per Annexure C** (to be submitted along with techno-commercial offer) and respective **cost of withdrawal of such deviation as per Annexure D** (to be submitted along with the price bid) only will be taken into account for the purpose of evaluation. The bidders are required to declare the prices for the withdrawal of the deviations declared by them in the Deviation Schedules. Such prices declared by the bidders for the withdrawal of the deviations in the Deviation Schedules shall be added to the bid price to compensate for these deviations. In case prices for the withdrawal for declared deviations are not furnished by the bidder, their offer will be considered as unresponsive and will be rejected. In case the bidder refuses to withdraw the deviations at the cost of withdrawal indicated by the bidder in the Deviation Schedules, the bid Security / EMD of the bidder may be forfeited.

Bidders may note that deviations, variations and additional conditions etc. found elsewhere in the bid other than those stated in the Deviation Schedules, save those pertaining to any rebates, shall

not be given effect to in evaluation and it will be assumed that the bidder complies to all the conditions of Bidding Documents. In case bidder refuses to withdraw, without any cost to the Owner, those deviations which the bidder did not state in the Deviation Schedules, the bid security of the bidder may be forfeited and the bid is liable for rejection.

Bidders are requested to quote the technical parameters/ guaranteed technical particulars of the quoted item as per specification sheet/booklet enclosed with the bid document.

(ii) Bidders are requested to offer their commercial terms and conditions as per Annexure-A attached herewith.

(iii) Manufacturers are requested to offer their pricing as per Annexure - B attached herewith.

### 15. PRICE BID EVALUATION PROCEDURE:

Offered bids from any manufacturer will be evaluated in the following methodology. Bids from other than manufacturer to be evaluated by deleting the respective components which are not applicable to them, namely, ED, Cess, P&F charges etc.

Original Basic Price	: Ex-Works Price (Rs.) = Rs .í .í .í .í ..
+Packing & forwarding charges, if any	: í í % on basic price only
+Excise Duty	: í í % on ( Basic Price + P & F )
+Education Cess	: í í % on ED
+Sales Tax/VAT	: .....% on ( Basic Price + P & F + E.D.+ Cess )
+Freight	: í í .% on ( Basic Price + P&F ) or any lump sum value

**(In case the bidder fails to quote any value, or quotes as per actual, the bid evaluation will be done on the basis of highest quoted freight charges by the other bidders.)**

+Insurance	: í í ..% on ( Basic Price + P & F + E.D. + Cess + S.T.) or any other value against documentary evidence or actual premium in case of DVC's Open Policy (presently it is 0.0112% of basic price).
+ Cost of withdrawal price	: As declared by the bidder in annexure-D with the price bid. for declared deviation
+ Highest quoted price of Other bidders,	:
in case the Bidder fails to quote the Mandatory items or description of item not as per our specification *	
+ Type test charge/3 <sup>rd</sup> Party Inspection Charge :	

as per our QAT with applicable taxes and duties, if any \*

+ Loss capitalization charges, if any\* ó

+ Any Other taxes and duties, such as TOT, Entry Tax, Municipal Tax etc. as applicable \*\*

= Total Evaluated Price

In case of independent items, evaluation is to be made item-wise and to be clearly spelt out in NIT under the evaluation process.

The liability of DVC shall be as per actual ED and E-Cess as applicable at the time of despatch, subject to production of documentary evidence by the manufacturer (bidder). Further the rate of ED shall be restricted to as applicable within the contractual delivery period only. Increase in ED rate, if any due to delay in supply beyond the contractual delivery period shall not be payable by DVC if the reasons for delay is attributable to the vendor only. However, the benefit of any decreases in ED shall be passed on to DVC.

For tenders with lot of components/items, if any bidder fails to quote against a particular component/item or when the quoted item description is not as per NIT, the respective bid will be evaluated by loading the highest quoted price of that particular component/item of other eligible bidders. However order to be placed on rate negotiation of the subject item with L-1 bidder.

If any bidder offers lesser quantity than the BOQ as stipulated in NIT against a particular component / item, the respective bid will be evaluated by loading on pro-rata basis.

The lines with \* mark may be deleted wherever not applicable.

\*\* = { Rate as on date of bid opening to be taken. }

If a tenderer is exempted from payment of excise duty ED upto any value of supplies, or is entitled to concessional rate/quantum of ED, and has not stated that no ED will be charged by him upto the limit of exemption and has not indicated the concessional rate/quantum of ED leviable in respect of the tendered supplies but has made stipulation like, excise duty presently not applicable, but the same will be charged, if it becomes leviable latter on, the quoted price should be loaded with the quantum of excise duty with education cess which is applicable on the item as on the date of bid opening for the purpose of bid ranking.

In respect of imported stores, when foreign bids are received in different currencies, conversion of foreign currency into rupees is to be done taking into account T.T selling rate of State Bank of India on the date of opening of price bid.

In respect of Works/services contract, applicable service Tax with Education Cess to be loaded for evaluation of bids, if not specifically mentioned the same in the off

## **16. INSPECTION / CHECKING / TESTING :**

All materials/equipments manufactured/supplied by the vendor against the Purchase Order/contract shall be subject to inspection, check and/or test by the Purchaser or his authorised

representative. All these tests shall be carried out in the presence of Owner and/or his authorized representative. Vendor shall notify the Purchaser at least 15 days in advance when the material / equipment is ready for inspection. If upon delivery, the material / equipment does not meet the specifications / samples, the material / equipment / spares shall be rejected and vendor to be intimated for necessary repairs / modification etc. or for replacement. In such cases all expenses including to-and-fro freight, repacking charges etc., if required, shall be to the account of the vendor.

Inspection by Purchaser and / or his authorized representative or failure by the Purchaser and/or his authorized representative to inspect the material / equipment shall neither relieve the Vendor of any responsibility or liability under this Purchase Order / contract in respect of such material / equipment nor be interpreted in any way to imply acceptance thereof by the Owner.

Whenever specifically asked for by the Owner/Purchaser and/or his authorized representative, the Vendor shall arrange for inspection/testing by the Owner or third party authorised agencies as stipulated in the Purchase Order / contract. In such cases Vendor shall adhere to the inspection / testing procedure laid down by such agencies. All expenses including inspection fees shall be to the Purchaser account unless agreed to the contrary and specified in the Purchase Order/contract.

#### **17. ACCESS TO VENDOR'S PREMISES :**

The Owner and/or his authorized representative shall be provided access to Vendor's and/or his sub-vendor's premises at any time during the pendency of the Order/contract for expediting inspection, checking etc. of work.

#### **18. TRANSIT INSURANCE & REMOVAL OF REJECTED GOODS AND REPLACEMENT ;**

The items to be supplied have to be covered by Insurance during transit from vendors works/site/ godown upto the consignee's respective project/formation/ store. It is mandatory to avail DVC's Open Insurance Policy for all concerned for all O&M Projects and all other installations.

In Turnkey Project Contracts, the bidders have to supply materials / equipment from the vendors approved by DVC (which may also include the bidder as manufacturer of the product), which is normally firmed up after placement of order. The quoted freight & insurance charges for this purpose are, therefore, irrespective of the vendors and geographical locations of their works. The bidder is, therefore, entitled to the fixed freight & insurance charges and no documentary evidence in support of the claim may be insisted upon and hence Mega Risk Policy would not be applicable for them.

**18.1** If upon delivery to consignee's go-down, whether inspected and approved earlier or otherwise, the material / equipment is not found in conformity with the specifications, the same shall be rejected by the Purchaser or his duly authorized representative and notification to this effect will be issued to the Vendor normally within 30 days from the date of Receipt of the

material at the works / Site / consignee's end.

