

STANDARD BIDDING DOCUMENT FOR TURNKEY WORKS

DECEMBER 2022



NMDC LIMITED

(A Government of India Enterprise)

10-3-311/A, Khanij Bhavan, Castle Hills,
Masab Tank, Hyderabad- 500028

एनएमडीसी



NMDC

STANDARD BIDDING DOCUMENT

FOR

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DECEMBER - 2022

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(A Government of India Enterprise)
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सुमित देब
SUMIT DEB

अध्यक्ष-सह-प्रबंध निदेशक
Chairman-cum-Managing Director



Message

It is with immense pleasure, I announce the release of updated Standard Bidding Document - December 2022 for Turnkey works. NMDC has undertaken several capital intensive projects to modernise and increase capacities to retain its domestic leadership. The furtherance of the organization lies in the successful completion of its envisaged projects and contracts are the enabler / disabler which are at the bottom of the pyramid and hence, a well framed Contract is the need of the hour. One of the most basic building blocks of good business is having a valid and concrete contract. Contracts, by nature, are meant to be a safeguard for both parties of the business agreement.

Having clear and concise terms that both Client and Contractor agree to, will help shape the expectations and guide the performance of duties. With everything documented, it's easy to go back and refer to the contract whenever there are issues in working relationship or questions about agreed-upon services. The Standard Bidding document has been created in this sense, duly pouring-in years of experience gathered by NMDC in the field along with consultation from outside experts and following the public procurement guidelines formulated by Government of India.

Further, to retain and comply with 4 axioms of Public procurement – 'Transparency, equity, fairness and competitiveness', the existing Standard Bidding Document has been reviewed and updated with best practices adopted across the industry. The SBD is also updated with pertinent points observed from - Procurement Manual (updated June 2022) published by Department of Expenditure and - Vigilance Guidelines released from time to time on public procurement.

I am happy to note that the updated SBD has encompassed all the above elements and would serve as a model document for all our turnkey projects.


(Sumit Deb)

एनएमडीसी लिमिटेड NMDC Limited (भारत सरकार का उद्यम) (A Govt. of India Enterprise)

खनिज भवन Khanij Bhavan, 10-3-311/A, मासाब टैंक Masab Tank, हैदराबाद Hyderabad - 500 028. तेलंगाना Telangana भारत INDIA.
दूरभाष Phone: +91-40-23538701, 23538704 फैक्स Fax: +91-40-23538705 ई-मेल E-mail: cmd@nmdc.co.in

सोमनाथ नंदी

निदेशक (तकनीकी)

SOMNATH NANDI

Director (Technical)



एनएमडीसी लिमिटेड

(भारत सरकार का उद्यम)

NMDC Limited

(A Govt. of India Enterprise)

10-3-311/ए, खनिज भवन, कैसल हिल्स, मासाब टैंक, हैदराबाद - 500028.

10-3-311/A, Khanij Bhavan, Castle Hills, Masab Tank, Hyderabad - 500028.



Message

It is heartening to note that the Standard Bidding Document for turnkey works has been updated with the commensurate and corroborative with current standard practices for such type of works which has been propounded by the Government Procurement Manuals.

As NMDC continues to aggressively pursue the initiatives for augmentation of capacity across iron ore mines along with diversification by taking up greenfield and brownfield projects in mines, metal and power business. In order to expedite this vision, it is important to have a Standard Procedure with the organization for selection of capable agencies having adequate knowledge and experience to ensure that the project is executed according to the vision and timelines formulated by the company.

This standard bidding document will not only improve the efficiency and decision-making process with-in the organization, but will also facilitate the probable contractors, by bringing clarity in terms and condition of contract that will be signed between the employer and successful bidder. This also have compounding effects on reducing litigations arising during execution of work, which in turn will reduce the time required for execution of work thereby reducing cost overruns and also improving the quality of work.

I firmly believe that this document, will further streamline the tendering process of which involves evaluation of multi-direction criteria of contractor's attributes and complex decision-making process in difficult situation arising during tendering and awarding of works.

I wish team NMDC to adopt Standard Bidding Document for turnkey type of works and achieve success in the path of NMDC ascendancy.

Somnath Nandi



डी.के. मोहान्ती

D.K. Mohanty

निदेशक (उत्पादन)

Director (Production)



Message

NMDC is ushering to new horizons and to keep up with the ever changing dynamic national and international environment, the processes and procedures are to be aligned with the changing environment. The precedent is not always a pre-cursor and the same needs to be reviewed with the current context. The review and updation of Standard Bidding Document for turnkey works is a concomitant activity to the changed scenarios.

Each tendering process is exposed to outside environment, with each clause, condition etc. having financial impact to the bidder and client, hence it is upon us to prepare bidding document without much ambiguity and aligning with the organisational requirements and over all public good. The new Standard Bidding Document will bring clarity in various clause leading to aligned interpretation by the bidders and client.

The in-house experience, best practices across industry and indelible requisites of public formulated by the Government of India have been the inputs for the present SBD

New and Updated Standard Bidding Document for Turnkey Projects is a guide to taking advantage of the bidding process and as well as execution of projects. An important feature of the SBD Works is that it can be used with minimum changes. It brings out uniformity of general clauses across the company and facilitate in expeditious finalisation of tenders.

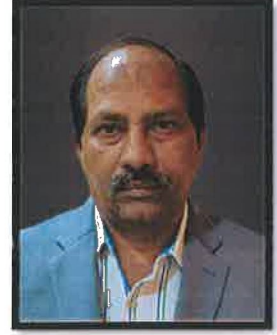
I am happy to learn that updated Standard Bidding Document for turnkey works has been prepared comprehensively and will pave the way for successful execution of forthcoming projects of NMDC.

(D.K.Mohanty)

एनएमडीसी लिमिटेड NMDC Limited (भारत सरकार का उद्यम) (A Govt. of India Enterprise)

खनिज भवन Khanij Bhavan, 10-3-311/A, मासाब टैंक Masab Tank, हैदराबाद Hyderabad - 500 028. तेलंगाना Telangana भारत INDIA.

दूरभाष Phones: 23538706/23538707 फैक्स Fax: +91-40-23538707 ई-मेल E-mail: dirprod@nmdc.co.in



Message

NMDC strives to maintain its processes and procedures adept to organizational requirements and public procurement policies in vogue. Lot of high value tenders on turnkey basis have been awarded and executed successfully. Every stage of tender processes like evaluation of pre-qualification criteria, price offer, deviations taken by the bidder gives rise to multiple scenarios and solutions for some are pre- defined in the tender documents and for some aspects, interpretation or inference is applied for resolving the issues.

Once published and offers are received from the bidders, the tender document is sacrosanct, and any interpretation is regarded as 'afterthought'. It's been our constant endeavour to prepare purpose fulfilled tender document without much ambiguity and less of interpretation.

The updated Standard Bidding Document for turnkey works is prepared by taking inputs from all the projects of NMDC and also best practices adopted across the industry and by consulting experts in this field. The updated SBD for turnkey works is guided by the tenets of Public Procurement. In the updated SBD, the major changes have been carried out in the following areas - Notice Inviting Tender with emphasis on e-tendering, stipulation of technical and financial pre-qualification criteria, bids with Consortium, revised payment terms, payment of price variation, delay analysis, time of completion, levy of Liquidated Damages, sub-contracting, Arbitration and Conciliation clause, excepted matters etc.

I Congratulate the team who have put up concerted efforts in bringing out the updated Standard Bidding Document for Turnkey works and by adoption of this SBD for turnkey works may result in effective Contract Management.

P. Lakshman Rao
Chief General Manager (Engg. & Proj.)



**STANDARD BIDDING DOCUMENT
FOR
TURNKEY WORKS**

PART - I

DECEMBER - 2022

NMDC LIMITED
(A Government of India Enterprise)
10-3-311/A, Khanij Bhavan, Castle Hills,
Masab Tank, Hyderabad- 500028



PART - I

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PRESS NOTIFICATION

NMDC LIMITED
(A Government of India Enterprise)
'Khanij Bhavan', 10-3-311/A, Castle Hills, Masab Tank, Hyderabad - 500 028
Corporate Identity Number (CIN) - L13100AP1958GOI001674

CONTRACTS DEPARTMENT

Tender Enquiry No: -----

Dated: -----

NMDC Limited, A "NAVARATNA" Public Sector Company under Ministry of Steel, Govt. of India, invites **online bids** from prospective bidders for the work of "-----".

The detailed NIT and Bid documents can be viewed and /or downloaded from -----**(Start Date)** to ----- **(End Date)** from following website links;

1. NMDC website - <https://nmdcportals.nmdc.co.in/nmdctender>
2. Central Public Procurement portal – <https://www.eprocure.gov.in/epublish/app> and search tender through tender enquiry number
3. MSTC portal - https://www.mstcecommerce.com/eprochome/nmdc/buyer_login.jsp and search NMDC Tender Event No. _____

For further help refer to 'vendor guide' given in MSTC website. The bidders are requested to submit their bids online through MSTC Limited / e-procurement websites. The details of submission of bid through online are given in NIT. The Bidders on regular basis are required to visit the NMDC's website /CPP Portal / GEM Portal / MSTC website for corrigendum, if any, at a future date.

For further clarification, the following can be contacted –

-----, Fax no. +91-----,
Tel No. +91-----, email: -----

For and on behalf of NMDC Ltd

(Head of the Project / Head of the Department)



PART - I

NOTICE INVITING TENDER (NIT)

1. NMDCL Limited is a public sector company under the Ministry of Steel, Government of India. Primarily engaged in the business of exploring minerals and developing mines to produce raw materials for the industry, it is also expanding its activities towards steel making and other value added products. It has been conferred **“Navratna”** status by Government of India.
2. NMDCL Limited, Hyderabad hereinafter referred to as **"Employer"**, invites **online** bids (also called as tender) in two bid system from eligible bidders for carrying out the work of "-----".
3. Interested Bidders may obtain further information from the office of NMDCL Limited at the following address;

Ph: +91 – -----

E. Mail: -----

4. The complete set of Bid documents can be viewed and downloaded from the following website links from -----(Start date) to -----(End date);

NMDCL Limited:

<https://nmdcportals.nmdc.co.in/nmdctender>

Central Public Procurement Portal:

<https://www.eprocure.gov.in/epublish/app>

MSTC Limited:

https://www.mstcecommerce.com/eprochome/nmdc/buyer_login.jsp

For accessing the bid document from MSTC, bidders to click above MSTC website link and view/ download the Tender documents having **MSTC Tender Event no:-----**
----- . For further help refer to 'vendor guide' given in MSTC website.



The bidders are requested to submit their bids through online mode and details of submission of bid through online are given in NIT. The Bidders on regular basis are required to visit the NMDC/ CPP / MSTC/ e-procurement websites for corrigendum, if any, at a future date. Bid documents and/or corrigendum downloaded from NMDC website /Central Public procurement portal/ MSTC website/ e-procurement websites shall only be considered as authentic. Bid documents downloaded from any other source / website is/are liable for rejection.

- 4.1 The Bidder shall download the “Bidding Document” available in the website in totality.
- 4.2 It shall be the responsibility of the prospective bidders to ensure that the Bids have been submitted in the formats and as per the terms and conditions prescribed in the bidding document and website and no change is made therein. The documents placed in website along with this detailed Notice Inviting Tender (NIT) forms the complete bidding document. All the documents along with detailed NIT as placed on the website are final including clarification, drawings, corrigendum, addendum, pre-bid meetings, if any. On verification, at any time, whether the Bidder is successful or not, if any of the documents submitted by the Bidder including the documents downloaded from Employer’s above mentioned websites / issued are found tampered/ altered / incomplete, they are liable for rejection, cancellation & termination of the Contract, debarring, **banning** etc. as per the rules of the Company. In case of any discrepancies between Tender documents downloaded from the website and the master copy available in our server, the master copy shall be considered authentic and shall be binding on the Bidder. No claim on this account from the Bidders will be entertained.

5.0 Manner of Preparation of Bids:

Bids shall be prepared in two parts i.e. Part -1 and Part – 2 (Refer clause no. 8.0 of ITT)

6.0 Manner of submission of Bids shall be as follows;

Part – 1 and Part – 2 of the bids shall be submitted online through MSTC/ e-procurement website. Bidder has to upload the documents in MSTC portal/ e-procurement website. Before uploading the documents, the bidder is requested to arrange the soft copies of all the documents as per the documents list given in clause No. 8.0 of ITT. It may please be noted that there is a data limit for each upload. Each upload document size shall not be more than 5MB. The documents more than 5MB are not accepted by the system. Bidders are requested to check beforehand that all their files size are complying to above data size. Further, bidders are requested to upload only relevant documents as sought in the tender and avoid uploading unnecessary documents.

For submitting online bid, the prospective bidder is requested to visit the following M/s MSTC Limited / GeM Portal websites link;

https://www.mstcecommerce.com/eprochome/nmdc/buyer_login.jsp



Before proceeding to submit online bid, bidders are requested to go through 'Vendor Guide' given in the above link. Bidders are to get themselves get registered and **obtain Digital signature as mentioned in the Vendor Guide**. The details given in the MSTC Vendor Guide are binding and are considered as part of Tender document. After filling the preliminary information, the bidder shall proceed to submit the bid in two parts in serialim.

After uploading the documents related to Part-1 of offer, the bidder shall proceed to upload the documents related to Part – 2 of offer. The documents shall be uploaded well before the closing time of submission of offer. Bidder after submission of Part-1 of offer, the bidder shall proceed to submit the Part-2, price offer as follows –

6.1 Price Bid to be submitted as follows in the MSTC website;

1. From the MSTC website, Click on the relevant event no. and click 'Download Price' and download the Price Schedule (Excel Document)
2. Bidder needs to fill up price in the Excel sheet(s) offline and save the file without renaming the file name. Please note System will not accept the renamed file.
3. Click on 'Upload Price' Button to upload the filled up excel file for submitting the price bid.
4. Click on 'Final Submission' to submit the tender.

Price bid will be opened electronically of only those bidder(s) whose Part 1 is found to be acceptable to NMDCL Ltd. Such bidder(s) will be intimated the date of opening of Price bid (Part 2), through valid email confirmed by them.

The evaluation will be based on tender stipulations. If the bidder does not accept the correction of errors, their bid will be rejected.

Note:

- The Bidders are advised to offer their most competitive prices while submitting the price bid.
- Bidders are requested to note that they should necessarily submit their financial (price) bid in the format provided and no other format is acceptable.
- If the Price schedule file is found to be modified by the bidder, the bid will be rejected.

7.0 Bid submission Acknowledgement

The bidder should complete all the process and steps required for Bid submission. The



successful bid submission can be ascertained once acknowledgement mail is received in their registered email id against tender after final submission.

The acknowledgement is the only confirmation of submission of bid, which the bidder can show as a proof of participation in the tender. Other than this acknowledgement, no proof will be considered as a confirmation to the submission of a bid. If the bidder fails to produce this acknowledgement required for verification in case of dispute, his claim for submission of bid may not be considered.

Bidders have the option of 'deleting' the offer and re-submitting the offer before the due date and time of submission of offer. For detailed Guidelines for online submission of Bid, please refer to Form-11 of ITT.

- 8.0 If the date and time for any activity indicated in the tender document happens to be a holiday or a non-working day, for any reason, then the next working day and time will be automatically taken as the date and time for such activity.
- 9.0 Each Bidder shall submit only one bid in compliance with the requirements of the bidding documents. Alternatives will not be considered. Submission of more than one bid will cause all the proposals with the Bidder's participation to be disqualified.
- 10.0 The tender document consists of :-

Volume – I:

- (i). Notice Inviting Tender (NIT) including BDS
- (ii). Special Conditions of Contract
- (iii). Instruction to Bidders (ITT) with Forms 1 - 18
- (iv). Form of Contract Agreement with Appendices 1 – 6 including Price Schedule
- (v). General Conditions of Contract (GCC) with Annexures A - J
- (vi). Safety code for Contractors

Section – II as different volume covering -

- (i) Scope of Work and Technical Specifications
 - (ii) General Technical Specification, if any
- 11.0 The project / subject work is of prime importance and the bid is to be finalized within shortest possible time. As such, Bidder is requested to furnish an exhaustive and complete offer so that need for clarifications/ discussions can be minimized.



- 12.0 The Bidder is encouraged to visit the site and acquaint themselves of the prevailing local conditions before submitting their bid and confirm in the letter of undertaking (Form - 1 to NIT) that the bidder has visited the site.

For visiting the site, the Bidder shall contact the following officer:

Ph: +91 – -----

E. Mail: -----

- 13.0 Available Soil Data with Employer can be collected by intending Bidders for Civil Works against application to NMDCL/Consultant (if specified in these documents). This will not be sent by Post.
- 14.0 Bidders, who are associated for this Tender with the Consultant or any of its associates that have been engaged by the Employer to provide Consultancy Services for the preparation of design, Specifications & other documents to be used for procurement of the facilities to be purchased and installed under this Invitation to Tender are ineligible to bid for this tender.
- 15.0 Bidders shall not directly or indirectly, take any service or assistance from the above referred Consultant for the above work and for any work related to the Employer, if he becomes successful Bidder.
- 16.0 **Validity of the bid**
- The bid shall be kept valid for a period of **180 days** from the date of opening of Part – 1 of the bid.
- 17.0 The Employer reserves the right to accept or reject any bid or to annul the Bidding process and reject all bids at any time prior to award of the Contract without assigning any reason whatsoever and without thereby incurring any liability whatsoever to the affected Bidder(s). Mere downloading of tender document and submission of tender shall not mean fulfilment of requirements of eligibility of the Bidder(s).
- 18.0 **Consultant's Address for Communication (if applicable):**



Ph: +91 – -----

E. Mail: -----

19.0 Salient features of the bid:

Sl.No	Description	Details
(1)	Tender Enquiry No.	-----
(2)	MSTC/ E-procurement website Tender Event No.	-----
(3)	Name of work	-----
(4)	Package No.	
(5)	Scope of work	----- -----
(6)	Name of Consultant (if applicable)	
(7)	Eligibility Criteria	Refer sl.No.7 of Bid Data Sheet (BDS) to NIT
(8)	Bids with Consortium	Applicable / Not Applicable
(9)	Integrity Pact	Applicable / Not Applicable
(10)	Viewing / Downloading of Tender Documents	Start date & Time: ----- (11.30 hrs. IST) Close date & Time: ----- (15.00 hrs. IST)
(11)	Pre – Bid meeting	Pre-Bid meeting will be held at ----- -----(place)/ via ----- (zoom/ teams etc.) on -----(Date) at 10.30 Hrs. (IST) onwards.



Sl.No	Description	Details
		Interested Bidders shall intimate NMDC / Consultant about their Participation in Pre-Bid meeting and send their queries one week prior to date of Pre-Bid meeting through email at -----
(12)	Manner of Preparation of Tender	Refer clause no. 8 of ITT
(13)	Manner of Submission of Tender	Refer Clause No. 6 of NIT and Form-11 of ITT for Guidelines for online submission of online Bid.
(14)	Due date & time of bid submission	
(15)	Opening of Part – 1 (Techno-commercial offer)	Part – I of the online bids will be opened on --- (Date) ----- (Place) at 15.30 Hrs.
(16)	Bid Security / EMD	Rs (Indian Rupees only) Refer Clause No.8.1.1 of ITT for Manner of submission of EMD
(17)	Opening of Price Bid (Part – 2)	After evaluation of techno-commercial offers, the price bids of the techno-commercially qualified bidder (s) shall be opened. The date and time of opening of price bids (online price bids) shall be intimated at a later date to such qualified bidders.
(18)	Time for Completion of the Works. Months from the effective date of Contract. The time for completion is inclusive of monsoon period(s).
(19)	Validity of Bid	180 days from the due date of opening of Part-1 of offer.



Sl.No	Description	Details
(20)	Reverse Auction	<p>NMDC may go for Reverse auction (RA) at its option and can decide L-1 bidder through opening of Online price bids or discover L-1 price through on-line Reverse Auction after opening of online price bids. In case of resorting to on-line Reverse Auction, Eligible bidders shall be intimated for participation in price bidding through online Reverse Auction to be conducted by NMDC's service provider MSTC.</p> <p>refer 23.9 of ITT for guidelines of RA</p>

- 20.0 The Tender Documents are non-transferable and shall be used by the Bidder who have downloaded the tender document from e-procurement websites such as NMDC's website / CPP Portal / MSTC Portal/ other e-procurement websites only and for the specific purpose for which the Tender document have been issued / uploaded on Employer's website.
- 21.0 There will be no post Tender Price Negotiation except with L-1 bidder (i.e. the lowest evaluated responsive Bid), if required.
- 22.0 This Notice Inviting Tender will form part of the Tender document.

For and on Behalf of NMDC Limited

(Head of the Project / Head of the Department)



BID DATA SHEET (BDS)

The following bid-specific data for the facilities including plant and equipment to be procured, installed & commissioned, shall amend and/or supplement the provisions in the Notice Inviting Tender (NIT) and Instructions to Bidder (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in the NIT and ITT.

1	Name of Facilities ITT clause 2.0	_____
2	Name of Employer	NMDC Limited, Hyderabad
3	Consultant (if applicable)	_____
4	Employer mailing address for Clarification (NIT clause no. 3)	_____
5	Language of Bid ITT 7.1	Language of bid shall be in English language. In case any document is submitted by Bidder in other than English language, authenticated English translation of the same shall be submitted along with the bid complying with the requirements set forth given in the bidding document.
6	Consortium Requirement	Applicable / Not Applicable No. of Consortium Members allowed including Lead Member: _____ (Not more than 4 are allowed)
7	Eligibility criteria & Qualification requirements for Bidders (Refer clause No.1 of ITT)	Bidder (sole or consortium) should fulfill the Technical and Financial eligibility requirements as detailed below: The Bidder having credentials of complying with the minimum eligibility criteria as stipulated herein below would be considered eligible in respect of this Tender for further evaluation of their Bids.