The Vendor on receipt of notification shall arrange removal of the rejected items within 15 days from the date of notification at his own cost. In the event the Vendor fails to lift the materials within the said 15 days, the consignee or his authorised representatives without any further notice or information to the vendor, shall be at liberty to dispose of such rejected items in any manner as he may think fit. All expenses shall be recoverable from the Vendor.

**18.2** In the event, the equipment and materials or any portion thereof are damaged or lost during transit, the consignee or his authorised representatives shall give notice to the Supplier/vendor detailing the particulars of such equipments & materials damaged or lost during transit. The replacement of such equipment and materials to be effected by the supplier / vendor free of costs including handling and transportation charges upto site, within a reasonable time.

## **19. TERMS OF PAYMENT:**

**For purchase order involving supply only, payment terms will be as below:**

100% payment alongwith full taxes & duties will normally be made by the purchaser/Owner to the Vendor through A/C Payee Cheque /RTGS within 15 working days from the date of receipt of material at site and after inspection & acceptance thereof or from date of receipt of invoice whichever is later. The consignee would arrange for inspection of the supplied items. All documents relating to payment would be checked and verified and to be passed by the concerned Accounts Office before effecting payment, with reference to the P.O./ LOI /LOA.

However, payment terms for POs placed directly on manufacturer /authorised dealer may also be done as below :

90% of the ordered value to be paid against despatch documents through bank subject to prior acceptance of SDBG, if applicable. Balance 10% of the ordered value to be paid after receipt of materials at site and acceptance thereof.

Provision of part payment against part supply of consignment at consignee's end may be incorporated in Purchase order on the merit of the case (only if the part consignment can be used independently), provided necessary stipulation is made in the bid document.

**The payment terms for any works/service contract may be regulated as below :**

90% of contract price for works/service contract against RA bills. This also includes initial advance, if any. Remaining 10% after completion of the contract.

**The payment terms for supply and erection & commissioning for any Turnkey contracts/packages may be regulated as follows :**

### **1) Supply portion only :**

70% of the Ex-works price /ordered value of supply (of bought out items also) with full taxes and duties as applicable after adjustment of advance, if any, will be paid against proof of despatch (viz. R/R, L/R) , detailed invoice / packing list, warranty certificate, test certificate ,insurance policy / certificate, dispatch clearance .

20% of the EX-WORKS price / ordered value of supply (in case of bought out items also) after receipt of the materials and inspection and acceptance at site. Remaining 10% after complete erection and commissioning & testing and handing over.

However, for spares, balance 30% shall be paid after receipt of materials and inspection & acceptance at site.

## 2) Erection & Commissioning :

90% of contract price for Erection & commissioning against RA bills. This also includes initial advance, if any. Remaining 10% after complete erection and commissioning & testing and handing over.

## 3) Payment terms in respect of imports will be regulated as below :

100% FOB price less Indian Agency Commission in Rs, if any, shall be paid against presentation of shipping documents as called for in the purchase order through irrevocable LC. The Indian Agency Commission in Rs, if any, shall be paid within 30 days of receipt of material at the consignee end.

In case of direct import without involvement of Indian agency, 90% of FOB price will be paid against presentation of shipping documents as called for in the purchase order through irrevocable LC. Remaining 10% after receipt of materials by consignee in good condition.

### **MOBILIZATION ADVANCE:**

Advance payment is normally discouraged. In exceptional circumstances, interest-bearing advance to the extent of 10% of contract price may be given against submission of a BG taken towards security of the advance should be atleast 110% of advance so as to recovery of not only principal amount but also interest portion if so required.

The BG wherever applicable should be valid upto the date of completion of works/supply and acceptance thereof.

Advance should not be paid in less than two installments except in special circumstances for that reasons to be recorded.

A clause in the tender enquiry to be incorporated that the interest free advance would be deemed as interest bearing advance at a base rate of SBI plus 3.5% if the contract is terminated due to default of the contractor. However rate of interest should be applied for calculation of interest on the advance amount in reset basis (i.e. not fixed rate of interest, it may go on changing during the period of advance remain unadjusted) based on the change of base rate time to time.

Advance should be recovered within the original completion time.

### **OTHER ADVANCE:**

Provision for 100% advance (interest free) may also be allowed in dealing with procurement on single tender basis from CPSU/Govt. controlled autonomous Organisation / Universities / Laboratories/ Reputed Private Manufacturer as OEM etc.

The payment of advance is normally discouraged. The advance payment, in exceptional cases, may be given to the extent of 10% of total ordered value against submission of a Bank Guarantee of equivalent amount (on account of advance) and the same should have sufficient validity covering the full delivery period / full completion period and final payment thereof. Rate of interest of advance should be package specific and commensurate with the market rate.

### **PAYMENT THROUGH RTGS/NEFT**

ceased through RTGS/EFT only.

vendors are requested to submit the requisite details as per Annexure E.

The contractor/vendor shall furnish the following certificate to the Paying Authority along with each invoice/bill against payment for supplies made against any supply order/RC with longer completion period (more than a year), if the same is placed on firm price basis. I / we certify that there has been no reduction in the sale price of the stores of description identical to this item, supplied to any person/organization and such stores have not been offered/sold by me/us to any person/organization at a price lower than the price charged under this contract upto the date of this bill.ø

## **20. ADDITIONS / ALTERATIONS / MODIFICATIONS :**

The Owner reserves the right to make additions/reduction/ alterations/ modifications to the quantity of the items in the Purchase Order. The Vendor shall supply such quantities also at the same rate as originally agreed to and incorporated in the Purchase Order. If, however, the additional supply is at variance with design, size and specifications and not already covered by the Purchase Order or the amendments therein, the rates for such additional supply shall be negotiated and mutually agreed upon.

## **21. DELIVERY SCHEDULE / COMPLETION PERIOD :**

Time is the essence of this contract and normally no variation shall be permitted in the completion time/delivery schedule mentioned in the Order/contract unless an amendment in this regard is issued by DVC. Time extension may be issued on specific request/reason provided such request is communicated to the Order Issuing Authority before the expiry of the stipulated delivery schedule/completion period. Date of delivery of materials/goods is to be reckoned as the date of receipt of same by the consignee.

## **22. LIQUIDATED DAMAGES FOR DELAY IN DELIVERY /COMPLETION OF WORKS:**

**22.1** The time remains the essence of any contract/ purchase order awarded by DVC and all supply under a Purchase Order/all deliverables under a Work Order needs to be completed within the stipulated time schedule.

The Contractor shall commence work on the Facilities from the date of Notification of Award. The Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in Time Schedule to the Contract Agreement.

Therefore, the provision has been kept in the contract that in case of delay in completion/delivery, for the reasons attributable to the contractor/ vendor, owner reserves the right to recover from the

contractor/vendor, a sum equivalent to 0.5% of the value of the delayed materials / equipment / spares / work for each week of delay and part thereof subject to maximum of 5% of the total value of the order as Liquidated Damage (LD).

In cases, where the works/supply/services extend beyond the contractual completion schedule/delivery period and provisional extension order is issued without deciding on the application of LD, no amount from the RA bill will be deducted as withheld LD amount in case where adequate retention payment (over and above SD) remains with DVC as per terms of the contract.

**22.2** Alternatively, the Purchaser reserves the right to purchase/outsourced the material/spares/equipment/ works /service from elsewhere at the sole risk and cost of the Vendor and recover all such extra cost incurred by the Purchaser in procuring the material/ works/service by the above procedure.