		<p>I) Technical Requirements –</p> <p>The Bidder should have completed the following works in his own name or as member of a Consortium, during the last 7 years as on date of opening of bid excluding any extensions thereof (i.e. on or before _____);</p> <p>For large capital projects like Steel Plant:</p> <p>Bidder should have experience in design, engineering, supply, erection, testing and commissioning of _____ Plant of minimum _____ capacity and/or the execute facility should have satisfactorily performed for _____ years from the date of commissioning and/ or Project Value of more than ₹ _____ Crores.</p> <p>For Civil and Electrical Works</p> <p>(a) Completed one similar work of value not less than ₹ _____ Crores (Rupees _____) or of _____ capacity/ quantum of work</p> <p style="text-align: center;">or</p> <p>(b) Completed Two similar works of value each not less than ₹ _____ Crores (Rupees _____) or of _____ capacity/ quantum of work</p> <p style="text-align: center;">or</p> <p>(c) Completed Three similar works of value each not less than ₹ _____ Crores (Rupees _____) or of _____ capacity/ quantum of work</p>
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		<p>Definition of ‘Similar work:</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>For framing the Technical Eligibility criteria, the following may please be noted;</p> <ul style="list-style-type: none"> • Above criteria is indicative only. • Based on the nature and complexity of the work, either value or the technology equivalent may be considered. Further, eligibility can be met either from single work or from multiple works. • For technology equivalent – either standard module or one step below module may be considered. <p>Note:</p> <p>(i) The above shall be supported by relevant documentary evidence such as notarized copies of work order(s) / Award Letter(s) / Contract Agreement(s) / Purchase order(s) / Completion Certificate(s) / Execution certificate(s) and performance certificate of above work giving name & address of issuing authority, date of completion and one year of successful operation.</p> <p>(ii) NMDC asserts their right to interpret the PQC on common usage of terminologies and phrases in public procurement instead of legalistic and hair-splitting judgements and that their decision in this regard would be final.</p> <p>(iii) In case of Consortium, consortium together or as a member of consortium can meet the entire technical pre-qualification criteria.</p>
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		<p>(iv) However, each member of consortium (other than members meeting the technical requirements) must have qualitative experience for the component of the contract that they are designated to perform.</p> <p>(v) No New credentials of works not pre-existed in the offer, submitted at the time of tender opening, will be considered for evaluation of eligibility criteria.</p> <p>II) Financial Requirements -</p> <p>1. Turnover:</p> <p>The average Annual Financial Turnover of the bidder for the last three consecutive financial years should be at least ----- (30% of the estimated cost) as on 31st March, -----.</p> <p>In case of average annual turnover of all the three years are not available. The turnovers of available years will be added and divided by 3 to arrive at average annual turnover for 3 years.</p> <p>In case of consortium, the turnover of each member should be in proportion to their share of work, and their total average annual turnover during the immediate three financial years should not be less than the amount as mentioned above.</p> <p>Remarks:</p> <p>(a) In case the tenders are having the bid closing date up to 30th September of the relevant financial year and audited financial results of the immediate preceding financial year are not available, the bidder has an option to submit the audited financial results of the 3 years immediately prior to that. Wherever the closing date of the bid is after 30th Sept. of the relevant financial year, bidder has to</p>
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		<p>compulsorily submit the audited financial results for the immediate 3 preceding financial years.</p> <p>(b) Gross turn over shall be considered for eligibility purpose.</p> <p>(c) Audited Annual Reports including Profit and Loss statements for the last three consecutive financial years shall be submitted by the bidder (in case of consortium by all the consortium members) in support of their financial credentials.</p> <p>(d) In case of non-availability of Audited Annual Reports for any genuine reasons, as an alternative, with reasoned proof, the bidder may submit Certified Annual Turnover for last three (3) consecutive financial years from a statutory auditor/ cost auditor, duly notarized, in support of their financial credentials, in lieu of the Annual Reports.</p> <p>2. No default by the Bidder: The bidder should not be in default to any banker / financial institution as per the audited annual report for the immediate preceding financial year. The bidder shall submit the audited annual report for the immediate preceding financial year. However, the firms who do not have audited annual report, certificate in this regard shall be obtained from Statutory Auditor/ Cost Auditor and copy of the same shall be submitted.</p> <p>In case of Consortium, each members of the consortium should not be in default to any banker/financial institution as per the audited annual report for the immediate preceding financial year. The member shall submit the audited annual report for the immediate preceding financial year. However, the firms who do not have audited annual report, certificate in this regard shall be obtained from</p>
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		<p>Statutory Auditor/ Cost Auditor and copy of the same shall be submitted.</p> <p>3. Net-worth: (if estimate is more than Rs 10 crores then Net-worth clause is to be included)</p> <p>I. If the bidder is a single entity:</p> <p>The net-worth of the bidder (single entity) should be positive in each of the three previous years <i>as per the audited financial statements</i> and Net-worth means the sum total of the paid-up share capital and free reserves.</p> <p>Free reserves means all reserves credited out of the profits and share premium account but does not include reserves credited out of the revaluation of the assets, write back of depreciation provision and amalgamation. Further any debit balance of profit and Loss account and miscellaneous expenses to the extent not adjusted or written off, if any, shall be reduced from reserves and surplus.</p> <p>II. If the bidder is a Consortium:</p> <p>Net worth of each partner of the bidding consortium should be positive in each of the three previous years as per the audited financial statements and Net-worth means the sum total of the paid-up share capital and free reserves.</p> <p>Free reserves means all reserves credited out of the profits and share premium account but does not include reserves credited out of the revaluation of the assets, write back of depreciation provision and amalgamation. Further any debit balance of profit and Loss account and miscellaneous expenses to the extent not adjusted or written off, if any, shall be reduced from reserves and surplus.</p>
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		<p>Remarks:</p> <p>In case the tenders are having the bid closing date up to 30th September of the relevant financial year and audited financial results of the immediate preceding financial year are not available, the bidder has an option to submit the audited financial results of the 3 years immediately prior to that. Wherever the closing date of the bid is after 30th Sept. of the relevant financial year, bidder has to compulsorily submit the audited financial results for the immediate 3 preceding financial years.</p> <p>4. Working capital:</p> <p>(a) If the bidder is a single entity:</p> <p>The bidder shall have working capital of Rs _____ (current assets minus current liabilities)</p> <p>[Refer CMM for stipulating working capital value]</p> <p>(b) If the bidder is a Consortium:</p> <p>[Refer CMM for stipulating working capital value]</p> <p>Remarks:</p> <p>For calculating the working capital, current assets and current liabilities will be considered as classified in the audited balance sheet of the year immediately preceding the date of issue of tender.</p> <p>In case the tenders having the bid closing date up to 30th September of the relevant financial year, and audited financial results of the immediate preceding financial year are not available, in such case the audited financial results of the year immediately prior to that year will be considered as</p>
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		<p>last financial year for Working capital calculation. Wherever the closing date of the bid is after 30th September of the relevant financial year, bidder has to compulsorily submit the audited financial results for the immediate preceding financial years.</p> <p>Note:</p> <ol style="list-style-type: none"> 1. Annual financial turnover of entities participating in the tender on their own strength only shall be considered and not their related entities like holding company, parent company, subsidiaries or group companies etc. i.e., bidder shall be independent legal entities and shall have its own independent financial accounting systems as per laws of the country. 2. The bidder's financial evaluation vis-à-vis the requirement as stipulated above shall be done on the basis of duly printed Annual Report for the immediately preceding three (3) years submitted by the bidder along with the bid. Further, standalone Audited Annual Financial Statement of the bidder shall be forming part of the Annual Report. <p>In case, if the bidder has not submitted the above Annual Report along with the bid, then a certificate from CEO / CFO shall be submitted along with bid mentioning that the requirement of Annual Report as per governing law of country is not mandatory. In such cases, duly notarized copies of Audited Printed Annual Financial Statement, (Balance Sheet, Profit & Loss Statement, cash flow statement, Auditor's Report thereon including all relevant Schedules / annexure, etc.) for the immediately preceding three (3) years be submitted by the bidder along with the bid.</p>
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		<p>In case current assets and / or current liabilities are not classified separately in audited Balance Sheet, a certificate from Statutory Auditor carrying out the Statutory Audit, for current assets and / or current liabilities, as the case may be, clearly defining the items considered for the same, should be enclosed. However, trade payables shall be a part of current liabilities.</p> <ol style="list-style-type: none"> 1. Wherever, the annual report / duly notarized copies of Audited Printed Annual financial statement are in language other than in English, then copy of duly translated & printed in English language and certified by approved recognized English translator shall be submitted with the bid. 2. For conversion to USD the exchange rate at the end of the respective accounting year shall be considered. <p>5. Bid Capacity: (To be incorporated for value of works costing Rs 100 crores and above)</p> <p>The available bid capacity shall be more than the ₹ _____ (more than estimated value). Bid capacity will be calculated based on the following formula:</p> <p>Bid Capacity = 2*A*N – B</p> <p>Where:</p> <p>A = Maximum of the value of works executed in any one year during the last five financial years (updated to Bid submission date; price level assuming 5% inflation for Indian Rupees every year and 2% for foreign currency portions per year).</p> <p>N = No. of years prescribed for completion of the work</p>
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		<p>B = Value [at price level as on the twenty-eight (28) days prior to 'date for Bid submission' (refer Bid Data Sheet)] of existing commitments and on-going works to be completed during next 'N' years starting from the twenty eight (28) days prior to 'date for Bid submission'</p> <p>In case of consortium, all the members shall have bid capacity in proportion to their share of work.</p>
8	Spares	<p>List of O&M Spares required for operation of 2 years following completion of the facilities -</p> <p>Item-wise price to be submitted by successful bidder as per GCC Clause No. 7.4.3 (Turnkey Portion)</p>
9	Alternative Bids ITT 8.1.14	Applicable / Not Applicable
10	Bid Prices ITT Clause 10	<p>The Bidder shall complete the Bid Forms and appropriate Price Schedules furnished in the Bidding Documents in the manner and detail indicated therein and submit the same with its bid online. Detailed price format in which price for each item and each entry is to be filled by Bidder is at the Appendix - I. Bidder shall ensure that price against each entry is filled.</p>
		<p>The Bidder must quote for all the items as specified in the Appendix-I failing which their Bid will be liable for rejection. Further, Bidder quoting rates on units different from those prescribed in the Price Schedules will also be liable to rejection.</p>
		<p>Bidders are required to quote price breakup in all the applicable tables of Price Schedule. Bidders are also required to indicate Po values as on base date.</p>

		<p>Bidder(s) should quote only in INR for supplies and services under their scope to be sourced from within the country i.e., indigenously on “at Site” site basis.</p> <p>Bidder shall quote in Foreign Currency for supplies and services under their scope to be sourced from abroad on “FOB” basis as per the current edition of Incoterms in vogue.</p>
		<p>Bidder shall not quote for charges towards Indian supervision separately as the same is already deemed included in erection price. The same will not be paid separately.</p>
		<p>Bidder shall not quote for charges towards Indian training to be imparted on the Employer site (within premises of Plant) as the same will not be paid separately. It will be the responsibility of the Contractor to provide onsite, on job training during erection, testing, commissioning, and PG test in accordance with the terms of tender.</p>
		<p>Any Suo-moto discount offered by the Bidder other than in Price Bid shall not be considered. Any discount if indicated in Price bid (Part –2) , the same shall also be mentioned in Un-priced Dummy price set. No cognizance shall be taken for any discount mentioned in price bid if the same is not mentioned in Un priced Dummy price set for price evaluation.</p>
		<p>Bidders shall quote for the entire scope of works on a “single responsibility” basis such that the total bid price covers all the Contractor’s obligations mentioned in or to be reasonably inferred from the bidding documents in respect of handing over the completed works to the Employer. Items against which, no price is entered by the Bidder, will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other items.</p>
11	Amount of Bid Security / EMD ITT 8.1 & 11.1	Rs -----

12	Bid Validity Period ITT 12.1	Bid shall be valid for 180 days from the due date of opening of Part-1 of offer.
13	Bid Opening ITT 16	Online Bids shall be opened on -----(Date) from 15.30 Hrs. (IST)
14	Deviations with withdrawal price	Not Applicable
15	Technical Evaluation of Bid	Technical evaluation shall be carried out in accordance with the requirements set forth in technical requirement defined in point 7 in Bid Data Sheet and 19.0 of ITT.
16	Price Bid Evaluation ITT 23.3	<p>The following criteria will be used in the evaluation of the price quoted by the bidder in the manner stated below:</p> <p><i>Price evaluation shall be on Net Price Implication i.e. [Total quoted Price incl. GST – Total Quoted GST] + GST quoted on ‘Supply of Fabricated Building Structures and Civil works (where Input Tax credit is not available)</i></p> <p>For price quoted in foreign currency:</p> <p>The taxes & duties, which are to be borne and paid by the Employer, shall be considered on the quoted price for imported supplies & services for the purpose of price evaluation as follows:</p> <p>Basic custom duty (BCD) at the prevailing rate on the FOB value of supply, and applicable taxes, duties, cess etc. on imported supplies as prevailing on Base date.</p> <p>The Input Tax Credit will constitute the IGST on imported supplies and imported services.</p> <p>In case of reverse auction, L-1 bidder has to submit detailed price break up confirming to the lowest landed cost quoted in the RA as per Appendix- 1.</p>

17	Conversion to single currency ITT 25	<p>Date of exchange rate: The closing TT Selling rate of exchange on the previous working day of the date of opening of Price bid shall be considered.</p> <p>Exchange TT Selling rates observed by the Reserve Bank of India (RBI) and notified by the State Bank of India (SBI), will be used for converting prices quoted in foreign currencies to Indian Rupees.</p>
18	Reverse Auction (Refer 23.9 of ITT for guidelines of RA)	NMDC may go for Reverse auction (RA) at its option and can decide L-1 bidder through opening of Online price bids or discover L-1 price through on-line Reverse Auction after opening of online price bids. In case of resorting to on-line Reverse Auction, Eligible bidders shall be intimated for participation in price bidding through online Reverse Auction to be conducted by NMDC's service provider MSTC.
19	Performance Guarantees ITT 23.5 (c)	The Bidder shall quote his price conforming to the Performance Guarantee as specified in Technical Specifications No. -----
20	Amount of Performance Security (Performance Bank Guarantee) ITT 32	Performance Security amount shall be Three percent (3%) of the Contract price in Rupees (including taxes and duties as included in Price Schedule)
21	Risk Purchase Action ITT 33	Failure of the successful Bidder to comply with the requirements of ITT Clause 31 or Clause 32 shall constitute sufficient grounds for the annulment of the award, forfeiture of the bid security and execution of facilities at the risk and cost of the successful bidder.
22	Integrity Pact ITT 36	Integrity Pact to be signed – Yes / No
23	Price Variation Appendix – 4 (Refer Clause 2.6.2 of Appendix – 4)	A – Percentage share of Mild Steel Long Product to be used in Supply of Building Structures is -----



		B - Percentage share of Mild Steel Flat Product to be used in Supply of Building Structures is -----
24	Price Variation Appendix – 4 (Refer Clause 2.8 of Appendix – 4): For Civil Engineering works including all supplies	The applicable clauses for calculation of Price variation for Civil Engineering works including supplies shall be 2.8.1 / 2.8.2 / 2.8.3 / 2.8.4 *Strike out whichever is not applicable. In case of multiple formula are applicable, P0 is to be obtained from the bidder in Table 7A
25	Special Relief for NMDCL Production Project applicable for Contract Laborer's (SRNPP Provisions) (Refer GCC clause no.22.4.6)	Applicable / Not Applicable
26	Bonus Clause (refer GCC clause No.8.3)	Applicable / Not Applicable
27	Declaration of Local Content (Refer ITT clause 41, Form 13 & Form 17)	Self- certificate by the Bidder / Certificate by Statutory Auditor (refer Form 17)



SPECIAL CONDITIONS OF CONTRACT (SCC)

The following Special Conditions of Contract [SCC] shall supplement the General Conditions of Contract [GCC]. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. The corresponding clause number of the GCC is indicated in parentheses.

1. Definitions [GCC Clause 1]

1.1 Employer

NMDC Limited,
10-3-311/A, Khanij Bhavan,
Castle Hills, Masab Tank,
Hyderabad - 500 028, INDIA
FAX : +91-40-2353-4746 / 2353-1828

1.2 Executing Authority / Engineer

The following will be furnished at the time of placement of order/ signing of contract.

Head of the Project / Unit
NMDC Limited

Telephone No. Facsimile No.
E-mail:

Other stipulations remain unchanged.

1.3 Paying Authority

The following will be furnished at the time of placement of order/ signing of contract.

Head of Finance Department
NMDC Limited

Telephone No. Facsimile No.
E-mail:

1.3 Contractor

Name:
Address:
Telephone No.
e-mail



Facsimile No.

1.4 Consultant

2.0 Notices [GCC Clause 4]

2.1 Employer's Address for Notice purposes

Refer SCC 1.1 for details as given herein above.

2.2 Contractor's Address for Notice purposes

M/s. [Name and address]

Telephone No.

Facsimile No.

E-mail:

3.0 Transportation by Wagons [Reference GCC Clause 21.4.2]

The consignee for rail dispatches shall be clearly marked as below:

(Name of Railway Station where site is situated.)

4.0 Transportation by Roads [Reference GCC Clause 21.4.3]

The consignee for road dispatches shall be clearly marked as below:

The surrounding value for insurance purpose will be considered as Rs. (Rupees only).

5.0 The surrounding value for insurance purpose (Refer GCC 36.0)

The surrounding value for insurance purpose shall be considered as NIL.

6.0 GCC Sub-Clause 2.2 – No. of copies of the signed Contract Agreement from the Contractor shall be ----



7.0 The QR Code to be scanned for payment is given here-under;



8.0 The details of the External Independent Monitors nominated for this tender are as follows;

Sl. No.	Name of the External Independent Monitor & Address
1.	
2	
3	



**STANDARD BIDDING DOCUMENT
FOR
TURNKEY WORKS**

PART - II

DECEMBER - 2022

NMDC LIMITED
(A Government of India Enterprise)
10-3-311/A, Khanij Bhavan, Castle Hills,
Masab Tank, Hyderabad- 500028



PART - II

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PART - II

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INSTRUCTIONS TO TENDERERS (ITT)

1.0 Eligible Bidders

1.1 This Notice Inviting Tender (NIT), issued by the Employer, is for the Bidders (Domestic, International or a consortium thereof) meeting the eligibility criteria.

1.2 The intending bidder can be single entity / Consortium of up to four (4) members as specified in Bid Data Sheet.

1.3 In case, Bidder is a Consortium, it shall comply with the following additional requirements:

- (i). Subject to the provisions of ITT Clause 1.2 above, the Bid should contain the information required for each Member of the Consortium.
- (ii). Members of the Consortium shall nominate one member as lead member of the Consortium (the "Lead Member"). Lead Member shall be the Member having maximum job or share of work in value terms.
- (iii). Members of the Consortium meet the eligibility requirements as per Eligibility Criteria mentioned in Bid Data Sheet.
- (iv). Members of the Consortium shall sign a Consortium Operating Agreement (Form 14 of ITT) prior to stipulated due date of submission of bids. Members shall clearly outline the proposed roles & responsibilities of each member. Each member of consortium must have the experience for the component of the contract that they are designated to perform. Failure to comply with this requirement may result in rejection of the Consortium's bid.
- (v). Except as provided under this tender document, there shall not be any amendment to the Consortium Operating Agreement.
- (vi). Separate bid by a consortium member will not be accepted. A party can be a member in only one consortium; bids submitted by such consortia, which include the same party as member and/or leader will be rejected.
- (vii). Bidders are not allowed to form new consortium (consortia) with other Bidders participating in the tender.
- (viii). The composition or the constitution of the consortium, shall not be allowed to alter prior to award of Contract.



- (ix). For the purpose of formation of consortium, a member shall be an independent and single legal entity as per laws of India or as per laws in the country of such member and should have its own independent financial accounting system as per laws of India or as per laws in the country of such member.
- 1.4 Bidder (including all the members of their consortium) shall not directly or indirectly, take any service or assistance from the Consultant (refer clause 14 of NIT), if he becomes successful Bidder.
- 1.5 The Employer's Consultant (s) for the Facilities shall not be eligible to submit their bid.
- 1.6 The Bidder should not have been blacklisted/ banned/ barred by NMDCL or any Govt Department/ PSU as on the date of submission of bid.
- 1.7 In case the Bidder is from a country which shares a land border with India, the bidder shall comply to the clauses as specified in ITT Clause 40.
- 1.8 A Bidder shall not have conflict of interest that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
- i. Such Bidder, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member, or any Associate thereof; or
 - ii. Such Bidder has the same legal representative for purposes of this Application as any other Bidder; or
 - iii. Such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties that puts either or both of them in a position to have access to each other's information about, or to influence the Application of either or each other; or
 - iv. Such Bidder or any Associate thereof has participated as a consultant to the Company in the preparation of any documents, design or technical specifications of the Project.
 - v. Such Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Company in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project.



Note: For the purpose of this tender document, Associate means, in relation to the Applicant/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant/ Consortium Member (the "Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

- 1.9 The bidder or its Proprietor/Partner(s)/Director(s) of the firm should not have been convicted by a court of Law for an offence involving moral turpitude in relation to business dealings during the past seven years for acceptance of the bid. Any such case against Bidder or any of the consortium members may result in rejection of the bid. Suppression of any information or material in this regard would be construed as a fundamental breach and employer reserves its right to take appropriate action including cancellation of the bid, as may be deemed fit and proper by employer at any time without requiring to give any notice to the Bidder in this regard.

2. Facilities - Plant, Equipment & Services

For the purposes of these Bidding Documents, the word "Facilities" means the plant and equipment to be designed, manufactured, supplied and installed as per scope of Bidding Document, under the Contract. The words "plant & equipment," etc., shall be construed in accordance with the respective definitions given to them in the General Conditions of Contract.