**22.3** Alternatively, the Purchaser may cancel the Order/contract completely or partly without prejudice to his right under the alternatives mentioned above.

**22.4** In the event of recourse to alternative 22.2 and 22.3 above, the Purchaser will have the right to re-purchase/ outsource the stores/works &service, to meet urgency in requirement caused by Vendor's failure to comply with the schedule of delivery/ completion of the work, irrespective of the fact whether the materials/equipments/works/service are similar or not.

### **23. SECURITY DEPOSIT-CUM-PERFORMANCE GUARANTEE:**

ÉNo Security Deposit-cum-Performance Guarantee is required for contract value upto Rs. 5 lacs when 100% payment is released after full execution/ completion of the contract.

ÉSecurity Deposit may be given in the form of BG of 10% ordered value

or 10% ordered value in Advance in the form of Bank Draft.

At the discretion of Tender Inviting Authority for any site packages/procurement upto Rs. 100 lacs /, security deposit may be recovered as Pro-rata deduction @ 10% from the running bill/submitted invoice .

ÉPro-rata deduction @ 10% is also allowed as SD for scheduled upward variation on account of variation of scope/quantity/price for any value of contract irrespective of instrument used for original SD.

For all other cases, the successful tenderer will have to deposit as security, for satisfactory execution of the order, and for guaranteed performance of the supplied item/executed works or services for an amount equivalent to 10% of the ordered value in the form of Bank Guarantee (as per DVC format) within 30 days from the date of issuance of Purchase Order/Work Order, from any Nationalised / Scheduled Bank and it should have validity initially for 18 months from the date of execution of BG plus 6 months claim period thereafter. The said BG should be extended suitably covering the entire warranty period plus 6 months claim period after despatch of materials.



For turnkey projects/project contracts, this SDBG should have the validity covering the entire warranty/guarantee period plus six months claim period thereafter and to be submitted within 30 days of issuance of W.O. / LOA / LOI.

The amount so deducted /accepted as SD to be refunded to the bidder after completion of warranty/guarantee period as mentioned in the contract.

No payment, whatsoever will be made till the acceptance of SDBG/deposit of initial SD as the case may be as per the terms of the contract.

In case banks refuse to issue BGs having Claim Period separately, the validity period of those BGs may be taken as warranty period plus six months.

However, for ordered value above RS. 100 lakhs, Security Deposit in the form of Bank Guarantee shall only be acceptable.

SSI Units registered with NSIC, under its single point registration scheme, are exempted from depositing Security Deposit for ordering value upto the monetary limit for which the unit is registered. Small-scale industries seeking such exemption must enclose valid registration certificate from appropriate Govt. Authority giving details such as validity, stores, monetary limit etc. failing which exemption will not be granted.

However, these SSI units will have to submit Performance Guarantee for the materials to be supplied as per DVC norms and to be submitted before the despatch of materials and no payment will be effected till the acceptance of the same.

In case of acceptance of SD in the form of Demand Draft or pro-rata reduction from running bills/submitted invoices, the amount so accepted/deducted as SD may be refunded to the vendors after submission of acceptable BG of equivalent amount valid till expiry of warranty/guarantee period plus six months claim period or valid covering warranty/guarantee period plus six months.

#### **24. PURCHASE PREFERENCE :**

At present DVC, an autonomous body under Ministry of Power, GOI is granted exemption from Purchase Preference Policy vide GOI OM dated 18-07-2005. However, any change in Govt. Policy/Directives on this subject will be applicable.

#### **25. SOURCE OF SUPPLY :**

The Vendor shall ensure that the indigenous capacity is utilized to the fullest extent possible in execution of the order. Where the imports are unavoidable, the Vendor shall import all such items in good time against his own import licence without affecting the contractual delivery schedule.

#### **26. PATENT RIGHTS :**

Royalties and fees for patents covering materials/equipments/ spares or processes used in executing the work shall be to the account of the Vendor. The Vendor shall satisfy all demands that may be made at any time for such royalties and fees and he alone shall be liable for damages,

infringement and shall keep the Purchaser indemnified in that regard in the event of any equipment / spares / material or part thereof supplied by the Vendor is involved any suit or other proceedings held to constitute infringement and its use is enjoined, the Vendor shall, at his own expenses, either procure for the Purchaser the right to continue the use of such equipment/spares/material or replace it with a non-infringing material / spares / equipment or modify it so it become non-infringing.

## **27. FORCE MAJEURE :**

Vendor shall not be considered in default if delay in delivery occurs due to causes beyond his control such as acts of God, natural calamities, civil wars, fire, strike, frost, floods, riot and acts of unsurpassed power. Only those causes which have duration of more than seven (7) days shall be considered cause of force / calendar majeure. A notification to this effect duly certified by the statutory authorities shall be given by the Vendor to the Owner within 10 days from the date of such Force Majeure condition by registered letter. In the event of delay due to such causes, the delivery schedule will be extended for a length of time equal to the period of force majeure or at the option of the Owner the order may be cancelled. Such cancellation would be without any liability whatsoever on the part of the Owner. In the event of such cancellation, the Vendor shall refund any amount advanced or paid to the Vendor by the Purchaser and deliver back any materials issued to him by the Purchaser and release facilities, if any, provided by the Purchaser. However, applicability of Force Majeure Clause in respect to a particular contract in the above backdrop is to be decided by Tender Accepting Authority.

## **28. CANCELLATION/SHORT CLOSURE:**

The Owner may terminate/short close the contract, by not less than 30 days written notice to the bidder, to be given after occurrence any of the events specified in the Sl. No. (a) to (e) of this clause and 60 days in the case of the event referred to Sl. No. (g), (h) & (f) below :

- a) The Vendor fails to comply with any of the terms of the Order or the bidder do not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Owner may have subsequently approved in writing.
- b) The Vendor becomes bankrupt or goes into liquidation.
- c) If as a result of Force Majeure, the Bidder is unable to supply a material for a period of not less than 60 days.
- d) If the Bidder, in the judgment of the Owner has engaged in corrupt or fraudulent practices in competing or in executing the Contract. For the purpose of this clause:
  - e) "Corrupt Practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the selection process or in contract execution.
  - f) "Fraudulent Practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Owner.
- g) The vendor is otherwise precluded from complying with any of the terms of the order on

account or any directives of any lawful authority.

h) If the Owner, at its sole discretion, decides to terminate this Contract.

**DVC reserves the right not to issue tender documents to any intending bidders with whom DVC has stopped entering into business by virtue of policy decision.**

### **29. OWNER SUPPLIED MATERIALS (OSM):**

In turnkey contracts/Work contracts, there are occasions where DVC supply some of the materials/equipment to the contractor free of cost, for erection. The contractor shall arrange proper storing and insure against all risks for such OSM. The contractor shall furnish indemnity bond for the total value of OSM.

### **30. RECOVERY OF EXCESS CONSUMPTION:**

Rate of recovery (for excess consumption of OSM exceeding allowable wastage) for OSM may be determined on the basis of latest PO with storage charge (wherever incurred) / 15% service charge and price variation, wherever applicable (only positive variation to be considered without any ceiling) as on date of commissioning of OSM after erection.

The contractor may be allowed to replenish the excess consumed materials from the sources approved by DVC. However, if the OSM has to be issued through additional procurement on demand of the contractor because of excess consumption of his/their part, replacement of such additional quantity may not be allowed at the discretion of DVC and the same will be recovered as per procedure described above. In case penal recovery is considered to be expedient in respect of any critical equipment, the same shall be provided in the contract/bid document only after obtaining approval of HOD/Director.