3. Cost of Bidding

The Bidder shall bear all costs associated with the preparation and submission of its bid including (but not limited to) costs and expenses related to visits to the site(s) and other locations, and the cost of any tests, investigations, evaluations, and consultations if any and the Employer will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.

4. Content of Bidding Documents

- 4.1 The Facilities required, bidding procedures, Contract terms and technical requirements are prescribed in the Bidding Documents. The Bidding Documents include the following sections:

Section – 1 (Volume 1): Standard Bidding Document (Turnkey) – consisting of following sections;

- (i). Notice Inviting Tender (NIT) with Bid Data Sheet
- (ii). Special Conditions of Contract (SCC)
- (iii). Instruction to Bidder (ITT) with Forms 1 – 18



Sl.No	Form No.	Description
(i).	Form- 1 of ITT	Letter of Undertaking
(ii).	Form- 2 of ITT	Bid Security (Earnest Money Deposit)/ as per the conditions specified in ITT Clause 11
(iii).	Form- 3 of ITT	Declaration by Bidder prior to negotiation
(iv).	Form- 4 of ITT	Details of Work Done by the Bidder for meeting the eligibility criteria as specified in BDS
(v).	Form- 5 of ITT	Information about the Bidder
(vi).	Form- 6 of ITT	Deviations to the Tender clauses
(vii).	Form- 7 of ITT	Proposed Organizational set up at Project site
(viii).	Form- 8 of ITT	Letter of undertaking by the bidder who do not possess PF code
(ix).	Form- 9 of ITT	Details of works in hand at present
(x).	Form- 10 of ITT	Financial Capacity of the Bidder
(xi).	Form- 11 of ITT	Important Instructions for E Procurement through MSTC Portal
(xii).	Form- 12 of ITT	Integrity Pact
(xiii).	Form- 13 of ITT	Details of Public Procurement (Preference to Make in India), Order - 2017
(xiv).	Form- 14 of ITT	Consortium Operating Agreement
(xv).	Form- 15 of ITT	Declaration certifying that the entity is not blacklisted/ barred by Central Govt or any other State Government Department/ Agency/PSU
(xvi).	Form- 16 of ITT	Certificate regarding compliance if the bidder is from the country which shares land of border with India
(xvii).	Form-17 of ITT	Declaration of Local Content
(xviii).	Form-18 of ITT	Checklist for submission of Bid

(iv). Form of Contract Agreement with Appendices 1 – 6

- Appendix – 1: Price Schedule
- Appendix – 2: Time Schedule
- Appendix – 3: Terms of Payment
(Attachment -1 to Appendix 3: Letter of Credit Format)
- Appendix – 4: Price Adjustment due to Variation in Price Indices
- Appendix – 5: Performance Guarantees
- Appendix – 6: List of Approved Vendors



(v). General Conditions of Contract (GCC) with Annexure A-J

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Annexure B	-	Bank Guarantee for release of payment against Commissioning Certificate; Performance Guarantee Certificate; Final Acceptance Certificate
Annexure C	-	Form for Custody cum Indemnity Bond
Annexure D	-	Form of Preliminary Acceptance Certificate
Annexure E	-	Form of Commissioning Certificate
Annexure F	-	Form of Performance Guarantee Certificate
Annexure G	-	Form of Final Acceptance Certificate
Annexure H	-	Form of Change Order
Annexure I	-	Declaration of independence and impartiality by Conciliatory Committee Member
Annexure J	-	Format of Hindrance Register

(vi). Safety codes for Contractor
MoU for safe execution of Contract work
General Terms & Conditions for Safety

Section – 2 (Volume – II)

(vii). Scope of work, Technical Specifications, drawings etc.

Section – 3 (Volume – III)

(viii). General Technical Specifications, if any.

- 4.2 The Bidder is expected to examine all instructions, forms, terms, specifications, and other information in the Bidding Documents. Failure to furnish all information required by the Bidding Documents or submission of a bid not substantially responsive to the Bidding Documents in every respect will be at the Bidder's risk and may result in rejection of its bid.

5. Pre-bid Clarification of Bidding Documents

- 5.1 The Bidder is required to carefully examine the Bidding Documents, terms & conditions of Form of Agreement, drawings and other details relating to work given in the Bidding Documents and fully acquaint himself as to all conditions and matters which may in any way affect the work or the cost thereof. Bidder is deemed to have known the scope, nature and magnitude of the work and the requirements of materials, labour involved, site conditions etc.
- 5.2 A prospective Bidder requiring any clarification of the Bidding Documents may notify the Employer in writing or e-mail at the Employer's mailing address indicated in the NIT. In particular, if a Bidder desires to seek any clarification on the documents including those listed in **ITT Sub-**



Clause 18.3, such a clarification should be raised at this stage. The Employer will respond in writing to any request for clarification or modification of the Bidding Documents that it receives no later than 7 (seven) days prior to the deadline for submission of bids prescribed by the Employer.

Any clarification issued prior to submission of Bids would be put on the Employer's web site as given in the NIT. All prospective Bidders including those who have downloaded bidding document would be presumed to have examined all clarifications on the website & have submitted their bids accordingly. In case any queries remain un-replied, it shall be construed that in respect of those queries, the respective stipulations of the Bidding Documents shall continue to apply and/or no new stipulations are made with respect to those queries.

The Bidder and any of its authorized personnel or representative will be granted permission by the Employer to enter upon its premises and lands for the purpose of inspection, but only upon the condition that the Bidder, its personnel and representative will release and indemnify the Employer and its representatives from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of the inspection.

- 5.3 The Bidder shall be deemed to have acquainted itself of local/ Government taxes, duties, laws, statute, regulations, levies, and other charges relating to supplies to be made, services to be rendered and works to be done at site as applicable at the work site.
- 5.4 Any neglect or omission or failure on the part of the Bidder in obtaining necessary and reliable information or on any other matter affecting the Bidder, shall not relieve the Bidder from any risk or liability or the entire responsibility for completion of the work in accordance with the Bidding Documents.

6 Amendment of Bidding Documents

- 6.1 Before the deadline for submission of bids, the Employer may, for any reason, whether at its own initiative, or in response to a clarification requested by a bidder, amend the Bidding Documents.

The amendments shall be hosted on the Employer's websites given in the NIT for viewing / downloading by the other prospective bidders who have downloaded tender documents from such websites.

- 6.2 The amendments to bidding documents shall be issued as addenda / corrigenda. Any addendum / corrigendum thus issued shall form part of the Bidding document. Before the due date of submission of tender, the prospective bidders on regular basis are required to visit the Employer's websites for viewing / downloading addenda / corrigenda. All the prospective bidders would be presumed to have examined all amendments & have submitted their bids accordingly.



- 6.3 In order to afford bidders reasonable time to take the amendment into account in preparing their bid, the Employer may, at its discretion, extend the deadline for the submission of bids in which case the extended date will shall be put on the Employer's website also.

7 Language of Bid

- 7.1 The bid prepared by the Bidder and all correspondence & documents related to the bid exchanged by the Bidder and the Employer, shall be written in the English language. Bid submitted in any other language is liable to be rejected. In case any printed literature furnished by the Bidder, is written in another language, it must be accompanied by a translation of its pertinent passages in the English language and for the purposes of interpretation of the bid, such translation shall govern.
- 7.2 In case any printed literature/ any documents furnished by the Bidder, is written in another language, it must be accompanied by a translation of its pertinent passages in the English language, duly authenticated/ certified by a notary/ local chamber of commerce/ any legal authority of the bidder's country/ authorized representative of Indian Embassy/ consulate in bidder's country and for the purposes of interpretation of the bid, such translation shall govern.

8 Documents Comprising the Bid

The bid / Tender shall be submitted in two parts and shall comprise of following documents;

Part – 1, and
Part – 2

Both the parts shall be submitted online through MSTC website. Bidder has to upload the **scanned documents in MSTC portal/ e-procurement websites** (refer clause 6 of NIT). Before uploading the documents, the bidder is requested to arrange the soft copies of all the documents. It may please be noted that there is a data limit for upload. Each upload document size shall not be more than 5MB. The documents more than 5MB are not accepted by the system. Bidders are requested to check beforehand that all their files size are complying to above data size. Further, bidders are requested to upload only relevant documents as sought in the tender and avoid uploading unnecessary documents.

8.1 Part - 1 Documents -

- 8.1.1** Earnest Money Deposit (Bid security – refer clause No.11 hereof): The value of bid security shall be as given in NIT. Bid Security shall be in the following forms:

- (a) a Bank Draft drawn in favour of 'NMDC Limited' and Payable at Hyderabad
- or



- (b) a Bank Guarantee from Nationalised Indian Bank/scheduled commercial bank including a foreign bank having a branch in India as per Form – 2 of ITT.
- (c) The bidder may submit the EMD by using any UPI App (Scan & Pay) at UPI ID: nmdcheadoffice@sbi, Merchant Name: NMDC Limited. The QR Code to be scanned for payment is as given in SCC.
- (d) The bidder may also submit the EMD through Online/NEFT mode as per following Bank details: Beneficiary Name: NMDC Limited, A/C No.: 52057027191, Bank: State Bank of India, Branch Name: NMDC Branch, Masab Tank, Hyderabad, IFS Code: SBIN0020728.

Note:

- (1) In case of payment through UPI / NEFT, Bidder is requested to submit the copy of Transaction reference details for verification.
- (2) In case bidder submits EMD as BG / DD, then the original BG / DD should reach NMDC before due date and time of opening of techno-commercial offers at the address specified in NIT, failing which, the online bid submitted by the bidder will be considered as non-responsive and the bid will be summarily rejected.**
- (3) In case the bidder intends to submit the bid security in the form of Bank Guarantee then it is the responsibility of the bidder to ensure that the Original Bank Guarantees as applicable for the purpose of tender/contract are submitted directly within stipulated time by their bankers to the Tendering receiving Authority/ Owner i.e. NMDC Limited under Registered Post (A/D). In exceptional cases where the bidders submit the original BGs directly to NMDC, bidders have to ensure that a duplicate copy of the same is submitted directly within stipulated time by the issuing bank to NMDC under Registered Post (A/D). In the event of discrepancy between the original bank guarantee with respect to the copy of BG as submitted by the tenderer/contractor or the duplicate copy of BG as sent by the bank, and / or delays in submission of original /duplicate BGs, the bid, shall be liable for rejection.

8.1.2 Letter of Undertaking: As per Form– 1 of ITT

8.1.3 Integrity Pact (if specified in NIT) as per Form– 12 of ITT.

Submission of Integrity Pact

Bidders are required to submit Integrity Pact along with their bid as per format and manner as given in bidding document. (Ref Clause no. 36.0 of ITT of Bidding Document) and complying with the following requirements.

- (i). Bidder shall submit the Integrity Pact document on its Company's Letter head, duly signed by the authorized representative on all pages.



- (ii). If the Bidder / Contractor is in a partnership or a consortium, the Integrity Pact shall be signed by all the partners or consortium members.
- (iii). On behalf of NMDCL, the Integrity Pact will be signed by the authorized nominee immediately on receipt of Integrity Pact signed by the Bidder.
- (iv). The Bidder shall not change the contents of Integrity Pact.
- (v). The Bidder / Contractor will abide by the conditions given in the IP document enclosed as annexure along with the tender document.

8.1.4 Constitution or legal status of Bidder / Consortium members (Form – 5 of ITT)

8.1.5 Power of Attorney (dated not earlier than six months from the due date of submission of bid)

A power of attorney, duly notarized, indicating that the person(s) submitting the bid have the authority to submit the bid and thus that the bid is binding upon the Bidder during the full period of its validity, in accordance with ITT Clause 12.

In case the bidder is a limited company, a copy of resolution passed by the Board of Directors of that company authorizing that person to file the bid on behalf of the company. The copy of the said resolution should have the common seal of the company and be attested either by the company secretary or its Director.

8.1.6 Documents for Consortium (if applicable as per BDS):

The bidder shall submit a notarized copy of Consortium Operating Agreement (COA – Form 14 of ITT) entered into by the Consortium members prior to the stipulated due date of submission of bids and the same shall be kept valid till fulfillment of all obligations under the Contract

Consortium requirements: The Consortium Operating Agreement (COA) between the consortium members shall necessarily consist of the following;

- (a) Responsibility matrix clearly outlining the proposed roles & responsibilities of each consortium member.
- (b) Percentage share of work of each member of consortium.
- (c) The COA shall be signed so as to be legally binding on all members (Power of Attorney of each consortium member shall be attached with COA).



- 8.1.7** Documents in support of fulfilment of Eligibility Criteria as mentioned in Bid Data Sheet (BDS) – Section 1 with details of the works to be filled as per Form 4 of ITT.
- 8.1.8** Turnover, Working capital and Networth (if Networth specified in BDS) - Audited Annual Reports including Profit and Loss statements for the last three consecutive financial years shall be submitted by the bidder (in case of consortium by all the consortium members) in support of their financial credentials (refer sl.no.7.II of Bid Data Sheet)
- 8.1.9** Financial Capacity of the Bidder (if specified in Bid Data Sheet) as per Form- 10 of ITT
- 8.1.10** No default by the Bidder (refer sl.no.7 II of Bid data sheet): The bidder should not be in default to any banker/financial institution as per the audited annual report for the immediate preceding financial year. The bidder shall submit the audited annual report for the immediate preceding financial year. However, the firms who do not have audited annual report, certificate in this regard shall be obtained from Statutory Auditor/ Cost Auditor and copy of the same shall be submitted.

In case of Consortium, each members of the consortium should not be in default to any banker/financial institution as per the audited annual report for the immediate preceding financial year. The member shall submit the audited annual report for the immediate preceding financial year. However, the firms who do not have audited annual report, certificate in this regard shall be obtained from Statutory Auditor/ Cost Auditor and copy of the same shall be submitted.

- 8.1.11** Conformity of the Facilities - Facilities offered by the Bidder in its bid or in any alternative bid (if permitted in Bid data sheet) are eligible & conform to Bidding Documents. The documentary evidence of the conformity of the Facilities to the Bidding Documents may be in the form of literature, drawings and data, and the Bidder shall furnish:
- (i) a detailed description of the essential technical and performance characteristics of the Facilities,
 - (ii) a list giving full particulars, including available sources, of all spare parts, special tools, etc., necessary for the proper and continuing functioning of the Facilities for the period of two (2) years (or as specified in the Bid Data Sheet), following Completion of Facilities in accordance with the provisions of the Contract,
 - (iii) commentary on the Employer's Technical Specifications and adequate evidence demonstrating the substantial responsiveness of the Facilities to those specifications. Bidders shall note that the standards for workmanship, materials and equipment designated by the Employer in the Bidding Documents are intended to be descriptive (establishing standards of quality and performance) only and not restrictive.
 - (iv) The Bidder may substitute alternative standards, brand names and / or catalogue numbers in its bid, provided that it demonstrates to the Employer's satisfaction that the



substitutions are substantially equivalent or superior to the standards designated in the Technical Specifications.

8.1.12 Vendors Proposed by the Bidder for Indian component

The Bidder shall choose its Vendors from the approved list of Vendors as provided in Bidding Documents, for all major items of supply or services. However, the Bidder shall indicate details of all such major items of supply or services that it proposes to purchase or sublet and shall give details of the name and nationality of the Vendors for each of these items. Bidders are free to list more than one Vendor against each item of the Facilities.

The Bidder may propose names of additional Vendors for any items of supply or services.

The Employer reserves the right to reject or accept any or all the Vendors proposed by the Bidder, prior to award of Contract and after discussions with the Bidder during the clarification meeting between the Employer & the Bidder pursuant to ITT Clause 21. Accordingly Bidding document shall be amended to include additional Vendors for any item, if accepted by the Employer.

8.1.13 Deviations

Bidders are required to quote strictly as per Bidding Documents. However, if they strongly feel that some minor deviation will improve their bids, such deviations, if any, from the terms & conditions or Technical Specifications shall be listed in Form– 6 of ITT (Technical & Commercial Deviation to be given separately) to the Bid only and nowhere else. If specified in Bid data sheet, the Bidder shall also provide in the price bid, the additional price, if any, for withdrawal of the deviations pursuant to ITT Sub-Clause 10.2.

Bidders shall give details of deviations, objections or reservations, other than alternative bids, from the requirements of the Bidding Documents, that they would like the Employer to consider during the clarification meeting with the Bidder, pursuant to ITT Clause 21.

However, the attention of the Bidders is drawn to the provisions of ITT Sub-Clause 18.2 & 18.3 regarding the rejection of bids that are not substantially responsive to the requirements of the Bidding Documents.

8.1.14 Alternative Bid

If alternative bid is permitted (if specified in the Bid Data Sheet), Bidders wishing to offer technical alternatives to the requirement of the Bidding Documents must provide all information necessary for a complete evaluation of the alternatives by the Employer, including drawings, design calculations, technical specifications, proposed installation methodology and other relevant details. The Employer reserves the right to accept or reject alternative bids.



- 8.1.15** Photocopy of Permanent Account Number (PAN) issued by IT department.
- 8.1.16** Copy of P.F Registration Certificate indicating P.F. code number allotted by any Regional Provident Fund Commissioner. Copy of Latest P.F Challan or documentary evidence in support of remittances made towards P.F shall also be submitted.
- In case the bidder does not possess valid PF code number, then the bidder has to give an undertaking as per Form- 8 to ITT on a non-judicial stamp paper of value not less than Rs. 100/- stating that within one month from the date of issue of Letter of Award of Contract he shall obtain PF Code number.
- 8.1.17** Copy of GSTN registration certificate.
- 8.1.18** Bank Account details in order to facilitate payments through e-payment mode (attach Cancelled cheque).
- 8.1.19** Organization set up proposed at the site of work: This shall be furnished in the prescribed pro-forma as per Form– 7 to ITT.
- 8.1.20** Time schedule in the form of BAR CHART / Network proposed by the Bidder for completion of the work within the time specified in Notice Inviting Tender (NIT).
- 8.1.21** List of Plant and Machinery proposed to be mobilized by the Bidder.
- 8.1.22** Dummy price sets to be submitted by the bidder without quoting the price but indicating “quoted”/ “not quoted” (as the case may be). Any footnotes, remarks etc. in the dummy price bid shall be considered only if they are in line with the bidding document otherwise such footnotes, remarks etc. are considered as deviations. Bidder, however, has to indicate the percentage rates of the taxes considered in the price bid.
- 8.1.23** Bidder to submit Valid certificate of registration of ‘A’ class Electrical Contractor from the State Electrical Inspectorate where the works are being executed. In case the bidder does not possess the same, they shall give an undertaking that they shall obtain the same before commencement of work at site but at the latest within three (3) months from the effective date of contract.
- 8.1.24** Details of works in hand at present: This shall be furnished in the prescribed pro-forma as per Form– 9 to ITT.
- 8.1.25** Amendments/corrigenda/Addenda etc. for the work, if any, issued by the Employer, duly signed, by the bidder.



- 8.1.26** Declaration by the bidder in his letter head that the firm is not blacklisted by any PSU/Govt body. On verification if it is found that the bidder has given misleading /false information, then his tender will be summarily rejected as specified in Form- 15 to ITT.
- 8.1.27** Bidder must declare whether the Proprietor or any Partner of the firm or Director of their Company as the case may be, has any relation with any employee working in NMDCL.
- 8.1.28** Certificate regarding compliance if the bidder is from the country which shares land of border with India as specified in Form- 16 of ITT.
- 8.1.29** Declaration of Local Content in Form-17 to ITT (refer Form 13 of ITT for details).
- 8.1.30** Checklist for submission of Bid as Form– 18 to ITT
- 8.1.31** Others, if any (Bidder to specify)

8.2 Part – 2: Duly Filled Price Schedule in the format specified in Appendix- 1 (refer clause 6.1 of NIT)

9 Manner of Submission of Bid

Bids (Part – 1, & Part – 2) shall be submitted as per the manner and procedure given in the clause No.6 to Notice Inviting Tender (NIT).

10 Bid Prices

- 10.1** Bidders shall quote for the entire facilities on a “single responsibility” basis such that the total bid price covers all the Contractor’s obligations mentioned in or to be reasonably inferred from the bidding documents in respect of the design, manufacture, including procurement and sub-contracting (if any), supply, construction, installation, and completion of the facilities. This includes all requirements under the Contractor’s responsibilities for testing, pre-commissioning, and commissioning of the facilities and, where so required by the bidding documents, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and such other items and services as may be specified in the bidding documents. Items against which no price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other items.
- 10.2** Bidders are required to quote the price for the commercial and technical obligations outlined in the bidding documents. If a Bidder wishes to make a deviation, such deviation shall be listed in **Form– 6 to ITT**. The Bidder shall also provide in the Price Bid the additional price, if any, for withdrawal of the deviations pursuant to ITT **Sub-Clause 8.1.13**.
- 10.3** Bidders shall give a break-up of the prices, as may be applicable to their bids, in the manner and detail called for in the Summary Price Schedule and Tables furnished in **Appendix-1** to the



Form of Contract Agreement. In case of consortium, the Bidder shall give breakup of prices for each consortium member corresponding to work division to be undertaken by each member. For taxes and duties reference may be made to **Clause 14 of GCC**. Bidder must clearly mention their Income Tax Permanent Account Number (PAN) and Bank Account Number in the offer.

10.4 In the Schedules, Bidders shall give the required details and a breakup of their prices considering the following:

- (a) Plant & equipment, refractories, and commissioning spares to be supplied from abroad and quoted in Foreign Currency shall be on “FOB” port of shipment basis. (Price basis shall be as per GCC **sub-clause 11.2.5**)
- (b) Services to be provided from abroad and quoted in Foreign Currency shall be exclusive of all taxes & duties applicable in India except personal income tax of Foreign Experts (to be borne by the bidder / Contractor). All taxes & duties payable outside India shall be included in the above price.
- (c) Supply of goods and Services quoted in Indian Rupee shall be quoted on “at-Employer’s site” basis and shall comprise of price including all taxes, levies & duties and APPLICABLE GST as on Base Date.
- (d) The Bidder shall also provide the additional price, if any, for withdrawal of the deviations.
- (e) Contract Price should not include any element of agency commission.

10.5 The terms “at-site”, “FOB”, etc., shall be governed by the rules prescribed in the current edition of INCOTERMS, published by the International Chamber of Commerce, 38 Cours Albert 1er, 75008 Paris, France.

11 Bid Security (EARNEST MONEY DEPOSIT- EMD)

11.1 EMD as specified in NIT shall accompany the tender in Part I of the tender as tender guarantee (Bid security). The Tender Guarantee offered should be in one of the following alternative forms:

- (i) A crossed bank draft in favour of NMDC LIMITED payable at Hyderabad from any Nationalized Indian Bank/ Scheduled Commercial Bank including a foreign bank having a branch in India.
- (ii) An irrevocable Bank Guarantee of any Nationalized Indian Bank / Scheduled Commercial Bank including a foreign bank having a branch in India in favour of NMDC LIMITED Hyderabad. Pro-forma of the Bank Guarantee is enclosed as Form-2 to ITT.



- (iii) The bidder may submit the EMD by using any UPI App (Scan & Pay) at UPI ID: nmdcheadoffice@sbi, Merchant Name: NMDC Limited. The QR Code to be scanned for payment is as given in SCC.
- (iv) The bidder may also submit the EMD through Online/NEFT mode as per following Bank details: Beneficiary Name: NMDC Limited, A/C No.: 52057027191, Bank: State Bank of India, Branch Name: NMDC Branch, Masab Tank, Hyderabad, IFS Code: SBIN0020728.

In case of payment through UPI / NEFT, Bidder is requested to submit the copy of Transaction reference details for verification in Part-1 of offer.

In case bidder submits EMD as BG / DD, then the original BG / DD should reach NMDC before due date and time of opening of techno-commercial offers at the address specified in NIT, failing which, the online bid submitted by the bidder will be considered as non-responsive and the bid will be summarily rejected.

11.2 The EMD will be forfeited if,

- (i) The bidder modifies or withdraws his offer after due date and time of submission of bids.
- (ii) The bidder resiles from his offer during the validity period.
- (iii) The tender is revoked during its validity period by the tender.
- (iv) The validity of the BG is not extended or not kept valid for a period of three months beyond the extended validity of the offer.
- (v) The bidder increases the prices unilaterally after the opening of Part I and II and during the validity period of the tender.
- (vi) Subsequent to acceptance of the Letter of Award of Contract by the successful bidder, the bidder refuses to enter into Contract Agreement within the specified time or its authorised extensions.
- (vii) The successful bidder fails to submit the BG towards the Contract Performance Guarantee within the period specified.
- (viii) The bidder does not accept the correction of errors in the Bid Price.
- (ix) The successful bidder fails to commence work within the stipulated date of commencement as per Letter of Award of Contract.



- 11.3 The EMD shall be made payable without any condition to the Employer 'On Demand'. The EMD shall be valid for a period of three months beyond the validity of the tender offer i.e. 09 Months from the due date of submission of the tender. In case of extension of validity of the offer, the BG submitted towards EMD will also to be extended for a further period of three months beyond the extended period of validity of offer in absence of which validity extension shall not be considered.
- 11.4 In consideration of the Employer considering the Tender for purpose of award, the Bidder shall keep his Tender valid for a period of six (6) months from the last date of submission of the Tender, during which period the Bidder agrees not to vary, alter or revoke his tender as a whole or in part. If the Bidder, however, fails to keep his Tender valid for 06 months or varies it during the period then the Employer shall be entitled to forfeit the EMD amount without any notice or proof of damages etc.
- 11.5 In case the bidder is requested to extend the validity of the offer along with extension of validity of Tender Guarantee towards EMD, the bidder may refuse the request in writing. In such a case the bidders offer will be rejected and the EMD submitted by the bidder shall be returned within 15 days on bidders request.
- 11.6 The EMD shall be returned within 30 (Thirty) days to those bidders whose offer does not meet the PQ requirements or whose offers are not found techno commercially acceptable after scrutiny.
- 11.7 The EMD of those bidders whose offers are found techno commercially acceptable after scrutiny but are unsuccessful after price bid opening, their EMD shall be returned within 30 days after award of contract.
- 11.8 The EMD of the successful bidder to whom the contract is awarded will be returned after the said bidder provides the Contract Performance Guarantee and signs the Contract Agreement.
- 11.9 If the successful bidder fails to submit Contract Performance Guarantee as specified within 30 days after the date of issue of Letter of Award of Contract, or fails to sign the contract agreement, then the EMD amount will be forfeited by the Employer, without any notice or proof of damages etc.
- 11.10 Any tender not accompanied by EMD along with Letter of Undertaking in Part I of the offer in accordance with above said provisions shall be considered as unresponsive and offer shall be rejected.
- 12 Period of Validity of Bid**
- 12.1 Bids shall remain valid for the period indicated in the **Bid Data Sheet/NIT**. A bid valid for a shorter period shall be rejected by the Employer as being non-responsive unless extended.



- 12.2 The Employer may solicit the Bidder's consent to an extension of the bid validity period. The request and responses thereto shall be made in writing. If a Bidder accepts to extend the period of validity, the bid security shall also be extended by the Bidder accordingly. A Bidder may refuse the request without forfeiting its bid security. A Bidder accepting such request, shall not modify its bid on its own.

13 Deadline for Submission of Bids

- 13.1 Bids must be submitted to the Employer as per the manner and at the address specified in NIT / **Bid Data Sheet** and not later than the time and date (deadline) stated in the tender.
- 13.2 The Employer may, at its discretion, extend this deadline for submission of bids by amending the bidding documents in accordance with ITT **Sub-Clause 6.3**, in which case all rights and obligations of Employer and Bidders will thereafter be subject to such extended deadline.

14 Late Bids

In case bidder submitted EMD as BG / DD , then the original BG/ DD should reach NMDC before due date and time of opening of tenders at the address specified in NIT. Failing which, the online bid submitted by the bidder will be considered as non-responsive and bid will be rejected.

15 Modification and Withdrawal of Bids

- 15.1 The Bidder may modify or withdraw its bid after submission prior to the deadline prescribed for bid submission.
- 15.2 No bid shall be withdrawn in the interval between the bid submission deadline and the expiration of the bid validity period specified in ITT **Clause 12**. Withdrawal of a bid during this interval may result in the Bidder's forfeiture of its bid security, pursuant to ITT **Sub-Clause 11.2**.

16 Opening of Bids by Employer

Opening of Bids shall be as specified in NIT.

17 Clarification of Bids

During bid evaluation, the Employer may, at its discretion, ask the Bidder for a clarification of its bid. The request for clarification and the response shall be in writing. While responding no change in the price or substance of the bid shall be sought, offered or permitted unless asked by Employer after completion of evaluation of bids.



18 Preliminary Examination of Bids

- 18.1 The Employer will examine the bids to determine whether they are complete, whether the documents have been properly signed and whether the bids are generally in order. Any bids found to be non-responsive for any reason or not meeting the minimum levels of the performance or other criteria specified in the Bidding Documents will be rejected by the Employer and not included for further consideration. The Employer will also carry out a preliminary examination of any alternative bids submitted by Bidders.
- 18.2 Prior to the detailed evaluation, the Employer will determine whether each bid is of acceptable quality, is complete and is substantially responsive to the bidding documents. For purposes of this determination, a substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the bidding documents without material deviations, objections, conditionalities or reservations. A material deviation, objection, conditionality, or reservation is one:
- (i) that affects in any substantial way the scope, quality or performance of the Contract;
 - (ii) that limits in any substantial way, inconsistent with the bidding documents, the Employer's rights or the successful Bidder's obligations under the Contract; or
 - (iii) whose rectification would unfairly affect the competitive position of other Bidders who are presenting substantially responsive bids.
- 18.3 In particular, bids with deviations from, objections to or reservations about critical provisions such as those concerning Bid Security (ITT **Clause 11**), Governing Law (GCC **Clause 5**), Taxes and Duties (GCC **Clause 14**), Performance Guarantees (GCC **Clause 27**), Defect Liability (GCC **Clause 30**), Patent Indemnity (GCC **Clause 31**) or Limitation of Liability (GCC **Clause 32**), as well as provisions specified in the **Bid Data Sheet**, if any, that the Bidder is not prepared to withdraw aforesaid deviations, objections or reservations at a withdrawal price, will be treated as non-responsive. The Employer's determination of a bid's responsiveness will be based on the contents of the bid itself without recourse to extrinsic evidence.

19 Techno-Commercial Evaluation of Bid

The Employer will carry out a detailed evaluation of the bids previously determined during preliminary examination of bids, to be substantially responsive, in order to determine whether the technical & commercial aspects are in accordance with the requirements set forth in the Bidding Documents. In order to reach such a determination, the Employer will examine and compare the technical and commercial aspects of the bids on the basis of the information supplied by the Bidders, pursuant to **ITT Clause 8**, and other requirements in the Bidding Documents.



The Employer will also review complete alternative bids, if any, offered by the Bidder, pursuant to **ITT Sub-Clause 8.1.14**, to determine whether such alternatives may constitute an acceptable basis for a further evaluation.

20 Qualification

- 20.1 The Employer will ascertain to its satisfaction whether Bidders determined as having submitted responsive bids are qualified to satisfactorily perform the Contract.
- 20.2 The determination will take into account the Bidder's financial, technical and production capabilities, in particular its Contract, work in hand, future commitments, current litigation, if any, and past performance. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder during EOI/ tender stage, as well as such other information as the Employer deems necessary and appropriate.
- 20.3 Determination of techno-commercial eligibility may be done during techno-commercial discussions/ clarifications. However, affirmative determination of eligibility shall be pre-requisite for opening of price bid.
- 20.4 The capabilities of the Sub-Contractor or Vendors proposed as per ITT sub-clause 8.1.12 to the bid will also be evaluated for acceptability.
- 20.5 Their participation should be confirmed with a Letter of Intent between the parties, as needed. Should a Sub-Contractor or Vendor be determined to be unacceptable, the bid will not be rejected, but the Bidder will be required to substitute an acceptable Sub-Contractor/Vendor without any change to bid price.

21 Clarification of Bids and Review of Bidders' Proposed Deviations & Alternative Solutions

- 21.1 The Employer may seek clarification and may conduct meetings with each or any Bidder to clarify any aspects of its bid that require explanation at this stage of the evaluation. During these meetings, the Employer may bring to the attention of the Bidder any matters, technical or otherwise, where for whatever reason, it requires clarification / details about the bid, to be provided to the bid. All such amendments or changes required by the Employer will be listed in the "Record Notes of Discussions (RND)/ Minutes of Meeting (MOM)".
- 21.2 The RND/MOM will contain the exceptions or deviations in the bid that are unacceptable and that are to be withdrawn and of such exceptions or deviations that the Employer finds acceptable.
- 21.3 The Bidder shall submit the balance clarifications, confirmations, documentations etc. as recorded in the RND within the time stipulated in the Record Notes of Discussion



- 21.4 Taking into consideration, the Record Notes of Discussion and the clarifications submitted by Bidder pursuant to clause 21.3 above, the Employer will carry out further evaluation of the technical and commercial bid in the manner outlined in clause 19 hereof.
- 21.5 The Employer will also advise the Bidder whether the proposed alternative bid, if any, is acceptable, and will identify the degree (if any) to which such an alternative bid may be incorporated in the Bid.
- 21.6 After holding clarification meetings and at the end of evaluation, the Employer will either:
- (i) advise the Bidder to confirm the validity of their original price bids, or
 - (ii) permit Bidder to submit updated price bid either as incremental/ decremental price with respect to the original price bid or as revised price bid, at a date informed to the Bidder by the Employer, or
 - (iii) discover L-1 price through on-line Reverse Auction, even after opening original price bid. or
 - (iv) invite a Bidder to submit an updated Technical (Part 1), Commercial (Part 1) and Price Bid (Part 2) based on an alternative bid proposed by the Bidder in its bid with the modifications, if any, listed in the Record Notes of Discussion of the Clarification Meetings held with this Bidder, or
 - (v) notify the Bidder that its Bid has been rejected on the grounds
 - a) the bid is nonresponsive
 - b) the Bidder does not meet the minimum eligibility requirements set forth in the bidding document
 - c) the Employer determines that the technical bid do not meet his requirements

22 Updated Technical, Commercial and Price Bid

- 22.1 In the event, the Employer invites updated bid, the updated Technical, Commercial and Price bid shall be signed, sealed and submitted in the same manner specified for original bids.
- 22.2 The deadline for submission of updated bids and the required validity thereof shall be specified.
- 22.3 The Employer will carry out the technical and commercial evaluation of the updated bid in the manner outlined in ITT Clause 19 hereof.

23 Price Bid Evaluation

- 23.1 The Employer shall inform and communicate the date, time and venue of opening of price bids, to the Bidders whose offers are found to be techno-commercially acceptable.



- 23.2 The Employer shall open the price bid of the techno-commercially qualified bidders, at a date, time and venue communicated to the Bidders by the Employer. Such bidder can witness opening of price by login to online portal as given in NIT.
- 23.3 The evaluation shall be done based on the summary price table and detailed price schedules (refer sl.no.19 of Bid data sheet);

In case of incorrect GST declaration by L-1 Bidder, the basic value of the component(s) shall be adjusted without any increase in the Contract Price (net of Input Tax Credit) as mentioned in Summary Price Schedule of Form of Contract Agreement.

In case of a discrepancy due to arithmetic errors, corrected arithmetic total will be considered. If the Bidder does not accept the correction of errors, his bid will be rejected and forfeit EMD.

If the Bidder does not accept the correction of errors, its bid will be rejected.

The comparison shall be “at Employer’s site” price of the facilities. The Employer’s evaluation will also include the costs resulting from application of the evaluation procedures described in ITT **Sub-Clause 23.5** and **Bid Data Sheet/ NIT**.

- 23.4 The Employer’s evaluation of a bid will take into account, in addition to the bid prices indicated in **Appendix-1**, the following costs and factors that will be added to each Bidder’s bid price in the evaluation, using pricing information available to the Employer, in the manner and to the extent indicated in ITT **Sub-Clause 23.5**.
- (a) compliance with the time schedule called for in the Bidding Documents.
 - (b) the Performance Guarantees of the Facilities offered.
 - (c) the extra cost of work, services, Facilities, etc. required to be provided by the Employer or third parties.
 - (d) any other relevant factors listed in the Bid Data Sheet/NIT or in the invitation for the Updated bid, or factors that the Employer deems necessary or prudent to consider.

- 23.5 Pursuant to **ITT Sub-Clause 23.4**, the following evaluation methods will be followed:

(a) Contractual and Commercial Deviations -

The evaluation shall be based on the evaluated cost of fulfilling the Contractual compliance with all commercial, contractual, and technical obligations under this bidding document. In arriving at the evaluated cost, the price for withdrawal of deviations shown in Annexure-5 of the bid will be used, if necessary. If such a price is not given, the Employer will make its own assessment of the cost of such a deviation for the purpose of ensuring fair comparison of bids. Such assessed costs of deviation shall be intimated to the accepted Bidders



(b) Time Schedule (Program of Performance) -

The Facilities shall be commissioned within the period mentioned in the Bid Data Sheet/NIT

(c) Performance Guarantees of the Facilities -

- (i) Bidders shall state the performance guarantees (e.g., performance, efficiency, consumption) of the proposed Facilities in response to the Technical Specifications. Plant and equipment offered shall have a minimum (or maximum, as the case may be) level of performance guarantees specified in the Technical Specifications.
- (ii) For the purposes of evaluation, the adjustment specified in the **Bid Data Sheet** will be added to the bid price for each drop (or excess) in the responsive performance guarantees offered by the Bidder, below (or above) either a norm of 100 or the value committed in the responsive bid with the most performing functional guarantees, as specified in the **Bid Data Sheet**.

(d) Work, Services, Facilities etc., to be Provided by the Employer

Where bids include the undertaking of work or the provision of services or Facilities by the Employer in excess of the provisions allowed for in the Bidding Documents, the Employer shall assess the costs of such additional work, services and/or Facilities during the duration of the Contract. Such costs shall be added to the bid price for evaluation.

(e) Specific Additional Criteria

The relevant evaluation method shall be detailed in the **Bid Data Sheet/NIT** and/or in the Technical Specifications. In addition, such method will be used where Bidders are required to provide the price for withdrawal of deviations, pursuant to ITT **Sub-Clause 10.2**. If such a price is not given, the Employer will make its own assessment of the cost of such a deviation for the purpose of ensuring a fair comparison of bids.

- 23.6 The Employer at its own discretion shall have the right to open the initial original price bid submitted by the Bidder.
- 23.7 Any adjustments in price that result from the above procedures shall be added, for the purposes of comparative evaluation only, to arrive at the "Evaluated Bid Price." Bid prices quoted by Bidders shall remain unaltered.
- 23.8 The bidder whose quote/ bid is L1 will be declared as the Successful Bidder subject to order of preference of Class I Local Suppliers as per the guidelines mentioned in ITT Clause 41.0



“Preference to Make in India and Eligibility for Participation/ granting of Purchase Preference to Class-I local suppliers.”

Or

The bidder whose quote/ bid is L1 will be considered as base price for reverse auction. Purchase preference to class I local supplier shall be given to the bidders after determining the L1 bidder after RA.

23.9 Reverse Auction

- a. Applicability of Reverse Auction (herein after referred as “RA”) is specified in NIT of the Tender Document. The H1 bidder shall be eliminated in case if more than 3 bids qualify techno-commercially and the L1 bid price shall be considered as Floor Price/ Base Price. If 3 or less than 3 techno-commercially qualified bids are received, then RA shall be conducted with the bidders without elimination of H1.
- b. Employer shall intimate the Bidders the start date of RA. Participation fee shall not be charged by the Employer for RA.
- c. Bid Price quoted by the Bidders during reverse auction cannot be greater than the Base Price. Base Price shall be informed to the bidders by e-mail before start of the online RA.
- d. Decrement in Bid Price must be equal to or in multiples of 0.20% of Base Price (In value) and further reduction shall be made as per decremental value of 0.20% or multiples thereof.
- e. Window for RA shall be open for 10 minutes and shall get auto extended by 10 minutes upon receipt of new bid price from the bidders. For example, assuming that the initial close time for a particular Reverse scheduled Auction is 1:00 PM and a bid is received at 12:55 PM, the scheduled close time shall be revised to 1:05 PM for that particular item. In the event that if no further bid is received till 1:05 PM, then the electronic auction for that item will close at 1:05 PM. It is advisable to keep refreshing the webpage to get the latest information about the auction from the server.
- f. At the end of reverse auction, the L-1 bidder has to submit detailed price break up confirming to the lowest landed cost quoted in the RA.
- g. The bidder(s) after reverse auction will be responsible to ensure that, the total of break- up of prices provided after RA and the bid price offered in the RA is exactly same. The bidder will not be allowed to increase the rate of any item/head while submitting the break-up. While submitting the break-up, the bidder will have to consider the same rate of taxes and duties as quoted while submitting online price bid. In case, the bidder(s) fails to submit the breakup price within the stipulated period or break up given by the bidder does not match with the total offered price, Employer reserves the right to place order by proportionately



reducing prices on the basis of break-up of the prices provided in the price bid submitted online and the same will be binding on the bidder(s).

- h. System protects the bid and bidder's information till RA process is completed and only current L-1 price shall be displayed to the bidder(s) in the auction dashboard.
- i. Server time shall be basis of start time and closing time for bidding and shall be binding for all. This would be visible to all concerned.
- j. All electronic bids submitted during the RA process shall be legally binding on the bidder(s). The chronologically last bid submitted by the bidder till the end of the RA will be considered as the valid price bid offered by that bidder and acceptance of the same by the Employer will be form a binding between the Employer and the Bidder for further consideration. Any bid submitted earlier by the bidder prior to submission of his last bid will not be considered as the valid price bid.
- k. If the lowest price received during RA is unreasonable or is abnormally low, the Employer reserves right to seek justification of price from the lowest bidder and the Employer shall act in accordance to ITT Clause 24.
- l. In case of disruption of service at the service provider end while the RA process is on line, due to any technical snag or otherwise attributable to the system failure at the server end, the RA process will start all over again. In such a situation, the last recorded lowest price of prematurely ended RA, will be the "base price" for the restarted RA. The prices quoted in the prematurely ended RA will be binding on all bidders for consideration, if the restarted RA does not trigger within stipulated time.
- m. Disruption and restarting of RA shall be intimated to all the bidders through system/SMS/e-mail. Stipulations of normal RA will be applicable to the restarted RA at all times.
- n. NMDCL reserves the right to fully / partly accept or reject any or all bids placed in the RA without assigning any reason whatsoever.

24 Abnormally Low Bids

- 24.1 An Abnormally Low Bid is one where the Bid price, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the Bid price raises material concerns as to the capability of the Bidder to perform the Contract for the offered Bid price.
- 24.2 In the event of identification of a potentially Abnormally Low Bid, the Employer shall seek written clarifications from the Bidder, including detailed price analyses of its Bid price in correlation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the bidding document.



- 24.3 After evaluation of the price analyses, in the event that the Employer determines that the Bidder has failed to demonstrate its capability to deliver the contract for the offered tender price, the Employer may reject the Bid.

25 Conversion to Single Currency

- 25.1 To facilitate evaluation and comparison, the Employer will convert all bid prices expressed in the amounts in various currencies in which the bid price is payable into Indian Rupees based on ITT **clause 25.2** as supplemented in the **Bid Data Sheet/NIT**.
- 25.2 The local currency of the Employers' country, i.e. Indian Rupees (INR) shall be the common base currency for the purpose of evaluation, along with the source and date of exchange rate, as specified in **Bid Data Sheet/NIT**.

26 Contacting the Employer

Any effort by a Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or Contract award decisions may result in rejection of the Bidder's bid.