In case of issuance of any Tools and Plants, the contractor should return the same in as received condition.

### **31. ELIGIBILITY CRITERIA OF JOINT VENTURE/ASSOCIATES IN TURNKEY CONTRACT:**

i) The bidder shall be a joint venture company incorporated in India and registered under the Companies Act 1956, provided that eligibility criteria of individual bidder mentioned at NIT is met by one of the promoters or jointly by more than one promoter. Each promoter company on the basis of whom the joint venture company gets qualified shall have minimum 26% equity in the JV company. The equity shall be locked in at least for a period of 5 years from the date of bid opening or till the completion of the warranty period of the project whichever is later. The bidder and the promoter company (ies) on whose strength the JV company is qualified, shall be jointly and severally liable for the execution of the contract and an undertaking to this effect shall be submitted along with the bid. In case of award, the said promoter company (ies) shall be required to give separate on demand bank guarantee for an amount equal to 1% of the total contract price in addition to the contract performance guarantee of 10% of contract value to be furnished by the bidder. NO JVC partner shall be allowed to bid independently or as a member in a consortium for this bid.

---

ii) Bidders may take part in the bidding process with associates, provided he associates with a single firm for covering the any deficiency of QR part of individual bidder specified at NIT. In such a case the bidder shall furnish undertaking jointly executed by him and his associate for successful performance of the relevant system along with the bid. In case of award, associate shall be required to furnish bank guarantee for 5.0% (five percent) of contract price of the work value in addition to the contract performance guarantee of 10% (ten percent) of contract value to be furnished by the bidder.

iii) In case, bidder is a JVC and does not meet financial requirements stated at NIT, the financial capability of at least one of the JVC partners on whose experience the qualification is sought, shall meet the financial QR.

The lead partner shall be authorized to incur liabilities and receive instruction for and/or on behalf of partners of Joint Venture and the entire execution of the contract including receipt of payment shall be done exclusively through lead partners. The authorization shall be authenticated by submitting power of attorney signed by the legally authorized signatories of all the partners as per approved proforma of DVC.

iv) All the partners of the Joint Venture Companies shall be liable jointly and severally for the execution of the contract, if awarded, in accordance with the settled terms & conditions and a copy of agreement entered into by the Joint Venture partners having such provision shall be submitted with the bid. A statement to this effect shall be included in the authorisation mentioned under (IV) above.

v) The Joint Venture of the firms shall furnish all the required information as asked for in the NIT / GCC / Specification in respect of each of their partners in their bid. In case of successful bid, the form of agreement shall be signed so as to be legally binding on all the partners. The format of the power of attorney and other documents to be submitted by Joint Venture Partners as indicated in (iii), (iv) & (v) may be suitably structured by our Legal Department.

## **1. SELECTION OF SUB VENDORS FOR TURNKEY CONTRACTS / PACKAGES :**

Approved list of Sub-vendors will be indicated in the bidding documents for QR and non-QR items of supply.

For non-critical items, there may not be enlisted Sub-vendors for every item and the supply shall be accepted as per related standards, approved sample, and satisfactory inspection, wherever applicable.

The bidders are, permitted to propose new/different Sub Vendor for approval of DVC in the pre and post bid stage.

If any new sub-vendor is proposed by the bidder, it may be approved and if it is acceptable on consideration that the proposed Sub Vendor made previous supplies to DVC or is included in the approved list in any other DVC / PGCIL / NTPC Project for similar supply.

In case the proposed Sub Vendor is found to meet the QR and is neither in the approved list nor has made any previous supply to DVC, appropriate decision may be taken by the concerned Chief

Engineer in consideration of documents furnished by the sub-vendor and further assessment, if required, may be done in the pre-award/post award stage.

For non-QR items of supply, if new Sub Vendor is proposed by the bidder, it will be obligatory on the part of bidder to furnish the details / documents in support of their claim which would be reviewed and appropriate decision taken. In the event of further assessment of credential of Sub Vendor being felt necessary beyond the document furnished by the bidders, it shall be dealt with during post award stage.

Normally no separate QR may be stipulated for sub-contracting of erection works. In cases, where Sub-contractor for erection job is proposed by the bidder, the qualification of the proposed Sub-Contractor may be examined keeping in view the qualification requirement applicable for the quantum of job proposed to be sub-contracted and other relevant aspects related to the site condition and overall responsibility of the contractor.

The Sub Vendor / vendors shall be approved by the Tender Accepting Authority/concerned CEs.

### **32. CHANGES IN CONSTITUTION OF BUSINESS :**

In the event of change in constitution of business of the contractor after issuance of contract due to merger/acquisition/any other reasons, the newly formed entity shall be equally held responsible to fulfil the contractual obligation. This is notwithstanding anything contained in NIT or subsequent LOI / LOA / GCC or any other document issued or provisions contained in any other Rules / Acts / Legislation.

### **33. WAIVER :**

Any waiver by the Owner of any breach of the terms and conditions of the Order shall not constitute any subsequent breach of the waiver of any other right or conditions.

### **34. COMPLIANCE OF REGULATIONS :**

The Vendor shall warrant that all Goods and/or services covered by this Purchase Order/ contract shall have been produced, sold, dispatched, delivered, tested and commissioned in strict compliance with all applicable laws, regulations including industries (Development & Regulations) Act, 1951 & Industrial Dispute Act, 1947 and any amendments there under, labour agreements, Safety rules and PF compliance, working conditions and technical codes and requirement as applicable from time to time.

All laws, rules and regulations required to be followed in execution of the order / contract, must be complied with. The Vendor should execute and deliver such documents as may be needed by the Purchaser/ owner in evidence of compliance. Any liability arising out of contravention of any of the laws on executing this order shall be the sole responsibility of the Vendor and the Owner shall not be responsible in any manner whatsoever.

### **35. SUB-LETTING & ASSIGNMENT :**

The Vendor shall not sub-let or assign any part of this Purchase Order/ contract to any other vendor/agency without the prior written consent of the Purchaser / owner. Such assignments or

sub-letting or transfer shall not relieve the Vendor from any obligation, duty and responsibility under this Purchase Order / contract. Any assignment, transfer or sub-letting without the prior written approval of the Owner shall be void. The Purchaser / owner shall have the right to cancel the order/contract and to purchase the goods/services from elsewhere and the supplier/vendor shall be liable to the Purchaser / owner for any loss or damage which the Purchaser / owner may sustain in consequence or arising out of such purchase and the Vendor shall indemnify such loss or damage to the Owner.

### **36. VENDORS DRAWING & DATA :**

All Drawings, data and documentation in respect of the ordered items are an integral part of the Purchase Order / contract. The Vendor will furnish all such drawings, data and documentation to the Purchaser / owner. Purchaser / owner will specify the schedule for submission of these documents by the Vendor and the required number of copies. The vendor shall ensure strict compliance to this schedule.

### **37. INFORMATION PROVIDED BY THE PURCHASER /OWNER:**

All Drawings, data and documentation that are given to the vendor by the Purchaser / owner for the execution of the Order / contract shall be the property of the Purchaser / owner and shall be returned by the Vendor on demand by the Purchaser / owner. The Vendor shall not make use of any of the above documents for any purpose at any time except for the purpose of executing the Order / contract of the Purchaser / owner. The Vendor shall not disclose any of the information given by the Purchaser / owner to any person, firm, corporate body or authority and shall make all endeavours to ensure that the above information is kept confidential. All such information shall also remain the absolute property of the Purchaser/owner.