27 Changes in Qualification Status

Prior to proceeding with the award of Contract, if circumstances have arisen that would change the Employer's opinion as to whether the Bidder is still qualified to satisfactorily perform the Contract, then Employer may reject the bid.

28 Award Criteria

- 28.1 Subject to ITT **Clause 27 & 29**, the Employer will award the Contract to the successful Bidder whose bid has been determined to be substantially responsive and to be the lowest evaluated bid.
- 28.2 In the event of online bidding process if two or more Bidders quote the same Bid Price (the "Tie Bids"), the Employer shall identify the Successful Bidder by Reverse Auction, which shall be conducted, with prior notice.
- 28.3 In case when there are simultaneous bids by a bidder and a Class I Local Supplier and Class I Local Supplier has quoted within the range of +20% of the L1 bidder, in case the work is non divisible, the contract may be awarded to Class I Local Supplier if he matches the price of L1 Bidder after negotiation. If the work is divisible in nature, 50% of the work may be awarded to the Class I Local Supplier if he matches the price of L1 bidder (refer Form 13 to ITT).



29 Employer's Right to accept Any Bid and to reject Any or All Bids

The Employer reserves the right to accept or reject any First (Original) or Updated bid, and to annul the bidding process and reject all bids at any time prior to award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of grounds for the Employer's such action.

30 Notification of Award

Prior to the expiration of the period of Updated bid validity, the Employer will notify the successful Bidder in writing by registered post or by email, to be confirmed by the Bidder in writing by registered letter or by email, that its Updated bid has been accepted. If the award is without qualification / condition the notification of award will constitute the formation of the Contract. If the award is made with some qualification / condition, then upon the Bidder's acceptance of such qualification / condition the Contract will be constituted.

31 Signing of Contract Agreement

- 31.1 After the Employer notifies the successful Bidder that its bid has been accepted, the Employer to facilitate signing of contract within 30 days of Letter of Award of Contract (LAC), shall provide the draft Contract agreement within 15 days of issue of LAC.
- 31.2 Within 15 (fifteen) days from the date of receipt of the draft Contract Agreement by the Contractor, the Contract Agreement will be signed. In the case of a consortium becoming the Successful Bidder, all the members of the consortium shall be signatories to the Contract.

32 Performance Security (Performance Bank Guarantee)

Within 30 (thirty) days from effective date of Contract, the successful Bidder shall furnish the Performance Security (Performance Bank Guarantee) from a Nationalized Indian Bank / Scheduled Commercial Bank including a Foreign Bank having a branch in India in favour of the Employer (Annexure- A to GCC). The contract performance guarantee amount shall be equal to 3% (three percent) of the total contract price and it shall be for due and faithful performance of the contract in accordance with the terms and conditions specified in the tender documents. The guarantee shall be valid till the expiry of the guarantee period / defect liability period plus three months.

If the successful bidder is a consortium, the Performance bank guarantee shall be submitted by any member of the consortium on behalf of the consortium or by each individual member of the consortium in proportion to the price for their respective scope of work as per the contract.

33 Risk Purchase Action

Failure of the successful Bidder to comply with the requirements of **ITT Clause 31 or Clause 32** shall constitute sufficient grounds for the annulment of the award, forfeiture of the bid security and execution of facilities at the **risk and cost** of the successful bidder.



34 Effective date of Contract

The Effective Date of Contract shall be the date of signing of contract or 30 days from date of Letter of award of contract (LAC), whichever is earlier.

35 Funding by Bidder

If so specified by the Employer in the Invitation for Bids, the Bidder should submit separately an independent proposal for arranging finance in the form of Multilateral / Bilateral Credit / Loan, Bidder's Credit, etc. for the supplies & services to be provided / rendered under the scope of work for the Facilities. The terms & conditions of credit / loan, like principal amount, currency for repayment if credit / loan is from overseas source(s), payment schedule, rate of interest, guarantee fee, commitment fee, management fee, agency fee, financial charges as may be required, etc. should be indicated. Sovereign Guarantee from the government of India shall not be available.

36 Integrity Pact

If required for the Contract and provided in Bid Data Sheet, the Bidders shall sign an integrity pact and attach the same with his Bid. The format for the integrity pact is attached along with the documents (Form – 12 to ITT). The Integrity Pact has to be signed by the Proprietor /Owner/ Partner / Director or by their duly Authorized signatory. In case of failure to return the Integrity Pact along with offer/bid, duly signed by the authority as mentioned above, will disqualify the offer/bid.

37 Compliance with Company Law

The Bidder must declare whether the proprietor/ partner of the firm/ Director of the limited company has any relation with any employee working in the Plants/ Units concerned or director of NMDCL including its subsidiaries and if so, the details or the relation thereof must be furnished.

38 General

- 38.1 The Employer may conduct price negotiations, if required, with L-1 (i.e. lowest evaluated) bidder only. Bidder shall submit the declaration as per Form – 3 and negotiations meeting shall be started only after submitting a signed declaration from the bidder.
- 38.2 Purchase preference will be given to PSUs as per prevailing guidelines of the Government of India.
- 38.3 If at any point of time, it was found by the Employer that the bidder has furnished false information, the Employer may reject the bid.
- 38.4 The bidder may download the bidding document from website mentioned in NIT.



39 NMDC Policy on Banning of Business Dealings with Agencies

- 39.1 NMDC has introduced NMDC Policy on Banning of Business Dealings with Agencies, which covers both suspension and banning of business dealings with the Agency that commits fraud and/or transgression in the dealings with NMDC. The Policy is on the NMDC website, www.nmdc.co.in. The Grounds for Banning of Business Dealings and the Banning Period as per the Policy as given below:

GROUND FOR BANNING BUSINESS DEALINGS

For the sake of clarity, the grounds on which banning of business dealings can be considered are given below. These are only illustrative, not exhaustive. The Competent Authority may decide to ban Business Dealings with an Agency for any good and sufficient reason.

- a) Security considerations, including questions of loyalty of the Agency to the State
- b) Conviction of the Director / owner / proprietor / partner of the Agency by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or NMDC or any other public sector enterprises during the last five years.
- c) Evidence / strong justification for believing that the Director / owner / proprietor / partner of the Agency has / have been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolation in tenders, etc.
- d) The Agency's repeated refusal to return / refund the dues to NMDC without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in arbitration or Court of Law.
- e) The Agency employs an employee who was dismissed / removed by NMDC for an offence involving corruption or abetment of such an offence.
- f) The banning of business dealings with the Agency by the Government or any other public sector enterprise.
- g) The Agency restored to corrupt or fraudulent practices that may include misrepresentation of facts and / or fudging / forging / tampering of documents.

[Note: Cases where mistakes do not have implication on the eligibility of the bidder in terms of PQC, i.e. an ineligible bidder does not become eligible or vice versa, such cases shall not fall within the ambit of the Banning policy]



- h) The Agency used intimidation / threatening or brings undue outside pressure on NMDC / its official in relation to a Business Dealing.
- i) The Agency resorts to repeated and / or deliberate use of delay tactics in complying with contractual stipulations.
- j) Willful act of the Agency to supply sub-standard material irrespective of whether pre-dispatch inspection was carried out by NMDC or not
- k) The findings of CVO/ CBI / Police about the Agency's involvement in fraud and / or transgressions in relation to the Business Dealings with NMDC.
- l) Established litigant nature of the Agency to derive undue benefit.
- m) Continued poor performance of the Agency in at least three preceding contracts with NMDC
- n) The Agency misuses the premises or facilities of NMDC and / or forcefully occupies, tampers or damages NMDC's properties including land, water resources, forests / trees, etc.
- o) False allegation on NMDC officials by the Agency if found proved by an Investigating or by the Independent External Monitor including any Government agency like CVC / CVO / CBI / Police etc.

BANNING PERIOD

The Banning Period may range from six months to three years depending on the gravity of the case as decided by the Competent Authority. While deciding the Banning Period, the Suspension Period, if any, shall also be taken into account.

40 Guidelines for eligibility of a bidder from a country which shares a land border with India

40.1 Bidders to take note of the following clauses that shall be applicable against the tender as per Order No. F.No. 6/18/2019-PPD dated 23.07.2020 i.e.- (Order (Public Procurement No. 1) issued from Ministry of Finance, Department of expenditure, Public Procurement Division available at website <https://doe.gov.in/procurement-policy-divisions>).

- a. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.

[Competent Authority for the purpose of registration shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT), as mentioned under Annex I of the Order (Public Procurement No.1) dated 23.07.2020]



- b. "Bidder" (including the term 'Bidder', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or Consortium (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.
- c. "Bidder from a country which-shares a land border with India" means; -
- i. An entity incorporated, established or registered in such a country; or
 - ii. A subsidiary of an entity incorporated, established or registered in such a country; or
 - iii. An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - iv. An entity whose beneficial owner is situated in such a country; or
 - v. An Indian (or other) agent of such an entity; or
 - vi. A natural person who is a citizen of such a country; or
 - vii. A consortium or Consortium where any member of the consortium or Consortium falls under any of the above.
- d. The beneficial owner for the purpose of (c) above will be as under:
- i. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person (s), has a controlling ownership interest or who exercises control through other means.
Explanation -
 - "Controlling ownership interest" means ownership of or entitlement to, more than twenty-five per cent, of shares or capital or profits of the company;
 - "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
 - ii. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;



- iii. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
 - iv. Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 - v. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- e. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
 - f. The successful bidder shall not be allowed to sub-contract works to any Contractor from a country which shares a land border with India unless such Contractor is registered with the Competent Authority.
 - g. A bidder is permitted to procure raw material, components, sub-assemblies etc. from the vendors from countries which shares a land border with India. Such vendors will not be required to be registered with the Competent Authority, as it is not regarded as “subcontracting”
 - h. However, in case a bidder has proposed to supply finished goods procured directly/indirectly from the vendors from the countries sharing land border with India, such vendor will be required to be registered with the Competent Authority.
 - i. Validity of registration: In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance/placement of order, registration shall not be a relevant consideration during contract execution.
 - j. Bidder shall submit a certificate regarding compliance as per FORM 15 of ITB. If such certificate given by a bidder whose bid is accepted, is found to be false, this would be a ground for immediate rejection of bid/termination of contract and further legal action in accordance with law.
- Note:** The Bidder shall ensure that the work shall not be sub contracted to any Contractor from the country sharing a land border with India unless such Contractor is registered with the Competent Authority.



41 Preference to Make in India and Eligibility for Participation/ granting of Purchase Preference to Class-I local suppliers

Public Procurement (Preference to Make in India), Order 2017 and its subsequent amendments/ revisions issued by DPIIT shall be applicable. The bidders may apprise themselves of the relevant provisions of bidding documents in this regard before submission of their bids.

“For order preference, “Preference to Make in India and Eligibility for Participation/ granting of Purchase Preference to Class-I local suppliers” refer Form 13 of ITT.



Form- 1

PROFORMA OF LETTER OF UNDERTAKING (LOU)

(To be submitted by the Bidder/Contractor in Part – 1 of the Bid)

(To be submitted on Bidder's Letter Head)

Bidder's Ref. No. ----- Dated :

M/s NMDCL Ltd,

Dear Sirs,

1. We have read and examined the following Tender / Bidding Documents relating to the facilities
"-----" (Name of the work);
 - a) Notice Inviting Tender (NIT) including Bid Data Sheet
 - b) Instruction to Bidder (ITT) with Annexures
 - c) Special Conditions of Contract (SCC)
 - d) Form of Contract Agreement with Appendices
 - e) General Conditions of Contract (GCC) with Annexures
 - f) Safety Code for Contractors with Annexures
 - g) Technical Specifications
 - h) Any other documents (specify) including addenda / Corrigenda, if any.
2. Having examined the bidding documents, including addenda / Corrigenda, the receipt of which is hereby acknowledged, we, the undersigned, offer the above-named Facilities in full conformity with the said bidding documents for the sum as mentioned in Price Bid or such other sums as may be determined in accordance with the terms and conditions of the Contract. We hereby submit our tender as per terms of NIT and other documents.
3. We further undertake, if invited to do so by you, and at our own cost, to attend a clarification meeting at a place of your choice, for the purpose of reviewing our Bid and duly noting all amendments and additions thereto and noting omissions there from that you may require.
4. We undertake, if our bid is accepted, to commence execution of work of the facilities and to achieve completion within the respective times stated in the bidding documents / quoted by us in our bid.



5. If our bid is accepted, we undertake to provide a Performance Guarantee in the form, in the amount, and within the time specified in the bidding documents.
6. We undertake to keep our Tender valid initially up to _____(dd/mm/yyyy) i.e. for a period of one hundred eighty (180) days from the due date of opening of tender (Part-1 of offer). We hereby further undertake that I/We shall not vary/alter or revoke my/our Tender during the said period or extended period, if any.
7. We also submit herewith the prescribed EMD. NMDC shall have the right to forfeit the EMD, in addition to any other provision of ITT, if I/We do not comply with the undertaking given at 4, 5 & 6 above.
8. We undertake that *I/we are not associated, nor has been associated in the past, directly or indirectly, with the Consultant or any other entity that has prepared the design, specifications and other documents for the subject tender.
9. We declare that we are not convicted by a court of Law for an offence involving moral turpitude in relation to business dealings during the past seven years for acceptance of the bid.
10. Should this Tender be accepted, We also agree to abide by and fulfil all the terms, conditions and provisions of the above mentioned tender documents.
11. I/We have
 - a) Downloaded the bid document and subsequent clarifications / amendments / corrigendum's, if any from NMDC's website
 - b) Downloaded the bid document and subsequent clarifications / amendments / corrigendum's, if any from Central public procurement portal
 - c) Downloaded the bid document and subsequent clarifications / amendments / corrigendum's, if any from MSTC Portal
12. We hereby confirm that before submission of this bid, We have fully acquainted with local conditions and factors for execution of the works covered under these bid documents and technical specifications and that we shall have no claims against NMDC on these counts at any time.
13. Until a formal Contract is prepared and executed between us, this bid, together with your written acceptance thereof and your notification of award shall constitute a binding Contract between us.
14. We understand that you are not bound to accept the lowest or any bid you may receive and in-turn we will not have any rights to raise any claim, whatsoever it may be, due to or arising out of rejection of our bids.



15. We shall abide by the provisions of the Integrity Pact in completeness.
16. We confirm that we have submitted our bid as a sole Bidder */ as a consortium of companies* and we comply with requirements of the bidding document and in particular the clause on joint bidding as applicable to us.
17. We hereby declare that we, M/s _____, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest which will call into question our participation in the procurement process and award of contract.

Signature along with Seal of Co.

.....
(Of the person duly authorised to sign the Bid)

Name : _____
Designation : _____
Name of Company : _____
Date & Postal Address : _____

WITNESS : _____
Signature : _____
Telegraphic Address : _____
Date : _____
Name & Address : _____
Telephone No. : _____

Strikeout whichever is not applicable.



Form – 2
PROFORMA FOR BANK GUARANTEE IN LIEU OF
EARNEST MONEY DEPOSIT

(On Non-judicial stamp paper of value not less than Rs. 100/-)

_____ Bank Ltd.

B.G. No. _____

A/c of (Name of address) - _____
Limit of liability - Rs./ _____
Date of expiry - _____

Ref: Tender Notice No. _____ dt. _____

For (Name of work) _____

Subject: Earnest Money Deposit

NMDC Limited,

Dear Sirs,

1. In consideration of the NMDC Limited, (hereinafter called "the Company") which expression shall unless repugnant to the subject or context include his successors and assigns having agreed to exempt M/s _____ from demand under the terms & conditions of Tender No. _____ issued by the Company for the works (hereinafter called "the said Document") from deposit of Earnest Money for the due fulfillment by the M/s(name of the Bidder) of the terms and conditions contained in the said Document on production of Bank Guarantee for _____ (Rupees _____ only).
2. I/We the _____ Bank. Ltd. (hereinafter referred to as "the said Bank"), a company under the companies Act. 1956 and having our registered office at _____ do hereby undertake and agree to indemnify and keep indemnified the Company to the extent of Rs./ _____ (Rupees _____ only) against any losses, damage cost, charges and expenses caused to or suffered by or that may be caused or suffered by the Company by reason of any breach or breaches by M/s(name of the Bidder) of any of the terms and conditions contained in the said Document and unconditionally pay the amount claimed by the Company on demand and without demur to the extent aforesaid.



3. We _____ Bank Ltd. do hereby undertake to pay the amount due and payable under the guarantee without any demur, reservation, protest and notwithstanding any dispute between the Company and the Bidder merely on a demand by you stating that the amount claimed is due by way of loss or damage caused to or would be caused or suffered by you by reason of any breach by M/s(name of the Bidder) of any of the terms or conditions contained in the said Document by reason of the M/s(name of the Bidder)'s failure to perform conditions of the said Document. Any such demand on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. /.
4. We _____ Bank Ltd. further agree that the Company shall be the sole judge of and as to whether the M/s.....(name of the Bidder) has committed any breach or breaches of any of the terms and conditions of the said Document and the extent of loss, damages, costs charges and expenses caused to or suffered by or that may be caused to or suffered by the Company on account thereof to the extent of the Earnest Money required to be deposited by M/s(name of the Bidder) in respect of the said Document and the decision of the Company that M/s.....(name of the Bidder) has committed such breach or breaches and as to the amount or amounts of loss, damages, costs, charges and expenses caused to or suffered by or that may be caused to or suffered by the Company shall be final and binding on us.
5. We _____ Bank Ltd. further agree that guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Document and that it shall continue to be enforceable till all your dues under or by virtue of the said Document have been fully paid and its claims satisfied or discharged or till you certify that terms and conditions of the said document have been fully and properly carried out by the said M/s..... and accordingly discharge the guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the _____ we shall be discharged from all liability under this guarantee.
6. We _____ Bank Ltd. further agree with you that you shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Document or to extend time asked by M/s..... from time to time or to postpone for any time or from time to time any of the powers exercisable by you against M/s and to forbear or enforce any of the terms and conditions relating to the said document and we shall not be relieved from our liability by reason of any such variation or extension being granted to M/s..... or for any forbearance act or omission on your part or any indulgence by you to M/s..... or by any such matter or thing whatsoever under the law relating to sureties would but for this provision have effect of so relieving us.
7. It shall not be necessary for the Company to proceed against M/s..... before proceeding against the Bank and the Guarantee herein contained shall be enforceable against the Bank, notwithstanding any security which the Company may have obtained from M/s..... at this time when proceedings are taken against Bank hereunder be outstanding or unrealized.



8. We _____ Bank Ltd. further undertake to unconditionally pay the amount claimed by the Company merely on demand and without demur to the extent aforesaid.
9. We, the said Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Company in writing and agree that any change in the constitution of the Company or of M/s..... or the said Bank shall not discharge our liability hereunder.
- (i) Notwithstanding anything contained herein our liability under this bank guarantee shall not exceed Rs (Rupees)
- (ii) This bank Guarantee shall remain valid up to
- (iii) Our liability to make payments shall arise and we are liable to pay the guaranteed amount or any part thereof under this guarantee only and only if you serve upon us a written claim or demand in terms of guarantee on or before

For _____ Bank Ltd.

Signature _____

Seal

Witness

Dated.....day of20

While issuing the Bank Guarantee for Earnest Money, the issuing Bank must furnish following details:

- Name & address of the Bank
- Contact person
- Telephone no.
- Fax no.
- E-mail address:

The Bidder while getting the Bank Guarantees issued by the Banker must take care of the above details.



FORM - 3

DECLARATION

**(To be signed and submitted before start of negotiations)
(On company letterhead)**

Ref No: _____ Dt: _____

To _____

Sub: Tender No ----- Opened on -----for the supply of -----

Ref: Your invitation for negotiations No: dated:

Dear Sir,

I _____ duly authorised on behalf of M/ s. _____ do declare that in the event of failure of the contemplated negotiations relating to Tender No. _____ opened on _____ my original tender shall remain open for acceptance on its original terms and conditions.

Yours faithfully,

Signatures of bidder, or officer
authorised to sign the bid documents
on behalf of the bidder

Place: _____

Date: _____



Form- 4

DETAILS OF WORK DONE AS PER TECHNICAL ELIGIBILITY CRITERIA

(Refer Sl.No.7 of Bid Data Sheet)

Sl. No	Name & Address of Client including phone & Fax nos. including Email IDs	Project(s) Location(s)	Brief about scope of work of Project Execution	Work order values/ Project Cost	Date of Award of work and Date of commissioning / completion	Copy of order document(s)/ completion certificates Submitted (Yes / No)

Note:

- (1) During evaluation of eligibility criteria, NMDC at its discretion, may ask the Bidders for clarification only related to shortfall information of the pre-existed works in the offer, submitted at the time of tender opening.
- (2) No New credentials of works not pre-existed in the offer (submitted at the time of tender opening) will be considered for evaluation of eligibility criteria.
- (3) NMDC, may at its discretion, verify the documents / inspect the works done by the Tenderer.
- (4) The bidder who has executed the work as a sub-contractor, then bidder has to substantiate their credentials through any other relevant documents issued by client in addition to the completion certificates and work order / contract issued by Main Contractor.
- (5) In addition to the above, NMDC may insist the Bidder on the submission of further details/information as necessary during evaluation of bids.
- (6) NMDC reserves its right to verify the documents / information submitted or inspect the installation done. The bidder shall provide necessary assistance for this purpose.
- (7) The offers of the bidders not meeting the eligibility criteria and not producing supportive documents are likely to be rejected and no correspondence whatsoever shall be entertained.