### **38. SPARE PARTS, OILS & LUBRICANTS :**

Wherever applicable, the Vendor shall furnish item wise price list of spare parts required for two years operation of the equipment ordered. The Vendor shall also provide the necessary instructions and drawings to identify the spare part numbers and their location as well as an interchangeability chart. The Vendor shall recommend the quality of oils and lubricants required to be used to the operation of the equipment supplied under this Order for a continuous operation for a period of at least one year.

### **39. VENDORS LIABILITY :**

Vendor hereby accepts full responsibility and indemnifies the Purchaser/owner and shall hold the Purchaser / owner harmless from all acts of omissions and commissions on the part of the vendor, his agents, his subcontractors and employees in execution of the Order. The Vendor also agrees to defend and hereby undertakes to indemnify the Purchaser / owner and also hold him harmless from any and all claims of injury to or death of any and all persons including but not limited to employees and for damage to the property arising out of or in connection with the performance of the work under the Purchase Order / contract. Vendor will also be responsible and indemnify the owner for any consequential damages .

#### **40. PACKING AND MARKING .**

All goods shall be securely packed in cases, bundles, crates etc. suitable for Rail / Road / Air / Sea transport. All exposed services/connections, protrusions shall be properly protected. All unexposed parts shall be packed with due care and the packages should bear the words "Handle with Care". The packing of the goods to be transported by Rail / Road / Air / Sea shall be as per the conditions laid down by the appropriate authorities and the Vendor shall obtain clean railway / goods receipts without any qualifying remark.

All packages and unpacked materials shall be marked on at least two places indicating the name of the Purchaser/ Consignee, Purchase Order No., gross & net weights and dimensions with indelible paint in English. In case of bundles, metallic plates marked with the above details shall be tagged. All packages containing harmful/ hazardous materials should be prominently marked.

All goods should be despatched as per the relevant terms of the Purchase Order. In case any mode of transports has to be resorted to other than that mentioned in the Purchase Order, the same should be done only after obtaining prior approval in writing from the Purchaser. All movement sanctions, loading permissions etc. from the railway or other authorities shall be obtained by the Vendor. The vendor should also take care of the odd-size consignments and their clearances involved. The Vendor shall communicate the relevant dispatch particulars immediately on dispatch by telex/telegram to the consignee as specified in the Purchase Order.

The Vendor shall also forward original and copies of dispatch documents to the concerned authorities as required in the Purchase Order within two days from the date of despatch, failing which the Vendor shall be responsible for any delay in payments of consignment for want of documents and consequent demurrage, detention charges, etc.

#### **41. MODIFICATIONS :**

This order constitutes an entire agreement between the parties hereto. Any modifications to this Order shall become binding only upon the same being confirmed in writing duly signed by both the parties.

#### **42. GUARANTEE / WARRANTY :**

**42.1** The Vendor shall warrant that all material / equipment / services supplied under this Order / contract shall be new, unused and conform to the Purchasers / owners requirements and specifications. The Vendor shall guarantee the material / equipment / services under this Order for a period of 18 months from the date of delivery or 12 months from the date of commissioning whichever is earlier.

For turnkey contracts, Guarantee / Warranty period is to be considered as 12 months from the date of commissioning of the same irrespective of date of delivery. The date of delivery to be reckoned as the date of receipt of the material by the consignee. The Vendor shall agree to replace any material, which has been proved defective or fails to conform to the desired specifications free of cost to the Purchaser within the Guarantee/Warranty Period. The guarantee period for such replaced part shall be the same as that of equipments / materials specified earlier.

42.2 Checking / approval of vendors drawings, inspection and acceptance of material / spares / equipment / furnishing to effect shipment and / or work done for erection, installation and commissioning of the equipment by the Purchaser/owner or any other agency on behalf of the Purchaser / owner shall not in any way relieve the Vendor from the responsibility for proper performance during the guarantee period.

42.3 Service contracts like hiring of vehicle / Insurance / consultancy / Clearing & Forwarding services etc and other consumable items like stationeries, printing of matter etc. are beyond the purview of Warranty Clause.

However, before floating of enquiry, Indentor / TIA at his discretion and depending on the technical intricacies of the procurement of goods and services may decide on the period of warranty / guarantee.

#### **43. MODE OF DESPATCH:**

Vendor shall despatch the materials as per schedule mode of despatch as indicated in the purchase order/contract and any violations to this effect without taking prior written approval from the purchaser/owner is not permissible. If it is dispatched without per mission , all risk and cost is to borne by the vendor.

#### **44. DEMURRAGE / WHARFAGE :**

In cases where documents are negotiated through Bank, any consequential charges e.g. demurrage / wharfage charges, due to late retirement of documents on account of (i) violation of the inspection clause, (ii) material despatched after expiry of delivery period without obtaining approval in advance for extension of delivery period (iii) despatch of materials not as per schedule mode of despatch by approved transporters as per P.O/contract. (iv) late receipt of invoice or due to violation of any other clause/clauses of the purchase order will be to the Vendors account. Supplier would also be responsible for all such payment due to late receipt of RR/LR and other documents.

#### **45. GRAFTS / COMMISSION :**

Any graft, commission, gift or advantage given, promised or offered by or on behalf of the Supplier or his partner, agent officers, director, employee or servant or any one on his or their behalf in relation to the obtaining or to the execution of this or any other Contract with the Owner, shall in addition to any criminal liability which it may incur, subject the Supplier to the cancellation of this and all other Contracts and also to pay for any loss or damage to the Owner resulting from such cancellation. The Owner shall then be entitled to deduct the amount so payable from any money otherwise due to supplier.

**INTEGRITY PACT :Vendors/contractors are required to unconditionally accept the “Integrity pact” (executed in plain paper) as per format furnished by DVC**

#### **46. ACCEPTANCES :**

The Vendor shall return the duplicate copy of the Purchase Order / contract / Work Order and the other enclosed documents duly signed with seal and date as a mark of acceptance, within 15 days



from the date of issuance of the order to the Order Issuing Authority.

#### **47. GOVERNING LAW**

The Contract shall be governed by and interpreted in accordance with laws in force in India. The Courts of Kolkata shall have exclusive jurisdiction in all matters arising under the Contract.

#### **48. SETTLEMENT OF DISPUTES & ARBITRATION:**

##### **48.1. ADJUDICATOR**

48.1.1 If any dispute of any kind whatsoever shall arise between the Employer and the Contractor in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Facilities<sup>o</sup> whether during the progress of the Facilities or after their completion and whether before or after the termination, abandonment or breach of the Contract<sup>o</sup> the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, then the dispute shall be referred in writing by either party to the Adjudicator, with a copy to the other party.

48.1.2 The Adjudicator shall give its decision in writing to both parties within twenty-eight (28) days of a dispute being referred to it. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the Employer or the Contractor within fifty-six (56) days of such reference, the decision shall become final and binding upon the Employer and the Contractor. Any decision that has become final and binding shall be implemented by the parties forthwith.

48.1.3 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not fulfilling its functions in accordance with the provisions of the Contract, another retired Judge of High Court / Supreme Court of India shall be jointly appointed by the Employer and the Contractor as Adjudicator under the Contract. Failing agreement between the two, within twenty eight (28) days, the new retired Judge of High Court/Supreme Court of India shall be appointed as Adjudicator under the Contract at the request of either party by the Appointing Authority specified in the SCC. The Adjudicator shall be paid fee plus reasonable expenditures incurred in the execution of its duties as Adjudicator under the Contract. These costs shall be divided equally between the Employer and the Contractor.

##### **48.2. ARBITRATION**

48.2.1 If either the Employer or the Contractor is dissatisfied with the Adjudicator's decision, or if the Adjudicator fails to give a decision within twenty-eight (28) days of a dispute being referred to it, then either the Employer or the Contractor may, within fifty-six (56) days of such reference, give notice to the other party, with a copy for information to the Adjudicator, of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

48.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given in accordance with GCC Sub-Clause 48.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after completion of the Facilities.

48.2.3 Any dispute submitted by a party to arbitration shall be heard by an arbitration panel composed of three arbitrators, in accordance with the provisions set forth below.

48.2.4 The Employer and the Contractor shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the two arbitrators do not succeed in appointing a third arbitrator within twenty-eight (28) days after the

---

later of the two arbitrators has been appointed, the third arbitrator shall, at the request of either party, be appointed by the Appointing Authority for arbitrator designated in the SCC.

48.2.5 If one party fails to appoint its arbitrator within forty-two (42) days after the other party has named its arbitrator, the party which has named an arbitrator may request the Appointing Authority to appoint the second arbitrator.

48.2.6 If for any reason an arbitrator is unable to perform its function, the mandate of the Arbitrator shall terminate in accordance with the provisions of applicable laws as mentioned in GCC Clause 47(Governing Law) and a substitute shall be appointed in the same manner as the original arbitrator.

48.2.7 Arbitration proceedings shall be conducted as follows:-

(i) Appointing Authority for Adjudicator: Chairman of DVC

Appointing Authority for third Arbitrator:

- a) President, Institution of Engineers in case of an Indian Contractor.
- b) President, International Chambers of Commerce, Paris in case of a Foreign Contractor.

(ii) Rules of procedure for arbitration proceedings:

a) In case of a foreign contractor the arbitration proceeding shall be conducted in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules of 1976.

b) In case of an Indian Contractor, the arbitration proceedings shall be conducted in accordance with Indian Arbitration and Conciliation Act 1996. In case the Indian Contractor is an Indian Public Sector Enterprise /Government Department (but not a state Govt. Undertaking of Joint Sector Undertaking which is not a subsidiary of Central Govt. Undertaking), the dispute arising between the Employer and the Contractor shall be referred for resolution to a Permanent Arbitration machinery (PAM) of the Department of Public Enterprises, Government of India.

(iii) The Place for Arbitration shall be : Kolkata, India

48.2.8 The decision of a majority of the arbitrators (or of the third arbitrator chairing the arbitration panel, if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction as decree of the court. The parties thereby waive any objections to or claims of immunity from such enforcement.

48.2.9 The arbitrator(s) shall give reasoned award.

48.3. Notwithstanding any reference to the Adjudicator or arbitration herein,

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

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

17. Safety Aspects To Be Complied:

CLAUSE NO.	REQUIREMENT
1.0	<p>The contractor/ agency shall comply with all the requirements of the rules framed by Damodar Valley Corporation (Also referred here as DVC) relating to Safety, provisions of Factories Act, 1948 State Factories Rules as amended time to time, and all other statutory requirements as applicable to his work, like Indian Electricity Act, ESI Act (Wherever the facility is available), PF Act, Workmen's Compensation Act, Motor Vehicles Act etc. He shall ensure compliance of all the responsibilities of the Occupier and Factory Manager as mentioned in the Factories Act in his place of work.</p> <p>Additionally, the contractor shall comply with all the Rules framed by DVC relating to Safety of all working in the work place, and ensure compliance with all types of permit to work. He shall also comply with all directions given by the Engineer In-charge or Head of DVC Project Safety Deptt. or their nominated representative with specific regard to Safety and Health of the workers.</p>
2.0	<p>The Contractor/ Agency shall frame and implement its Safety and Health Policy which shall contain all the provisions relating to compliance of DVC Safety/ Health and Safety Policy.</p>
2.1	<p>The Contractor shall appoint a full time Engineer with either Degree in Engg. With not less than 1 years of experience or Diploma in Engg. With not less than 2 years of experience to supervise the work for each 50 workers/ staff or a part thereof. <u>Where the work is of hazardous in nature the supervisor shall be appointed for first 20 workers also.</u></p>
2.2	<p>If at any time the contractor employs more than 150 workers including staff, he shall appoint from the start of work itself a Safety Officer, with the qualification as mentioned in the Factories Act/ State Factories Rules applicable to the state, in which the work is carried out. The Safety Officer of the Contractor shall discharge only those responsibilities as mentioned in statutory rules for the Safety Officers.</p>
2.3	<p>Before Start of work by the Contractor, The Contractor shall sign an MOU with Head of DVC Project Safety Deptt. and Engineer In charge of the contract, wherein he shall submit following documents also:</p> <ul style="list-style-type: none"> <li>a) Safety Plan of the Contractor for his own as well as his sub- contractors;</li> <li>b) Methodology (Including responsibility) of accident reporting to DVC authorities and Statutory authorities, conduct of enquiries, and implementation of corrective measures.</li> </ul>

2.5	<p>c) The Contractor shall get all his Lifting equipments and tackles thoroughly examined / tested through a Competent Persons, approved by the local state government, where the work is being undertaken.</p> <p>d) Before Start of work by the Contractor, the Contractor shall present his Personal Protective equipments to Head of DVC Safety Deptt, and Engineer In charge, for inspection, who will inspect these equipments for necessary legal compliance. Only after this inspection and clearance in writing, above referred items shall be used or issued by the Contractor.</p> <p>e) Before using the lifting equipments and other safety related items, the contractor shall present these to Head of DVC Safety Deptt, and Engineer In charge, for inspection, who will inspect these equipments for its safety. Only after their clearance in writing, these items shall be used by the Contractor. However, all liabilities for statutory violations for these equipment shall be of the Contractor.</p> <p>Before Start of the contract, the Contractor shall provide appropriate Safety Training to all his workers of at least one full day duration, through an external agency, with faculty having the qualification as mentioned in the Factories Act/ State Rules for the Safety Officer, and having minimum 5 years of power plant site exposure, with regard to implementing safety provisions. <u>Only those who are trained, as above, shall be allowed for issue of Gate Pass.</u></p> <p>f) Before Start of work by the Contractor, the Contractor shall get occupational health examination of his workers, working/ to work in hazardous activities through a Medical Practitioner, approved by the State Government, and subsequently as mentioned in the state factories rules.</p> <p>g) In case any accident occurs and DVC Officials investigate it, the Contractor shall provide full cooperation in conduct of inquiry, conducted by the DVC officials, in case of any accident at his workplace or to his worker.</p> <p>e) Wherever there is probability of fall of worker/ material from more than 8 Ft, to prevent his fall, the contractor shall provide Safety Harness to all his workers and ensure its use. He shall also provide safety net below such work place. He shall ensure compliance of all provisions of Permit for working at height devised by DVC. If the fall arrester is provided by DVC, the Contractor shall ensure its right use.</p> <p>The contractor shall use only double insulated power tools shall be used at the construction place. He shall only use 3 Core cable for Single phase Supply and 4 Core Cable for 3 Phase supply. For all electrical connections appropriate ELCB shall be used by the Contractor.</p> <p>a) In no case any electric supply shall be taken through loose wire like supply without Plug Top.</p>
-----	---