Form- 5
INFORMATION ABOUT THE BIDDER

(In case of consortium this information shall be provided by each member of the consortium)

Sl. No.	Information Requested	Tenderer's reply [to be filled-in / replied appropriately by the tenderer along with supporting documents as applicable.]
1	Name of the Firm	
2	Type of the Firm (Limited/ Partnership/ Proprietorship etc.)	
3	Year of incorporation/ Establishment	
4	Place of incorporation/ registration	
5	Registration Number, if any	
6	Registered Postal Address	
7	Telephone No. (s)	
8	E-mail ID, if any	
9	Address on which Order /LAC to be placed	
10	Type of Account & A/C No.	
11	Name (s) of Authorized Representatives (s) Note: Power of Attorney signed by the Director(s)/ Partners / Proprietor in favour of the authorized Person signing the tender documents must be enclosed.	
12	Constitution or legal status of Bidder / Consortium members (Attach Copy)	
13	Details of GSTN	



Form- 6
DEVIATIONS

Sl. No.	Clause No.	Clause as per Tender Document	Clause as proposed by the Tenderer/ Intended effect	Deviation Withdrawal price quoted along with the price bid (Yes / No) – Refer Bid Data Sheet

- (1) The Tenderer hereby certifies that the deviations mentioned above are the only deviations to the tender conditions.
- (2) Deviations elsewhere furnished shall be ignored.
- (3) If there are no deviations, then Form- 6 has to be submitted by indicating 'NIL' .



Form- 7

PROPOSED ORGANIZATIONAL SET UP AT SITE

Sl. No.	Designation/ Category	Number	Qualification	No of years of professional experience	Field of specialization



Form- 8

LETTER OF UNDERTAKING TOWARDS PF CODE
(Applicable to bidders who do not possess the PF code)
(On a non-judicial stamp paper of value not less than Rs 100/-)

I /We hereby confirm that I/We am/are not registered with any of the Regional Provident Fund Authorities and /or I/we are/are not possessing a valid Provident Code Number at present.

I /We hereby undertake to register with Regional Provident Fund Authorities and/or obtain a valid provident Fund code number within one month from the date of issue of Letter of Intent/Letter of Award of Contract whichever is earlier.

I/We also agree that any payment due to us arising out of the execution of the contract shall be released by the Employer only after submission of a copy of the valid PF Code number allotted to us

Signature of Bidder with Seal



Form- 9
DETAILS OF WORKS IN HAND AT PRESENT .

Sl.No	Full address of the client	Value of contract	Date of Commencement	Scheduled completion as per contract	Reasons for delay if any	Status as on date of submission of the tender



Form- 10
FINANCIAL CAPACITY OF BIDDER

I. To calculate the value of “A”

1. A table containing value of Works undertaken by the Bidder during the last 5 years is as follows:

Sl. No.	Year	Value of Works undertaken (Rs. In Crores)	Escalation/ Adjustment Factor
	I	II	III
1			1.00
2			1.05
3			1.10
4			1.15
5			1.20

2. Maximum value of projects that have been undertaken during the F.Y. _____ out of the last 5 years is Rs _____ Crores (Rupees _____). Further, value updated to the price level of the year indicated in Appendix is as follows:

Rs. _____ Crores x _____ (Escalation/ Adjustment Factor as per Appendix) =
Rs. _____ Crores Rupees _____)

Name of Statutory Auditor Firm:
Sign of the Authorized Signatory:
Seal of the audit firm:

Name:

Designation:

Membership No.:

Date:

Place:



II. To calculate the value of “B”

A table containing value of all the existing commitments and on-going works to be completed during the next _____ years is as follows:

Sl. No.	Name of Project/ Work	Percentage of participation of Bidder in the project	Dater of start / appointed date of project	Construct ion Period as per LOA	Value of Contr act as per LOA	Value of Work Compl eted	Balance value of work to be completed	Anticipated date of completion	Balance value of work at (year) price level
1	2	3	4	5	6	7	8= (6-7)	9	10= (3*8*Escal ation factor)

The Statement showing the value of all existing commitments, anticipated value of work to be completed in the period of construction of the project for which bid is invited and ongoing works as well as the stipulated period of completion remaining for each of the works mentioned above is verified from the certificate issued that has been countersigned by the Client or its Engineer-in-charge not below the rank of Executive Engineer or equivalent in respect of EPC Projects or Concessionaire / Authorised Signatory of SPV in respect of PPP Projects. No awarded / ongoing works has been left in the aforesaid statement which has been awarded to M/s.....individually / and other member M/s and M/s, as on bid due date of this tender document.

Name of Statutory Auditor Firm:

Sign of the Authorized Signatory:

Seal of the audit firm:

Name:

Designation:

Membership No.:

Tenderer's Name: _____

Date: _____



Sole Bidder/ Consortium Member's Name _____ (in case of Consortium, this form shall be submitted for each consortium member separately)

III. Financial Data

Type of Financial information in (currency)	Historic information for previous _____ years, (amount in currency, exchange rate, INR equivalent)		
	Year 1	Year 2	Year 3
Total Assets (TA)			
Total Liabilities (TL)			
Total Equity/Networth (NW)			
Current Assets (CA)			
Current Liabilities (CL)			
Working Capital (WC)			
Annual Turnover			
Profits Before Taxes (PBT)			

IV. Financial Documents

The Bidder and its parties shall provide copies of financial statements for 3 years of Eligibility and Qualifications Criteria. The financial statements shall:

- reflect the financial situation of the Bidder or in case of Consortium member, and not an affiliated entity (such as parent company or group member).
- be independently audited or certified in accordance with local legislation.
- be complete, including all notes to the financial statements.
- correspond to accounting periods already completed and audited.

Attached are copies of financial statements¹ for the 3 years required above and complying with the requirements.

Name of Statutory Auditor Firm:

Sign of the Authorized Signatory:

Seal of the audit firm:

Name:

Designation:

Membership No.:



IMPORTANT INSTRUCTIONS FOR E-PROCUREMENT THROUGH MSTC PORTAL.

This is an e-tender event of NMDC Limited. The e-tender service provider is MSTC Limited. You are requested to carefully read the specific eligibility conditions of NIT, Terms & Conditions under Instructions to the Tenderer and also the Evaluation Criteria of this tender before submitting your online tender. Tenderers who do not comply with the conditions with documentary proof (wherever required) will not qualify in the tender for opening of Price Bid.

1. Process of E- tender:

A) Registration: The process involves Contractors registration with MSTC Limited e-procurement portal (www.mstcecommerce.com) which is free of cost. Only after registration, the vendor(s) can submit his/their bids electronically. Electronic Bidding for submission of Techno-Commercial Bid as well as Price Bid over the internet will be done. The Bidder should possess **Class III signing type digital certificate**. Bidders are to make their own arrangement for bidding from a P.C. connected with Internet. MSTC Ltd is not responsible for making such arrangement. (Bids will not be recorded without Digital Signature).

SPECIAL NOTE: THE PRICE BID AND THE TECHNO-COMMERCIAL BID HAS TO BE SUBMITTED ON-LINE AT <https://www.mstcecommerce.com/eprochome/nmdc/>

- 1). Contractors are required to register themselves online with <http://www.mstcecommerce.com/eprochome/nmdc/> → Register as Vendor (Contractors) Filling up details and creating own user id and password → Submit.
- 2). Contractors will receive a system generated mail confirming their registration in their email which has been provided during filling the registration form.

In case of any clarification, please contact MSTC Limited, (before the scheduled closing time of the e- tender).

B) System Requirement:

The following requirements need to be fulfilled for optimum use of MSTC e-procurement system.

- (1). A computer connected to internet through an ISP.
- (2). The computer should have adequate RAM depending on version of Windows.
- (3). The computer (Desktop / Laptop) should have Windows 7 or above.
- (4). The website is best viewed in Internet Explorer version 7 or above.
- (5). The protected mode of the computer should be turned off for higher version of Windows where available.
- (6). Latest Drivers for your Digital Signature Certificate should be installed properly in the computer.
- (7). The computer should have latest Java Runtime Environment version (Windows X86 Offline file) installed in it.



FOR DETAILS PLEASE GO THROUGH THE VENDOR GUIDE AND THE VIDEO UNDER “[VIEW VIDEO](https://www.mstcecommerce.com/eprochome)” LINK AT <https://www.mstcecommerce.com/eprochome>

1. Vendor Guide Link→<https://www.mstcecommerce.com/eprochome/UserManualVendor.pdf>

2. Video Link→<https://www.mstcecommerce.com/auctionhome/RenderFileViewVideo.jsp?file=IE-Configuration.mp4>

2. Submission of Bids:

- a) The process involves Electronic Bidding for submission of Techno Commercial Bid (Part-I) as well as Price Bid (Part-II).

<https://www.mstcecommerce.com/eprochome/nmdc>→Vendor Login → My menu →Bidding Floor→ Live Events→ Selection of the Live Event → Tech-Com Cover (Part-I) →Price-Bid (Part-II)→Final Submission

- b) The bidder should allow to run an application namely **enApple** by accepting the risk and clicking on run. If this application is not run then the bidders will not be able to save/submit his/her bid.

c) **Tech-Com Cover (PART-I):**

- 1.) Techno-Commercial bid will be opened electronically on specified date and time as given in the NIT. Bidder(s) can witness electronic opening of bid.
- 2.) The bidder has to submit scan copies of all the documents as mentioned in the NIT for PART I before scheduled closing time.
- 3.) If any of the documents are not submitted, the bidder shall be considered as non-responsive and their bid shall be liable for rejection and PART-II of such unresponsive bid will not be opened.

d) **Price-Bid (PART-II):**

After submitting Tech-Com Cover (PART-I), the vendor needs to do the following:

1. Click on 'Download Price' and download the Price Schedule (Excel Document).
2. Bidder needs to fill up price only in the unprotected cells in the Excel sheet(s) offline and save the file **without renaming** the file name. Bidder should not modify the protected cells. **Please note System will not accept the renamed/modified file.**
3. Click on 'Upload Price' Button to upload the filled up excel file.
4. Click on 'Final Submission' to submit the tender.

NOTE: Bidder should not modify the filename OR file extension. It may be noted that if any corrupted/ Bad/ Macro enabled file is uploaded at the time of price bid, System will not be able to open/read such corrupted/ Bad/ Macro enabled file. Such bids will be liable for rejection.



Price bid will be opened electronically of only those bidder(s) whose Part-I (Techno-Commercial Bid) is found to be Techno-Commercially acceptable to NMDC Ltd. The Bidders are advised to offer their most competitive prices while submitting the price bid.

- e) All entries in the tender should be entered in online Techno-Commercial Formats without any ambiguity.
- f) Bidders are instructed to use *upload Docs* button against the clauses in PART I under event number selected. Multiple documents can be uploaded. Maximum size of single document for upload is 5 MB.
- g) All notices and correspondences of the bidder(s) shall be sent through email during the process till finalization of tender by NMDC Limited. Bidders are required to ensure that their email I.D. provided is valid and updated at the stage of registration of vendor. Bidders are also requested to ensure validity of their DSC (Digital Signature Certificate).
- h) Please note that there is no provision to take out the list of parties who are downloading the Tender document from the web site mentioned in NIT. As such, bidders are requested to see the web site once again before the due date of tender opening to ensure that they have not missed any corrigendum uploaded against the said tender after downloading the tender document. **The responsibility of downloading the related corrigenda, if any, will be that of the bidders.**
- i) No separate intimation in respect of corrigendum to this NIT (if any) will be sent to bidders who have downloaded the documents from web site. Please see website <https://www.mstcecommerce.com/eprochome/nmdc> of MSTC Ltd. or www.nmdc.co.in of NMDC Ltd
- j) E-tender cannot be accessed after the due date and time mentioned in NIT.
- k) In all cases, bidders should use their own ID and Password along with Digital Signature at the time of submission of their bid.
- l) During the entire e-tender process, the bidders will remain completely anonymous to one another and also to everybody else.
- m) The e-tender floor shall remain open from the pre-announced date & time and for as much duration as mentioned.
- n.) All electronic bids submitted during the e-tender process shall be legally binding on the bidders. Any bid will be considered as the valid bid offered by that bidder and acceptance of the same by N M D C Ltd will form a binding contract between NMDC Ltd and the Bidder for execution of work. Such successful bidder shall be called hereafter **Contractor**.
- o.) It is mandatory that all the bids are submitted with digital signature certificate otherwise the same will not be accepted by the system.



- p.) NMDC Ltd reserves the right to cancel or reject or accept or withdraw or extend the tender in full or part as the case may be without assigning any reason thereof.
- q.) No deviation in the terms and conditions of the tender document is acceptable. Submission of bid in the e-tender floor by any bidder confirms his acceptance of terms & conditions of the tender.
- r.) Unit of Measure (UOM) is indicated in the e-tender Floor. Rate to be quoted as per UOM/currency indicated in the e-tender floor/tender document.

In case of any clarification, please contact MSTC Limited (before the scheduled time of the e- tender).

For all queries including registration, login, bidding ,DSC mapping and technical issues. Time: 10 AM to 6 PM			
Location/Contact/ Escalation matrix	Level 1/To	Level 2/CC	Level 3/CC
NMDC HO- Hyderabad/ other locations	Central Helpdesk 07969066600 e-Mail : helpdesk@mstcindia.co.in	Mr Krishna Kanth Mob : 8333036366	Mr Siddharth Varadi svaradi@mstcindia.co.in 040-23301049
NMDC-Bacheli	Central Helpdesk 07969066600 e-Mail : helpdesk@mstcindia.co.in	Mr Kumesh Kumar Mob : 8057539011	Mr Siddharth Varadi svaradi@mstcindia.co.in 040-23301049
NMDC-Kirandul	Central Helpdesk 07969066600 e-Mail : helpdesk@mstcindia.co.in	Ms Ria Badai Mob : 7648088915	Mr Siddharth Varadi svaradi@mstcindia.co.in 040-23301049
NMDC-Donimalai	Central Helpdesk 07969066600 e-Mail : helpdesk@mstcindia.co.in	Ms Salomie Keziah Mob : 8762239966	Mr Siddharth Varadi svaradi@mstcindia.co.in 040-23301049

General Notes:

- Bids for the subject work have been invited in 2 bid system as mentioned in NIT viz. (a). Part-I consisting of pre-qualification data, techno-commercial bid besides Letter of Undertaking and Integrity Pact & Part-II consisting of Price Bid
- In case of any clarification, please contact NMDC/MSTC Limited (well before the scheduled time of e-tender).
- (A) Part I of the online bids will be opened on specified date and time as given in the NIT.



- (B) Part II (Price bid) will be opened electronically of only those bidder(s) whose Part I of the Bid are found to be acceptable to NMDC Ltd. Such bidder(s) will be intimated about the date of opening of Part II Price Bids by NMDC, through valid email confirmed by them.
- 4) Any order resulting from this e-tender shall be governed by the terms and conditions mentioned therein as well as in the tender document.
 - 5) The bidders must upload all the documents required as per terms of NIT. Any other Document uploaded which is not required as per the terms of the NIT shall not be considered.
 - 6) The bid will be evaluated based on the filled-in techno-commercial formats and considering the evaluation criteria as per tender document.
 - 7) The documents uploaded by bidder(s) will be scrutinized. In case any of the information furnished by the bidder is found to be false during scrutiny, punitive action including suspension and banning of business can also be taken against defaulting bidders.
 - 8) NMDC has the right to cancel this e-tender or extend the due date of receipt of bids without assigning any reason thereof.
 - 9) The online tender should be submitted strictly as per the terms and conditions and procedures laid down in the MSTC website as described above.
 - 10) Necessary addendum/ corrigendum (if any) of tender would be hosted only in the e-tendering portal of M.S.T.C. and any other website (s) (viz. NMDC/ CPP Portal) as may be mentioned in the tender document.
 - 11) Any other condition regarding receipt of tender in conventional method appearing in the tender document may please be treated as not applicable, except for specific requirements, if any mentioned in the tender document.
 - 12) The bidders should upload the documents duly signing each and every page.
 - 13) It should be the responsibility of the bidder to ensure that scanned copies of the uploaded documents on the e- tender platform are legible.
 - 14) The bidders are advised to submit their bids well in advance so as to avoid last minute technical issues and consequent lapse of time, even though every care is taken to avoid such issues.



Form- 12
INTEGRITY PACT

between

NMDC Limited hereinafter referred to as “The Principal”/ Employer

and

_____ hereinafter referred to as “The Bidder / Contractor” (In case of consortium, names of all the members to be mentioned)

Preamble

The Principal intends to award, under laid –down organizational procedures, contract/s for (*Name of the Work*_____). The Principal values full compliance with all relevant laws and regulations, and the principles of economical use of resources, and of fairness and transparency in its relation with its Bidder/s and /or Contractor/s.

In order to achieve these goals, the Principal Cooperates with the renowned international Non-Governmental Organization “Transparency International” (TI) Following TI’s national and international experience, the Principal will appoint an external independent Monitor who will monitor the tender process from the beginning till execution of the contract for compliance with the principles mentioned HEREIN.

Section 1- Commitments of the Principal

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-
 - I. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract demand, take a promise for or accept, for him/herself or third person, any material benefit which he/she is not legally entitled to.
 - II. The Principal will, during the tender process treat all Bidders with equity and reason. The principal will in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential/additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
 - III. The Principal will exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary action.

SECTION – 2 Commitments of the Bidder/Contractor

- (1) The Bidder / Contractor commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
 - I. The Bidder / Contractor will not, directly or through any other person or firm, offer, promise or give to the Principal, to any of the Principal’s employee involved in the tender process or the execution of the contract or to any third person any material or immaterial benefit which he/she is not legally entitled to, in order to obtain in exchange an advantage during the tender process or the execution of the contract.



- II. The Bidder / Contractor will not enter with other Bidders into any illegal agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or action to restrict competitiveness.
 - III. The Bidder / Contractor will not commit any criminal offence under the relevant Anti-corruption Laws of India, further the Bidder/Contractor will not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - IV. The Bidder/Contractor will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
 - V. The Bidder / Contractor signing IP shall not approach the Courts while representing the matters to IEMs and he/she will await their decision in the matter.
- (2) The Bidder / Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.
 - (3) *The Bidder / Contractor may indicate the advantage of his offer compared to the tender terms and conditions. The Bidder / Contractor shall not make any commitment whatsoever on the offers / products of other bidder(s) thereby influencing the principal to take decision of the former.*

Section 3 – Disqualification from tender process and exclusion from future contract

1. If the Bidder, before contract award, has committed a serious transgression through a violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder into question, the Principal is entitled to disqualify the Bidder from the tender process or to terminate the contract, if already signed, for such reason.
2. If the Bidder/Contractor has committed a serious transgression through a violation of section – 2 such as to put his reliability or credibility into question, the principal is entitled also to exclude the Bidder / Contractor from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgressions, the position of the transgressors with the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.
3. If the Bidder / Contractor can prove that he has restored/recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion prematurely.
4. A transgression is considered to have occurred if in light of available evidence no reasonable doubt is possible.

Section 4 – Forfeiture of Earnest Money Deposit/Security Deposit

- (1) If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to forfeit the bidders Earnest Money Deposit.



- (2) If the Principal has terminated the contract according to section – 3, or if the Principal is entitled to terminate the contract according to section – 3, the principal shall be entitled to forfeit the Earnest Money Deposit/Security Deposit.

Section 5 – Previous Transgression

- (1) The Bidder declares that no previous transgression occurred in the last three years with any other company in any country confirming to the TI approach or with any other Public Sector Enterprise in India that could justify its exclusion from the tender process.
- (2) If the bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

Section 6 – Equal treatment of all bidders/contractors/sub-contractors

- (1) The bidder/contractor undertakes to demand from all sub-contractors the commitment consistent with this integrity pact, and to submit it to the Principal before contract signing.
- (2) The principal will enter into agreement with identical conditions as this one with all bidders, contractors and sub-contractors.
- (3) The principal will disqualify from the tender process all bidders who do not sign *this pact and submit it to the Principal along with the offer*.

Section 7 – Criminal charges violating Bidders/Contractors/Sub-Contractors

If the principal obtains knowledge of conduct of a Bidders/Contractors/Sub-Contractors, or of an employee or a representative or an associate of a Bidders/Contractors/Sub-Contractors which constitutes corruption, or if the principal has substantive suspicion in this regard, the principal will inform the vigilance office.

Section 8 – External Independent Monitor

- (1) The principal appoints competent and credible external independent Monitor for this Pact. The task of the monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairman of the Board of the Principal.
- (3) The Monitor has the right of access without restriction to all Projects documentation of the Principal. The Contractor will also grant the monitor, upon his request and demonstration of a valid interest, unlimited access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/Contractor/Subcontractor with confidentiality.
- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- (5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or heal the violation, or take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this,



the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

- (6) The Monitor will regularly submit a written report to the Chairman of the Board of the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) If the Monitor has reported to the Chairman of the Board a substantiated suspicion of an offence under relevant Anti-Corruption Laws of India, and the Chairman has not, with reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

Section 9 – Pact Duration

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the respective contract, and for all other Bidder's 6 months after the contract has been awarded.

Section 10 – Other Provisions

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Corporate Office of the Principal.
- (2) Changes and supplements as well as termination notices need to be made in writing: Side agreements have not been made.
- (3) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

For the Principal

For the Bidder/Contractor

Place _____

Witness 1 : _____

Date _____

Witness 2: _____



Form- 13

No. P-45021/2/2017-PP (BE-II)
Government of India
Ministry of Commerce and Industry
Department for Promotion of Industry and Internal Trade
(Public Procurement Section)

Udyog Bhawan, New Delhi
Dated: 16th September, 2020

To

All Central Ministries/Departments/CPSUs/All concerned

ORDER

Subject: Public Procurement (Preference to Make in India), Order 2017– Revision; regarding.

Department for Promotion of Industry and Internal Trade, in partial modification [Paras 2, 3, 5, 10 & 13] of Order No.P-45021/2/2017-B.E.-II dated 15.6.2017 as amended by Order No.P-45021/2/2017-B.E.-II dated 28.05.2018, Order No.P-45021/2/2017-B.E.-II dated 29.05.2019 and Order No.P-45021/2/2017-B.E.-II dated 04.06.2020, hereby issues the revised 'Public Procurement (Preference to Make in India), Order 2017' dated 16.09.2020 effective with immediate effect.

Whereas it is the policy of the Government of India to encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, and

Whereas procurement by the Government is substantial in amount and can contribute towards this policy objective, and

Whereas local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them,

Now therefore the following Order is issued:

1. This Order is issued pursuant to Rule 153 (iii) of the General Financial Rules 2017.
2. **Definitions:** For the purposes of this Order:

'Local content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

'Class-I local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-I local supplier' under this Order.

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'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-II local supplier' but less than that prescribed for 'Class-I local supplier' under this Order.

'Non - Local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than that prescribed for 'Class-II local supplier' under this Order.

'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

'Margin of purchase preference' means the maximum extent to which the price quoted by a "Class-I local supplier" may be above the L1 for the purpose of purchase preference.

'Nodal Ministry' means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.

'Procuring entity' means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

'Works' means all works as per Rule 130 of GFR- 2017, and will also include *'turnkey works'*.

3. Eligibility of 'Class-I local supplier'/ 'Class-II local supplier'/ 'Non-local suppliers' for different types of procurement

(a) In procurement of all goods, services or works in respect of which the Nodal Ministry / Department has communicated that there is sufficient local capacity and local competition, only 'Class-I local supplier', as defined under the Order, shall be eligible to bid irrespective of purchase value.

(b) Only 'Class-I local supplier' and 'Class-II local supplier', as defined under the Order, shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers'. In procurement of all goods, services or works, not covered by sub-para 3(a) above, and with estimated value of purchases less than Rs. 200 Crore, in accordance with Rule 161(iv) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure.

(c) For the purpose of this Order, works includes Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.

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3A. Purchase Preference

(a) Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to 'Class-I local supplier' in procurements undertaken by procuring entities in the manner specified here under.

(b) In the procurements of goods or works, which are covered by para 3(b) above and which are divisible in nature, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract for full quantity will be awarded to L1.
- ii. If L1 bid is not a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50% quantity subject to the Class-I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L1 price. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.

(c) In the procurements of goods or works, which are covered by para 3(b) above and which are not divisible in nature, and in procurement of services where the bid is evaluated on price alone, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract will be awarded to L1.
- ii. If L1 is not 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be invited to match the L1 price subject to Class-I local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price.
- iii. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price, the 'Class-I local supplier' with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.

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- (d) "Class-II local supplier" will not get purchase preference in any procurement, undertaken by procuring entities.

3B. Applicability in tenders where contract is to be awarded to multiple bidders -
In tenders where contract is awarded to multiple bidders subject to matching of L1 rates or otherwise, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- a) In case there is sufficient local capacity and competition for the item to be procured, as notified by the nodal Ministry, only Class I local suppliers shall be eligible to bid. As such, the multiple suppliers, who would be awarded the contract, should be all and only 'Class I Local suppliers'.
- b) In other cases, 'Class II local suppliers' and 'Non local suppliers' may also participate in the bidding process along with 'Class I Local suppliers' as per provisions of this Order.
- c) If 'Class I Local suppliers' qualify for award of contract for at least 50% of the tendered quantity in any tender, the contract may be awarded to all the qualified bidders as per award criteria stipulated in the bid documents. However, in case 'Class I Local suppliers' do not qualify for award of contract for at least 50% of the tendered quantity, purchase preference should be given to the 'Class I local supplier' over 'Class II local suppliers'/'Non local suppliers' provided that their quoted rate falls within 20% margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the 'Class I Local suppliers' taken in totality are considered for award of contract for at least 50% of the tendered quantity.
- d) First purchase preference has to be given to the lowest quoting 'Class-I local supplier', whose quoted rates fall within 20% margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting 'Class-I local supplier', does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher 'Class-I local supplier', falling within 20% margin of purchase preference, and so on.
- e) To avoid any ambiguity during bid evaluation process, the procuring entities may stipulate its own tender specific criteria for award of contract amongst different bidders including the procedure for purchase preference to 'Class-I local supplier' within the broad policy guidelines stipulated in sub-para above.
4. **Exemption of small purchases:** Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.
5. **Minimum local content:** The 'local content' requirement to categorize a supplier as 'Class-I local supplier' is minimum 50%. For 'Class-II local supplier', the 'local content' requirement is minimum 20%. Nodal Ministry/ Department may prescribe only a higher

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percentage of minimum local content requirement to categorize a supplier as 'Class-I local supplier'/'Class-II local supplier'. For the items, for which Nodal Ministry/ Department has not prescribed higher minimum local content notification under the Order, it shall be 50% and 20% for 'Class-I local supplier'/'Class-II local supplier' respectively.

6. **Margin of Purchase Preference:** The margin of purchase preference shall be 20%.
7. **Requirement for specification in advance:** The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.
8. **Government E-marketplace:** In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.
9. **Verification of local content:**
 - a. The 'Class-I local supplier'/'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'/'Class-II local supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.
 - b. In cases of procurement for a value in excess of Rs. 10 crores, the 'Class-I local supplier'/'Class-II local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
 - c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
 - d. Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/ accountant's certificates on random basis and in the case of complaints.
 - e. Nodal Ministries and procuring entities may prescribe fees for such complaints.
 - f. False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.

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- g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 9h below.
- h. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:
 - i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner;
 - ii. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);
 - iii. in respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.

10. Specifications in Tenders and other procurement solicitations:

- a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
- b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of 'Class-I local supplier'/ 'Class-II local supplier' who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
- c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.

d. Reciprocity Clause

- i. When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country etc., it shall provide such details to all its procuring entities including CMDs/CEOs of PSEs/PSUs, State Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.

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- ii. Entities of countries which have been identified by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government procurement in India for all items related to that nodal Ministry/ Department, except for the list of items published by the Ministry/ Department permitting their participation.
 - iii. The stipulation in (ii) above shall be part of all tenders invited by the Central Government procuring entities stated in (i) above. All purchases on GeM shall also necessarily have the above provisions for items identified by nodal Ministry/ Department.
 - iv. State Governments should be encouraged to incorporate similar provisions in their respective tenders.
 - v. The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.
- e. Specifying foreign certifications/ unreasonable technical specifications/ brands/ models in the bid document is restrictive and discriminatory practice against local suppliers. If foreign certification is required to be stipulated because of non-availability of Indian Standards and/or for any other reason, the same shall be done only after written approval of Secretary of the Department concerned or any other Authority having been designated such power by the Secretary of the Department concerned.
- f. "All administrative Ministries/Departments whose procurement exceeds Rs. 1000 Crore per annum shall notify/ update their procurement projections every year, including those of the PSEs/PSUs, for the next 5 years on their respective website."

10A. Action for non-compliance of the Provisions of the Order: In case restrictive or discriminatory conditions against domestic suppliers are included in bid documents, an inquiry shall be conducted by the Administrative Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.

11. Assessment of supply base by Nodal Ministries: The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing the higher minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.

12. Increase in minimum local content: The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.

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13. **Manufacture under license/ technology collaboration agreements with phased indigenization:** While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.

13A. In procurement of all goods, services or works in respect of which there is substantial quantity of public procurement and for which the nodal ministry has not notified that there is sufficient local capacity and local competition, the concerned nodal ministry shall notify an upper threshold value of procurement beyond which foreign companies shall enter into a joint venture with an Indian company to participate in the tender. Procuring entities, while procuring such items beyond the notified threshold value, shall prescribe in their respective tenders that foreign companies may enter into a joint venture with an Indian company to participate in the tender. The procuring Ministries/Departments shall also make special provisions for exempting such joint ventures from meeting the stipulated minimum local content requirement, which shall be increased in a phased manner.

14. **Powers to grant exemption and to reduce minimum local content:** The administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of their Minister-in-charge, may by written order, for reasons to be recorded in writing,

- a. reduce the minimum local content below the prescribed level; or
- b. reduce the margin of purchase preference below 20%; or
- c. exempt any particular item or supplying entities from the operation of this Order or any part of the Order.

A copy of every such order shall be provided to the Standing Committee and concerned Nodal Ministry / Department. The Nodal Ministry / Department concerned will continue to have the power to vary its notification on Minimum Local Content.

15. **Directions to Government companies:** In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.

16. **Standing Committee:** A standing committee is hereby constituted with the following membership:

Secretary, Department for Promotion of Industry and Internal Trade—Chairman
Secretary, Commerce—Member
Secretary, Ministry of Electronics and Information Technology—Member
Joint Secretary (Public Procurement), Department of Expenditure—Member
Joint Secretary (DPIIT)—Member-Convenor

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The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.

17. Functions of the Standing Committee: The Standing Committee shall meet as often as necessary, but not less than once in six months. The Committee

- a. shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.
- b. shall annually assess and periodically monitor compliance with this Order
- c. shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content
- d. may require furnishing of details or returns regarding compliance with this Order and related matters
- e. may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures
- f. may examine cases covered by paragraph 13 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization
- g. may consider any other issue relating to this Order which may arise.

18. Removal of difficulties: Ministries /Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this Order.

19. Ministries having existing policies: Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1st January 2015, such policies will prevail over the provisions of this Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.

20. Transitional provision: This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.

(Rajesh Gupta)
Director

Tel: 23063211

rajesh.gupta66@gov.in



FORM - 14

CONSORTIUM OPERATING AGREEMENT
(On Non-Judicial Stamp Paper of appropriate value)

THE BID FOR design, engineering, manufacture, supply, transportation, unloading, storage, In-plant transportation to site from stores, civil and structural works, erection, testing & commissioning, stabilization and performance guarantee inclusive of all facilities within the battery limits on total turnkey basis for NMDC, -----Plant (hereinafter referred to as —Employer") (Refer; Tender Document No.)

THE COMPANIES:

....., a company organized and established under the laws of, having its Registered office at /, (hereinafter referred to as ".....");

AND

....., a company organized and established under the laws of, having its Registered office at /, (hereinafter referred to as ".....");

AND

....., a company organized and established under the laws of, having its Registered office at /, (hereinafter referred to as ".....");

AND

....., a company organized and established under the laws of, having its Registered office at /, (hereinafter referred to as "....."); (hereinafter referred to individually as "PARTY" and collectively as "PARTIES" and as "Consortium") have entered into the following Consortium Agreement (the "AGREEMENT") on thisday of, 20...

WHEREAS

The Employer has issued the Tender Document No. dated for the _____ (name of the project) of performance guarantee parameters of a inclusive of all facilities within the battery limits on divisible turnkey basis for NMDC, ---Plant (hereinafter referred to as —PROJECT"); and

WHEREAS



- a) has proven expertise in _____ (for example technology, know-how, design and engineering experience in supply of new/rebuilt and more);
- b) has expertise in _____ (for example engineering, supply of equipment and supervision of erection/commissioning of new/rebuilt Plants);
- c) has a proven track record in _____ (for example design and engineering as well as established credentials in supply of equipment and execution of entire civil and structural works, erection and commissioning for new/rebuilt);
- d) shall be the Lead Member of this Consortium for the PROJECT _having maximum share of work in value terms"/ "being the Technology supplier and having minimum..... % of job or share of work in value terms". (Strike out as per stipulations at Eligibility Criteria)
- e) The percentage of scope of work to be carried out by each member in terms of value of the contract is as follows:

S No.	Name of the Party	% of scope of work in value terms
1	Member 1	
2	Member 2	
3	Member 3	
4	Member 4	

- f) The PARTIES (Consortium members) meet the eligibility criteria for Package as per Employer's tender document Notice Document No., dated
- g) The PARTIES shall coordinate their offers in such a way that they will jointly fulfill the requirements of the Employer and may be awarded with the contract for execution of the _____ (name of the project) & establishment of performance guarantee parameters for inclusive of all facilities within the battery limits on divisible turnkey basis (hereinafter referred to as "CONTRACT").

NOW THEREFORE, the PARTIES witnessed as follows:

1. The PARTIES, each having his own expertise and each as a separate legal entity, shall join their efforts in order to make the Consortium the successful bidders for award of the CONTRACT and execution of the PROJECT.

The PARTIES appointas the Consortium lead member.



2. Lead Member of the consortium shall be overall responsible for the execution of the Contract. The Lead Member and other Members of the Consortium shall be jointly and severally responsible and liable for the execution of the Contract, but will be liable for damages in proportion of the respective Contract Price (In case of successful bidding and CONTRACT award) in accordance with the CONTRACT terms.
3. Notwithstanding the provisions of being jointly and severally liable to Employer by all members of consortium, the lead Member of consortium shall be primarily responsible for full execution of the entire —Scope of work” of this tender/Contract, so that the NMDCL, ----- (name of the package) gets the facilities completed in time in all respect.
4. Lead Member of this Consortium is only authorized for exchange of correspondence with NMDCL, - ----- Plant and shall be responsible for it. Such correspondence exchanged between NMDCL, ----- Plant and Lead Member shall be binding on all Consortium Members.
5. Lead Member of this Consortium shall undertake full responsibility for performance of the contract as per terms and conditions of the contract agreement and PARTIES confirm its full commitment to the Lead Member for execution of its respective scope of work with full responsibility. PARTIES further agree that in case one or more member of this consortium repeatedly neglects to perform its respective scope, the Lead Member shall be authorized to take over the balance scope of work from the defaulting member and complete it at cost to the defaulting member.
6. Lead Member of this Consortium shall take the overall responsibility of project management of entire project. However, each PARTY shall remain responsible towards the other PARTY for its respective scope of work for its actions and deficiencies.
7. The PARTIES undertake to co-operate with each other according to the principles of good faith and to refrain from acting in any way that may contravene the aims and objectives of this AGREEMENT and to make every reasonable effort in order to prevent or minimize any possible disadvantages for the other PARTY. The cooperation of the PARTIES under the AGREEMENT is on mutual exclusive basis.

Therefore, no PARTY shall in any way - whether directly or indirectly - cooperate with any new person, company or firm (whether it is a competitor of the PARTIES or not) for the subject matter of this AGREEMENT. However, Lead Member of this Consortium shall be any, amongst all the members of the Consortium.

8. The respective preliminary scope of work of each PARTY is described in Technical offer(s),
9. Each PARTY shall bear its costs, it incurs for the offer preparation and in case of award each PARTY shall be fully responsible and liable for the complete performance of its respective scope of work according to the CONTRACT and this AGREEMENT. This includes but is not limited to the respective liability of a PARTY under the CONTRACT and under this AGREEMENT and each



PARTY's liability for damages from its nonperformance, defective, faulty or delayed performance, whether of a PARTY itself or its sub-contractors as per the provisions of the CONTRACT.

Each PARTY shall obtain and provide all necessary bank guarantees / bonds required according to the CONTRACT with respect to its specified Scope of Work and shall bear all related costs, charges and risks as shall be agreed in the CONTRACT.

10. Any dispute, which may arise at any time out of this AGREEMENT and any subsequent amendment or in connection with the same shall be finally settled under the Rules of Arbitration of _____ by an arbitration panel to be appointed according to the said Rules. The venue of the Arbitration shall be in, the language of the proceedings shall be English.
11. This AGREEMENT shall become effective upon signature by the PARTIES and shall remain in full force and effect until all obligations, liabilities and warranties undertaken / given by the PARTIES in connection with the present AGREEMENT have been settled. In case of CONTRACT award, a separate Consortium Agreement for execution of the PROJECT will be concluded.
12. This AGREEMENT may be terminated by either PARTY with immediate effect by written notice to the other PARTY if:
 - the Lead Member is declared insolvent or bankrupt or If a liquidator or receiver is appointed to that PARTY, or if an event happens that has a similar effect; or
 - the CONTRACT is not awarded to the PARTIES by the Employer or if the Employer abandons the PROJECT or if the Employer awards the contract to a third party other than the PARTIES hereto.
13. This AGREEMENT may be amended for substitution of the Other PARTY as per the conditions of the contract signed between the Employer and the PARTIES post award of work with written notice to the other PARTY if:
 - the Other PARTY is declared insolvent or bankrupt or If a liquidator or receiver is appointed to that PARTY, or if an event happens that has a similar effect; or
 - the Other PARTY defaults to deliver or perform leading to material breach of the Contract.
14. Modifications and supplements to this AGREEMENT require mutual agreement between all PARTIES and must be in writing in order to be effective. However, modifications in percentage share of work between the PARTIES shall be amended only upon prior notice and written approval from the Employer.
15. None of the PARTIES shall have the right to introduce a new party or Consortium member or to assign or in any way transfer any of its rights or obligations under this AGREEMENT to any other company, firm or person without first obtaining the consent in writing of the other PARTIES.



16. The role and responsibility of each member (Division of Work) is detailed in the table below:

Sl. No.	Description	Responsibility Division			
		Member 1	Member 2	Member 3	Member 4
1	Planning Stage				
	Activity 1				
	Activity 2				
2	Design Stage				
	Activity 1				
	Activity 2				
3	Execution Stage				
	Activity 1				
	Activity 2				
4	Commissioning and Closing Stage				
	Activity 1				
	Activity 2				

Signed on this day of (month) of the year of by the authorized representatives of -



Form- 15

**DECLARATION CERTIFYING THAT THE ENTITY IS NOT BLACKLISTED/ BANNED/ BARRED BY
CENTRAL GOVERNMENT OR ANY STATE GOVERNMENT/ DEPARTMENT/ AGENCY/ PSU**

We _____ (Name of Company) hereby declare that we are not blacklisted by any Central/ State Government/ agency of Central/ State Government of India or any other country in the world/ Public Sector Undertaking/ any Regulatory Authorities in India or any other country in the world for any kind of fraudulent activities.

It is understood that if this declaration is found to be false in any particular, NMDCL Limited or its Administrative Ministry, shall have the right to reject my/our bid, and if the bid has resulted in a contract, the contract is liable to be terminated.

Signature of Bidder _____

Name of Signatory: _____

Place:

Date:

We hereby declare that we have not been blacklisted by any Government Department/ Public Sector on date of submission of bid), except as indicated below:

(Here give particulars of blacklisting or holiday listing, and in absence thereof state "NIL")

Signature of Bidder _____

Name of Signatory: _____

Strikeout whichever is not applicable



Form- 16

**CERTIFICATE REGARDING COMPLIANCE IF THE BIDDER IS FROM THE COUNTRY WHICH
SHARES LAND OF BORDER WITH INDIA.**

(On the Letter Head of Bidder)

Bidders shall submit following certificate:

a) Model certificate for tender document:

"We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India. We certify that bidder M/s. _____ (name of the bidder) is not from such a country or if from such a country, has been registered with the Competent Authority. We hereby certify that M/s. _____ (Name of bidder) fulfills all the requirement in this regard and is eligible to be considered against the tender document."

b) Model certificate for tender document for works involving possibility of sub-contracting:

We M/s _____ have read the clause regarding restrictions on procurement from a country which shares a land border with India and on subcontracting to contractors from such-countries, we certify that we are not from such a country/or if from such a country, has been registered with the Competent Authority and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. We hereby certify that we fulfil all requirements in this regard and is eligible to be considered.

[Wherever applicable bidder must submit evidence of valid registration by competent Authority]

If such certificate (as mentioned as (a) & (b) above) given by a bidder whose bid is accepted, is found to be false, this would be a ground for immediate rejection of bid/termination of contract and further legal action in accordance with law.



Form- 17

DECLARATION OF LOCAL CONTENT BY THE BIDDER
(On Company's Letterhead)

Self-certification on Local Content

We have read the provisions of Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017, 28.05.2018, 29.05.2019, 04.06.2020, 16.09.2020 and subsequent orders/revisions/ amendments issued by the respective Nodal Ministry. In terms of the requirement of the aforesaid provisions, we hereby declare the following:

1.0 We confirm that we are a Class-I Local Supplier / Class-II Local Supplier, and the local content included in the work is min. ____% of our total offered price for complete scope of work for Tender Enquiry No. _____ dated _____.

2.0 Further, we hereby confirm the following:

(i)	Whether the bidder is presently debarred / banned by any other procuring entity for violation of 'Public Procurement (Preference to Make In India), Order 2017' (PPP-MII Order) dated 15.06.2017 issued by Department of Industrial Policy and Promotion (DIPP) and its subsequent orders/amendments/revisions.	Yes / No
-----	---	----------

3.0 We agree to furnish any information as a proof of the above to your satisfaction as and when required.

Yours truly,

Date

Signature.....

Place

Name.....

Designation

Name of Bidder.....

Seal.....



Certificate to be issued by Statutory Auditor for Local Content

We _____ (Name of the bidder) undertake that we meet the mandatory minimum Local Content (LC) requirement for claiming purchase preference linked with Local Contents under the Govt. policy against under tender no. _____ and the supporting details are as follows:

S No.	Description of items purchase	Local Supplies (in Percentage only)
(a)	Total local products (Goods, Services and Works)	
(b)	Manpower Costs (Bidder's manpower cost)	
(c)	Factory Overheads (Rental, depreciation & amortization, utility costs, consumables etc.)	
(d)	Administration overheads and markup (Marketing, insurance, financing, interest etc.)	
(e)	Total Local Content (a) + (b) + (c) + (d)	

We _____ the statutory auditor of M/s _____ (name of the bidder) hereby certify that M/s _____ (name of the bidder) meet the mandatory Local Content requirements of the Services against tender No. _____.