	<p>b) No electrical repair work shall be carried out on any live equipment. It shall be done only by the Electrician having either ITI qualification or Wireman's certificate issued by the State Government.</p> <p>3.0 In case any accident occurs during the construction or erection work or other associated activities undertaken by the Contractor In-charge, it shall be the responsibility of the Contractor to promptly inform the same to the Engineer In-charge, DVC Head of Safety Deptt. in the prescribed form (Which can be collected by the Contractor/ Agency from the Project Safety Deptt.), and also to all the statutory authorities envisaged under the applicable laws.</p> <p>4.0 The Engineer In-charge as well as DVC Head of Safety Deptt. or their nominated representative 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 equipments. In such cases, the contractor shall be informed in writing, and the contractor shall immediately stop the work, and comply to remove shortcomings promptly.</p> <p>5.0 If the Contractor does not provide safety equipments to his workers or fails to discharge of his other responsibilities, statutory or otherwise, as mentioned above, DVC may provide the same and recover the expenditure along with overhead cost etc. However, this does not absolve the contractor from his responsibility as mentioned in the contract..</p> <p>6.0 If the Contractor fails complying with the provisions as mentioned above, the Contractor shall pay to DVC at the rate of Rs. 2,000/- per day or part thereof for contract value exceeding Rs Twenty Lakhs, and, at the rate of Rs 500/- per day for the contract value less than Rs 20 Lakhs till the instructions are complied with and so certified by the Engineer In-charge and DVC Head of Project Safety Deptt.. If it is not paid by the Contractor, it shall be deducted from his next bill.</p> <p>In case of injury, the compensation as calculated/ directed by the State Government Authorities shall be paid by the Contractor to the Victim/ his heir, in accordance with the statutory provisions.</p>
--	--

## 50. WORK PROGRAM

### 50.1. CONTRACTOR'S ORGANIZATION

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

### 50.2. PROGRAM OF PERFORMANCE

Within twenty eight (28) days after the date of Notification of Award of Contract, the Contractor shall prepare and submit to the Project Manager a detailed program of performance of the Contract, made in the form of PERT network and showing the sequence in which it proposes to design, manufacture/procure, transport, work at site as well as the date(s) by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion of the Facilities in accordance with the Contract. The program so submitted by the Contractor shall accord with the Time Schedule to the Contract Agreement and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion given in the SCC and any extension granted in accordance with GCC Clause 35, and shall submit all such revisions to the Project Manager.

### 50.3 Progress Report

The Contractor shall monitor progress of all the activities specified in the program referred to in GCC Sub-Clause 50.2 (Program of Performance) above, and supply a progress report to the Project Manager every month.

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

### 50.4 PROGRESS OF PERFORMANCE

If at any time the Contractor's actual progress falls behind the program referred to in GCC Sub-Clause 50.2 (Program of Performance), or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Clause 22 (Time for Commencement and Completion), or any extended period as may otherwise be agreed upon between the Employer and the Contractor.

### 50.5 WORK PROCEDURES

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

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

### 50.6 Maintenance of Records of Weekly Progress Review Meetings at Site.

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



**PDF Complete**  
Your complimentary use period has ended.  
Thank you for using PDF Complete.

[Click Here to upgrade to Unlimited Pages and Expanded Features](#)

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

51.2 **Disposal of surplus material:** Ownership of any goods/materials in excess of the requirements for the Facilities (i.e. surplus material) shall revert to the Contractor upon Completion of the Facilities or at such earlier time when the Employer and the Contractor agree that the goods/materials in question are no longer required for the Facilities. The Contractor shall remove from the site such surplus material brought by him in pursuance of the Contract, subject to the Contractor producing the necessary clearance from the relevant authorities (Custom, Excise etc.), if required by the law, in respect of re-export or disposal of the surplus material locally. The liability for the payment of the applicable taxes/duties, if any, on the surplus material so re-exported and / or disposed locally shall be that of the Contractor.

The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal/disposal of surplus material. The Indemnity Bond shall be furnished by Contractor as per proforma. Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the surplus material to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer.

51.3 Notwithstanding the transfer of ownership of the goods/materials, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor hereof until Completion of the Facilities or the part thereof in which such goods/materials are incorporated.

51.4 In case of where the Employer hands over his goods/materials/Equipments to the Contractor for executing the Contract, then the Contractor shall, at the time of taking delivery of the goods/materials/Equipments through Bill of Lading or other despatch documents, furnish Trust Receipt for goods/materials/Equipments and also execute an Indemnity Bond in favour of the Employer for keeping the equipment in safe custody and to utilise the same exclusively for the purpose of the said Contract.

## **52. CHANGES IN THE FACILITIES**

### **52.1 INTRODUCING A CHANGE**

52.1.1 The Employer shall have the right to propose, and subsequently require, that the Project Manager order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities (hereinafter called "Change"), provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract .

52.1.2 The Contractor may from time to time during its performance of the Contract propose to the Employer (with a copy to the Project Manager) any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The Employer may at its discretion approve or reject any Change proposed by the Contractor.

52.1.3 Notwithstanding GCC Sub-Clauses 52.1.1 and 52.1.2, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be

deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

52.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Sub Clauses 52.2 and 52.3.

## 52.2 CHANGES ORIGINATING FROM EMPLOYER

52.2.1 If the Employer proposes a Change pursuant to GCC Sub-Clause 52.1.1, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

- (a) brief description of the Change
- (b) effect on the Time for Completion
- (c) estimated cost of the Change
- (d) effect on any other provisions of the Contract.

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

52.2.3 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 52 would be to increase or decrease the Contract Price as originally set forth in Contract Price of the Contract Agreement, the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Employer accepts the Contractor's objection, the Employer and the Contractor shall agree on specific rates for valuation of the change.

52.2.4 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained including agreement on rates if such rates are not available in the Contract or if the limit set forth in Clause 52.2.3 has been exceeded. Within fourteen (14) days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.

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

If the Employer decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Contractor accordingly.

52.2.5 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct the Contractor to proceed with the Change by issue of a "Pending Agreement Change Order."

Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.



If the parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to the Adjudicator in accordance with the provisions of GCC Sub-Clause 48.1 (Adjudicator).

### 52.3 CHANGES ORIGINATING FROM CONTRACTOR

52.3.1 If the Contractor proposes a Change pursuant to GCC Sub-Clause 52.1.2, the Contractor shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 52.2.1.

Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Sub-Clauses 52.2.4 and 52.2.5

## 53 TERMINATION

### 53.1 TERMINATION FOR EMPLOYER'S CONVENIENCE

53.1.1 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 53.1.

53.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 53.1.1, 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 53.1.3, shall

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

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

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

53.1.3 In the event of termination of the Contract under GCC Sub-Clause 53.1.1, 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 53.1.2
- (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.

### 53.2 TERMINATION FOR CONTRACTOR'S DEFAULT

53.2.1 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 therefore to the Contractor, referring to this GCC Sub-Clause 53.2:

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

For the purpose of this Sub-Clause:

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

"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.

53.2.2 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 53.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed
- (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause
- (d) refuses or is unable to provide sufficient materials, services or labour to execute and complete the Facilities in the manner specified in the program furnished under GCC Clause 50 (Program of Performance) at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy

or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 53.2.

53.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 53.2.1 or 53.2.2, 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 Works and to the Plant and Equipment as at the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors
- (e) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

53.2.4 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 work 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.

53.2.5 Subject to GCC Sub-Clause 53.2.6, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities executed as at the date of termination, the value of any unused or partially used Plant and Equipment on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 53.2.3. 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.

53.2.6 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 53.2.5, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract

If, the Contractor shall be liable for such excess.

If such excess is greater than the sums due to the Contractor under GCC Sub-Clause 53.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due to the Contractor under GCC Sub-Clause 53.2.5, the Employer shall pay the balance to the Contractor.

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

### 53.3 TERMINATION BY CONTRACTOR

#### 53.3.1 If

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

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

(b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities which the Employer is required to obtain as per provision of the Contract or as per relevant applicable laws of the country, then the Contractor may give a notice to the Employer thereof, and if the Employer has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Contractor is still unable to carry out any of its obligations under the Contract for any reason attributable to the Employer within twenty-eight (28) days of the said notice, the Contractor may by a further notice to the Employer referring to this GCC Sub-Clause 53.3.1, forthwith terminate the Contract.

53.3.2 The Contractor may terminate the Contract forthwith by giving a notice to the Employer to that effect, referring to this GCC Sub-Clause 53.3.2, if the Employer becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Employer takes or suffers any other analogous action in consequence of debt.

53.3.3 If the Contract is terminated under GCC Sub-Clauses 53.3.1 or 53.3.2, then the Contractor shall immediately

- (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Facilities already executed, or any work required leaving the Site in a clean and safe condition

- (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d)(ii)
- (c) remove all Contractor's Equipment from the Site and repatriate the Contractor's and its Subcontractor's personnel from the Site
- (d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 53.3.4, shall
- (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
  - (ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors
  - (iii) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

53.3.4 If the Contract is terminated under GCC Sub-Clauses 53.3.1 or 53.3.2, the Employer shall pay to the Contractor all payments specified in GCC Sub-Clause 53.1.3, and reasonable compensation for all loss or damage sustained by the Contractor arising out of, in connection with or in consequence of such termination.

53.3.5 Termination by the Contractor pursuant to this GCC Sub-Clause 53.3 is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights conferred by GCC Sub-Clause 53.3.

53.4 In this GCC Clause 53, the expression "Facilities executed" shall include all work executed, Installation Services provided, any or all Plant and Equipment acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.

53.5 In this GCC Clause 53, in calculating any monies due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to Terms and Procedures of Payment to the Contract Agreement.

#### **54. CONFIDENTIAL INFORMATION**

- 54.1 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 54.
- 54.2 The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than execution of the Contract and 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, construction or such other work and services as are required for the



**PDF Complete**  
Your complimentary  
use period has ended.  
Thank you for using  
PDF Complete.

[Click Here to upgrade to  
Unlimited Pages and Expanded Features](#)

- performance of the Contract.
- 54.3 The obligation of a party under GCC Sub-Clauses 54.1 and 54.2 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.
- 54.4 The above provisions of this GCC Clause 54 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.
- 54.5 The provisions of this GCC Clause 54 shall survive termination, for whatever reason, of the Contract.

## **55. REPRESENTATIVES**

### **55.1 PROJECT MANAGER**

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

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

### **55.2 Contractor's Representative & Construction Manager**

55.2.1 If the Contractor's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the Contractor's Representative and shall request the Employer in writing to approve the person so appointed. If the Employer makes no objection to the appointment within fourteen (14) days, the Contractor's Representative shall be deemed to have been approved. If the Employer objects to the appointment within fourteen (14) days giving the reason therefore, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 55.2.1 shall apply thereto.

55.2.2 The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Project Manager all the Contractor's notices, instructions, information and all other communications under the Contract.

All notices, instructions, information and all other communications given by the Employer or the Project Manager to the Contractor under the Contract shall be given to the Contractor's

Representative or, in its absence, its deputy, except as herein otherwise provided.

The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in GCC Sub-Clause 55.2.1.

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

Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 55.2.3 shall be deemed to be an act or exercise by the Contractor's Representative.

55.2.3.1 Notwithstanding anything stated in GCC Sub-clause 55.1 and 55.2.1 above, for the purpose of execution of contract, the Employer and the Contractor shall finalise and agree to a Contract Co-ordination Procedure and all the communication under the Contract shall be in accordance with such Contract Co-ordination Procedure.

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

55.2.5 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under GCC Sub-Clause 56.3. The Employer shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities/Site.

55.2.6 If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 55.2.5, the Contractor shall, where required, promptly appoint a replacement.

## **56. SITE WORKS**

### **56.1 SETTING OUT/SUPERVISION/LABOUR**

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

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

the Employer, the expense of re-employing the same shall be borne by the Employer.

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

#### 56.1.3 Labour:

(a) The Contractor shall provide and employ on the Site in the work such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labour that has the necessary skills.

(b) Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation and catering of all labour, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.

(c) The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labour and personnel to be employed on the Site into the country where the Site is located.

(d) The Contractor shall at its own expense provide the means of repatriation to all of its and its Subcontractor's personnel employed on the Contract at the Site to their various home Countries. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Contractor defaults in providing such means of transportation and temporary maintenance, the Employer may provide the same to such personnel and recover the cost of doing so from the Contractor.

(e) The Contractor shall at all times during the progress of the Contract use its best endeavours to prevent any unlawful, riotous or disorderly conduct or behaviour by or amongst its employees and the labour of its Subcontractors.

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

### 56.2 CONTRACTOR'S EQUIPMENT

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

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

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



## 56.3 SITE REGULATIONS AND SAFETY

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

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

## 56.4 OPPORTUNITIES FOR OTHER CONTRACTORS

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

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

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

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

## 56.5 EMERGENCY WORK

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

If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine is necessary in order to prevent damage to the Facilities. In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefore. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. Otherwise, the cost of such remedial work shall be borne by the Employer.

## 56.6 SITE CLEARANCE

56.6.1 Site Clearance in Course of Performance: In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and

Remove any Contractor's Equipment no longer required for execution of the Contract.

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

#### 56.6.3 Disposal of Scrap

The Contractor shall in consultation with the Project Manager promptly remove from the site any 'Scrap' generated during performance of any activities at site in pursuance of the Contract. The term 'Scrap' shall refer to scrap / waste / remnants arising out of the fabrication of structural steel work and piping work at the project site in the course of execution of the contract and shall also include any wastage of cables during the termination process while installing the cables.

The ownership of such Scrap shall vest with the Contractor except in cases where the items have been issued by the Employer from its stores for their installation only without any adjustment to the Contract Price. The removal of scrap shall be subject to the Contractor producing the necessary clearance from the relevant authorities (Custom, Excise etc.), if required by the law, in respect of disposal of the scrap. The liability for the payment of the applicable taxes/duties shall be that of the Contractor.

The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal/disposal of scrap. The Indemnity Bond shall be furnished by Contractor as per proforma enclosed in Section-VI (Bid Forms and Procedure). Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the scrap to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer.

#### 56.7 WATCHING AND LIGHTING

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

#### 56.8 WORK AT NIGHT AND ON HOLIDAYS

56.8.1 Unless otherwise provided in the Contract, no work shall be carried out during the night and on public holidays of the country where the Site is located without prior written consent of the Employer, except where work is necessary or required to ensure safety of the Facilities or for the protection of life, or to prevent loss or damage to property, when the Contractor shall immediately advise the Project Manager, provided that provisions of this GCC Sub-Clause 56.8.1 shall not apply to any work which is customarily carried out by rotary or double-shifts.

56.8.2 Notwithstanding GCC Sub-Clauses 56.8.1 or 56.1.3, if and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Employer's consent thereto, the Employer shall not unreasonably withhold such consent.



*Your complimentary  
use period has ended.  
Thank you for using  
PDF Complete.*

[\*Click Here to upgrade to  
Unlimited Pages and Expanded Features\*](#)