Seal and Signature of the Statutory Auditor

Place:

Date:

1.0 Further, we the bidder hereby confirm the following:

(i)	Whether the bidder is presently debarred / banned by any other procuring entity for violation of 'Public Procurement (Preference to Make In India), Order 2017' (PPP-MII Order) dated 15.06.2017 issued by Department of Industrial Policy and Promotion (DIPP) and its subsequent orders/amendments/revisions.	Yes / No
-----	---	----------

2.0 We agree to furnish any information as a proof of the above to your satisfaction as and when required.

Seal and Signature of the Bidder

***strike out whichever is not applicable**



Form- 18
CHECK LIST

Tenderer shall ensure that the documents given below have been submitted with the offer as per tender requirements;

Tender No. :

Bidder's Ref. No. :

Name of Facilities :

Sl. No.	Document	Submitted Yes/No
A	Part 1	
1)	EMD (refer clause 8.1.1 of ITT and Form – 2)	
2)	Letter of Undertaking (refer Form-1)	
3)	Integrity Pact (refer clause 8.1.3 of ITT and Form – 12)	
4)	Constitution / Legal status of the Bidder (refer clause 8.1.4 of ITT and Form – 5)	
5)	Power of Attorney (refer clause 8.1.5 of ITT)	
6)	Consortium Operating Agreement (refer clause 8.1.6 of ITT and Form – 14)	
7)	Documents in support of fulfilment of Eligibility Criteria (refer sl.no.7.I of Bid Data Sheet and Form – 4)	
8)	Audited Annual Reports for the last three years (refer sl.no.7.II of Bid Data Sheet)	
9)	No default certificate (refer sl.no.7.II of Bid Data Sheet)	
10)	Financial capacity of the bidder (refer sl.no.7.II of Bid Data Sheet and Form 10)	
11)	Confirmation of Facilities (refer clause 8.1.11 of ITT)	
12)	Alternate Vendors proposed by Bidder, if any. (refer clause 8.1.12 of ITT)	
13)	Deviation statement, if any (refer 8.1.13 of ITT)	
14)	Alternate Bid, if any (refer 8.1.14 of ITT)	



Sl. No.	Document	Submitted Yes/No
15)	PAN number (refer 8.1.15 of ITT)	
16)	PF certificate (refer 8.1.16 of ITT)	
17)	GSTN Registration certificate (refer clause 8.1.17 of ITT)	
18)	Bank account details (refer 8.1.18 of ITT)	
19)	Organization set-up (refer 8.1.19 of ITT)	
20)	Time Schedule (refer 8.1.20 of ITT)	
21)	List of Plant and Machinery (refer 8.1.21 of ITT)	
22)	Dummy Price bid (refer 8.1.22 of ITT)	
23)	Valid A class Electrical License / undertaking (refer 8.1.23 of ITT)	
24)	Details of Works in Hand (refer 8.1.24 of ITT)	
25)	Amendments / addenda/ Corrigendum's (refer 8.1.25 of ITT)	
26)	Declaration of blacklisting (refer 8.1.26 of ITT)	
27)	Declaration by the Bidder on his letter head informing relationship with employees of NMDC, if any (refer 8.1.27 of ITT)	
28)	Declaration with respect to Land border sharing (refer 8.1.28 of ITT and Form-16)	
29)	Declaration of Local Content (refer 8.1.29 of ITT and Form-17)	
30)	Submission of duly filled checklist Form 18	
31)	Any other information / documents	
B	Part 2	
32)	Price Bid (Dully Filled)	



FORM OF CONTRACT AGREEMENT (FOCA)

(To be Executed on non-judicial stamp paper of value not less than Rs 100)

THIS CONTRACT No. Made this Day of
..... Two thousand at

BETWEEN

NMDC LIMITED, a Company incorporated under the Companies Act, 1956 and having its registered office at 10-3-311/A, Khanij Bhavan, Castle Hills, Masab Tank, Hyderabad – 500 028, Telangana state India (hereinafter referred to as the “**Employer**”) which term or expression unless excluded by or repugnant to the context or the meaning thereof, shall be deemed to include its successors and permitted assigns, **OF THE ONE PART**,

AND

M/s., a Company organised and existing under the laws of
..... (*Name of the Country*) and having its Registered Office at
..... (hereinafter referred to as “**Contractor**”), which term or expression unless excluded by or repugnant to the context or meaning thereof, shall be deemed to include its successors and permitted assigns, **OF THE OTHER PART**

AND WHEREAS

- a) The Employer has decided to set-up _____ (*Name of the Facilities*) at _____, (hereinafter referred to as the “**Facilities**”), and
- b) The Contractor has declared that the Contractor has valuable and specialized knowledge and expertise for providing and executing the above Facilities and
- c) The Contractor has declared that the Contractor is in a position to disclose, impart, deliver and transfer the requisite engineering data, drawings and documents of those items which are in the scope of the Contractor in this Contract, to the Employer for the engineering of the Facilities and for erection, start-up and commissioning of the Facilities with the aim to manufacture product as specified in the Contract, and
- d) The Contractor has obtained clarifications on technical and commercial aspects, inspected the site and surroundings of Facilities and has examined and considered all other matters, conditions and things, probable contingencies and generally all matters incidental thereto and ancillary thereof, affecting the execution and completion of the Facilities, and
- e) The Contractor has agreed to undertake design & engineering, civil engineering work, structures & equipment, fabrication & supply of steel structures, manufacture & supply of plant and equipment, manufacture & supply of refractories, intermediate storage, insurance & handling, erection work,



testing, pre-commissioning, start-up & commissioning and demonstration & establishment of performance guarantee parameters of the Facilities.

NOW IT IS HEREBY AGREED as follows:

Article 1 Contract Documents

1.1 **Définitions** (Reference GCC Clause 1)

1.2 **Contract Documents** (Reference GCC Clause 2)

1.2.1 The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract :

- (a) This Contract Agreement and Appendices hereto
- (b) Special Conditions of Contract hereto
- (c) General Conditions of Contract and Annexures hereto
- (d) Safety code for Contractors
- (e) Integrity Pact
- (f) Technical Specifications
- (h) Any other documents

1.2.2 The contract document shall be in two parts as follows:

(i) **Technical** containing

- (a) Technical Specifications
- (b) Any other documents to be agreed upon

(ii) **Commercial** containing

- (a) This Contract Agreement and Appendices hereto
- (b) Special Conditions of Contract hereto
- (c) General Conditions of Contract and Annexures hereto
- (d) Safety code for Contractors
- (e) Integrity Pact, if applicable
- (f) Any other documents to be agreed upon

1.3 **Order of Precedence** (Reference GCC Clause 2)

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed below (**i.e. SCC will prevail over GCC, and TS will prevail over GTS, if any**):

- a. This Contract Agreement and Appendices hereto



- b. Special Conditions of Contract hereto
- c. General Conditions of Contract and Annexures hereto
- d. Technical Specifications

Article 2 Contract Price and Terms of Payment

2.1 Contract Price (Reference GCC Clause 11 & Appendix-1)

The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be the aggregate of: [*amount of foreign currency in words*], [*amount in figures*], and [*amount of local currency in words*], [*amount in figures*], or such other sums as may be determined in accordance with the terms and conditions of the Contract.

The amount of Input Tax credit to be passed on to the Employer is Rs _____ (in figures) Rupees _____ (in words) or such other sums as may be determined in accordance with the terms and conditions of the Contract.

2.2 Terms of Payment (Reference Appendix-3)

The terms of payment are given in Appendix-3.

2.3 Price Adjustment due to Variation in Price Indices

Price Adjustment is applicable as per Appendix 4 and the Base Date shall be

Article 3 Effective Date

3.1 The Effective Date of Contract shall be the date of signing of contract or 30 days from date of Letter of award of contract (LAC), whichever is earlier.

Article 4 Scope of Facilities (Reference GCC Clause 7 & Technical Specifications)

4.1 The Contract is for the execution of Scope of Facilities as specified in the GCC Clause 7 and Technical Specifications, on divisible turnkey basis. The quantities/ weights of any item are indicative only for the purpose of making progress payments on pro-rata basis as per Sub-Clause 2.3 of Appendix-3.



- 4.2 Should the actual quantities/ weights differ from the indicated ones, neither the Contractor shall be entitled to get any additional price from the Employer nor is the Employer entitled to deduct any amount from the Contract Price due to variation in physical quantities / weight.
- 4.3 The consortium leader shall remain responsible not only for its scope of work but also for the scope of work of other consortium members so that Employer gets the facilities completed in all respects.
- 4.4 The leader and other members of the consortium shall be jointly & severally responsible for execution of the contract but will be liable for damages in proportion to the respective scope of facilities.

Article 5 Time for Completion (Reference GCC Clause 8 & Appendix-2)

- 5.1 The Facilities will be commissioned in months from the Effective Date of the Contract.

The Performance bank Guarantee (BG) shall be submitted by the contractor within 30 days from effective date of Contract.

The Letter of Credit (LC) shall be opened by Employer within 15 (fifteen) days of receipt of Performance Bank Guarantee (PBG) from the Contractor in the format as per **Annexure A** of GCC.

In case, there is delay in opening of Letter of Credit by Employer, then time of completion shall be extended accordingly. However, in case, there is delay in submission of BG by the Contractor then the time of completion shall remain unchanged, provided LC has been opened within 15 days of BG submission.

Article 6 Consultant

..... Shall be the Consultant for this project. The consultant in relation to the Contract, shall have such functions as are delegated to him or as may be delegated to him by the Employer from time to time. Employer shall keep the Contractor informed of such delegation.

Article 7 Subcontracting (Reference GCC Clause 19)

This shall be as per GCC Clause 19.



Article 8 Liquidated Damages (Reference GCC Clause 27 & 29)

8.1 Liquidated Damages due to Delay in Completion of Facilities (Reference GCC Sub-Clause 29.2)

If the Contractor fails to attain “Completion of the Facilities” within the Time for Completion or any extension thereof under Clause 42 (Extension of Time for Completion) of GCC due to reasons attributable to the Contractor, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor’s account or by encashment of Contractor’s Bank Guarantees (as per Sub-Clause 13.1.2 of GCC). Liquidated Damages shall be levied as follows;

- a. If the time for completion is less than or equal to 18 months, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor’s account or by encashment of Contractor’s Bank Guarantees at the rate of 0.5% of the Contract Price plus escalation per week, if any, excluding taxes & duties per complete week of delay up to a maximum of 5% of the Contract Price plus escalation, if any, excluding taxes & duties.
- b. If the time for completion is greater than 18 months, then the allowable period for levy of LD shall be equal to 15% of total Contract duration in weeks. LD of 5% of contract price plus escalation, if any excluding taxes and duties, shall be recovered every week of delay calculated on pro-rata basis (rounded-off to nearest decimals for calculation of weekly value)

In case, the Contractor is a Consortium, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the account of each member of Consortium, or as a last resort by encashment of their Bank Guarantees as per above clause, up to a maximum of 5% of the Contract Price of the respective Scope of Facilities plus escalations, if any, paid or payable to the Contractor, excluding taxes and duties. However, each member of Consortium, shall be liable for damages in the ratio of their respective Contract price.

8.2 Liquidated Damages for Non-fulfilment of Performance Guarantee Parameters of Facilities (Reference GCC Clause 27)

If, for reasons attributable to the Contractor, the performance guarantee parameters specified in **Appendix-5** are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/ or additions to the Facilities or any part thereof as may be necessary to meet performance guarantees parameters. The Contractor shall notify the Employer upon completion of the necessary changes,



modifications and/ or additions and the Contractor shall be allowed by the Employer to repeat the performance guarantee tests twice after first campaign of guarantee test and the Contractor must establish the performance guarantee parameters during second or third test.

In case the Contractor expresses its inability to achieve the performance guarantee parameters but attains above the minimum acceptance level of performance guarantee parameters, as specified in **Appendix-5**, either in whole or in part, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account by encashment of Contractor's Bank Guarantees, at the rates specified in the **Appendix-5** for respective items, subject to a maximum of 7.5% of the Contract Price plus escalations, if any, paid or payable to the Contractor excluding taxes and duties, in respect of the failure to meet the minimum level of Performance Guarantees in accordance with the provisions in **Appendix-5**.

In case, the Contractor is a Consortium, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the account of each member of Consortium, or as a last resort by encashment of their Bank Guarantees as per above clause, subject to a maximum of 7.5% of the Contract Price plus escalations, if any, paid or payable to the Contractor excluding taxes and duties of the respective scope of facilities. However, each member of Consortium shall be liable for damages in the ratio of the respective Contract price.

In case, even after all possible repairs and replacements the Contractor fails to attain the minimum level of performance guarantee parameters in third test conducted, the Employer may at its option reject the Facilities and recover the entire cost paid to the Contractor or alternatively the Employer may proceed for commercial settlement with the Contractor for acceptance of the Facilities at the negotiated Price.

The Employer shall not reject the plant & equipment after commissioning and achievement of minimum acceptance level of PG parameters. After successful commissioning and achievement of the minimum acceptance level of PG parameters, the total liability of the Contractor on account of delay and demonstration of PG parameters will not be more than LD.

- 8.3 The Overall limit of Liquidated Damages with respect to Articles 8.1 & 8.2 shall be **10% of the Contract Price plus escalation**, if any, excluding taxes and duties. However, individual ceiling for delay in completion and non-fulfillment of the PG parameters shall be 5% and 7.5% respectively.
- 8.4 Any Recovery of Liquidated Damages shall be effected from the amount payable to the Contractor against Commissioning, Performance Guarantee Test, Final Acceptance



Certificate and Performance Bank Guarantee. LD will not be recovered from the running bills prior to above payments.

Article 9 Arbitration (Reference GCC Clause 6)

Article 10 Liability of Govt. of India

It is expressly understood and agreed between the Contractor and the Employer that the Employer is entering into this Contract solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Govt. of India is not a party to this Contract and has no liabilities, obligations, or rights hereunder. It is expressly understood and agreed that the Employer is an independent legal entity with power and authority to enter into Contracts solely on its own behalf under the applicable laws of India and general principles of Contract Law. The Contractor expressly agrees, acknowledges, and understands that the Employer is not an agent, representative or delegate of the Govt. of India. It is further understood and agreed that the Govt. of India is not and shall not be liable for any acts, omissions, commissions, breaches, or other wrongs arising out of the Contract. Accordingly, the Contractor hereby, expressly waives, releases, and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Govt. of India arising out of this Contract and covenants not to sue the Govt. of India as to any manner, claim, cause of action or thing whatsoever arising of or under this Contract.

Article 11 Appendix

The following Appendices shall be deemed to form an integral part of this Contract Agreement. Reference in the Contract to any Appendix shall mean the Appendices attached hereto, and the Contract shall be read and construed accordingly;

Appendix No.	Description
1	Price Schedule
2	Time Schedule
3	Terms of Payment incl. Payment through LC
4	Price Adjustment due to Variation in Price Indices
5	Performance Guarantees
6	List of Approved Vendors

Article 12. No modifications of this Contract including Appendices hereto, shall be valid unless the same is agreed to in writing by the parties and specifically mentioned as an amendment to the Contract.



APPENDIX – 1

PRICE SCHEDULE

1. Contract Price	1.1	The Contract Price for the entire Scope of Facilities including all the contractual obligations of the Contractor together with its Sub-Contractor / Vendors, is indicated in the Article-2 of the Contract.	
		Bidder shall consider SRNPP in their quote as per clause no.22.4.6 of GCC.	
2. Contract Price Break up	2.1	The break-up of the Contract Price is indicated in the Summary Price Schedule and detailed break-up of Summary Prices is given in the following Tables, hereafter. (However, in case the Contractor is a Consortium of two or more parties, the break-up of the Contract Price is to be indicated separately for each member of Consortium, in the Table given at 1C).	
		Table	Descriptions
		1A	Summary Price Schedule
		1 B	Price Schedule for Indigenous Design & Engineering
		1C	Price for each member of the consortium will be indicated for their scope of work
		2A	Price Schedule for Supply of Plant & Equipment and Technological Structures (Imported Supplies quoted in foreign currencies)
		3A	Price Schedule for Supply of Plant & Equipment and Technological Structures (Indigenous Supplies)
		4A	Price Schedule for Civil Engineering Works, including all Supplies.
		5A	Price Schedule for Supply of Steel Fabricated and Various Building Structures for Erection of Plant & Machinery
		6A	Price Schedule for Storage, Handling, Erection, Commissioning and Performance Guarantee Tests of Plant & Equipment, Building Steel Structures, Sheetting, Glazing & final Painting and Refractories
		6B	Price Schedule for Training.



		7A	Value of “Po” for Calculation of Price Adjustment due to Variation in Price Indices (Appendix-4)
		8A	Price schedule for 2 year O&M spares (GCC clause 7.4.3)
	2.2	The “Po” shall be the prices as on Base Date excluding all duties, taxes, GST and any other levies. The values of Po for the purpose of Price Adjustment clause stipulated in the Sub-Clause 2.1 to 2.9 of the Appendix 4, are to be given in Table-7A hereof.	



TABLE- 1A

SUMMARY PRICE SCHEDULE

Name of the Work:		PACKAGE NO.	
Bidder Name			
Sl. No.	Description	Prices (Currency)	
		Foreign	Indian
		FOB	Total (Price including all duties & taxes and CGST+SGST/UTGST, IGST) at base date in INR
a	b	c	d
1	Design & engineering (For Indigenous portion Refer – Table 1B)		
2	Supply of Plant & equipment incl. technological Structure		
	a) Imported (FOB) Refer Table – 2A		
	b) Indigenous (at site) Refer – Table 3A		
3	Civil Engg. Works incl. supplies Refer Table 4A		
4	Refractories		
5	Supply of steel fabricated and various Building Structures for erection of Plant & Machinery (Refer Table – 5A)		
6	Storage, Handling, Erection, Commissioning, and PG tests of Plant and equipment, Building structure and refractories – Refer Table-6A		



7	Foreign supervision charges in India during Erection, Start-up, Testing, Commissioning and PG tests of Plant and equipment for ----- Mandays		
8	Training Charges (Refer Table – 6B)		
	a) Foreign Training Charges for ----- mandays		
	b) Indian Training Charges for ----- mandays		
9	For all items quoted in Foreign currency		
	a) Ocean Freight		
	b) Customs, Port clearance (excluding duties & cess to be paid by Employer) and Inland transportation from Indian port to site		
10	a) Comprehensive/Transit, Storage cum erection insurance		
	b) Marine insurance For all items quoted in Foreign currency		
11	Supply of 2 Years O&M spares		
12	Total Quoted Contract Price (1 to 11)		
Total Quoted contract Price in words (Sl. No. 12):			
Indian currency :			
Foreign Currency :			
Note			
1	For Price Bid evaluation refer Bid Data Sheet and Instruction to Tenderers (ITT)		
2	Bidders to quote price in all the Price Tables		
3	In case of arithmetic error in totaling, corrected arithmetic total will be considered.		



4	In case of discrepancy between words and figures and / or arithmetic error in totaling, corrected arithmetic total will be considered.
5	Taxes & Duties will be applicable as per GCC



TABLE – 1B

Name of the Work:	PACKAGE NO.
--------------------------	--------------------

PRICE SCHEDULE FOR INDIGENOUS DESIGN & ENGINEERING

(PRICE IN INR)

Sl.No.	Items	Basic Cost	Any other taxes, duties & levies (Bidders to specify the nature & rate)	Transaction Value	Rate of CGST+SGS T/UTGST, IGST as applicable (%)	Goods & Services Tax (GST)- (CGST+SGST/UTGST), IGST as applicable	Total Amount including GST
a	b	c	d	e=(c+d)	f	g	h=(e+g)
1	Design & Engineering						

Total Design & Engineering (In words) -----

Bidder to specify any other taxes considered in basic price			
Any other taxes, levies, duties considered in basic price (Bidders to specify) other than GST			
S.No	Particulars	Rate (%)	Amount (in Rs Lakhs)



					TABLE - 1C
PRICE - CONSORTIUM MEMBER WISE					
Name of the work:					PACKAGE NO.
Bidder's Ref No.					
Sl. No.	Description	Consortium Member 1 (Name of Bidder) Currency	Consortium Member 2 (Name of Bidder) Currency	Consortium Member 3 (Name of Bidder) Currency	Consortium Member 4 (Name of Bidder) Currency
a	b	c	d	e	f
1	Design & engineering				
	(For indigenous portion Refer - Table - 1B				
2	Supply of Plant & equipment incl. technological Structure				
	a) Imported (FOB) Refer Table - 2A				
	b) Indigenous (at site) Refer Table - 3A				
3	Civil Engg. Works incl. supplies Refer Table 4A				
4	Refractories				
5	Supply of steel fabricated and various Building Structures for erection of Plant & Machinery (Refer Table - 5A)				
6	Storage, Handling, Erection, Commissioning, and PG tests of Plant and equipment, Building structure and refractories - Table 6A				
7	Foreign supervision charges in India during Erection, Start-up, Testing, Commissioning and PG tests of				



	Plant and equipment for ----- - Mandays				
8	Training Charges Refer Table - 6B				
	a) Foreign Training charges for ----- mandays				
	b) Indian Training Charges for ----- mandays				
9	For all items quoted in Foreign currency				
	a) Ocean Freight				
	b) Customs, Port clearance (excluding duties & cess to be paid by Employer) and Inland transportation from Indian port to site				
10	a) Comprehensive/Transit, Storage cum erection insurance				
	b) Marine insurance For all items quoted in Foreign currency				
11	Supply of 2 years O&M spares				
12	Total Quoted Contract Price (1 to 11)				



				TABLE-2A	
Name of the work:				PACKAGE NO.	
PRICE SCHEDULE FOR SUPPLY OF IMPORTED PLANT AND EQUIPMENT INCLUDING TECHNOLOGICAL STRUCTURE					
SL. NO.	DESCRIPTION	UNIT	Quantity	PRICE	
				FOB value in FE	FE Adopted
a	b	c	d	e	h
I	Supply of Imported Plant & Equipment				
1	Mechanical Plant and equipment				
	a) Main equipment				
	b) Technological structure				
	c) Cranes, Hoists and Trolleys				
	d)Ventilation, air-conditioning and other pollution control equipment				
	e) Utilities & Services				
	- Gas facilities				
	- Compressed air facilities				
	- Water Supply and Sewerage facilities				
	f) Building and Yard utilities				
	g) Laboratory and other testing equipment				



	h) Fire protection system				
	i)Other Miscellaneous equipment				
2	Electrical Plant and equipment				
	a) Main equipment				
	b) Motors and controls				
	c) Transformers, Power distribution, lighting, Earthing, Lighting protection and Cabling				
	d)Other Miscellaneous equipment				
3	Instrumentation, Control and Cabling				
4	Automation including Computers				
5	Telecommunication system including cabling and CCTV				
6	Commissioning Spares				
7	Oil, Grease, Lubricants & Chemicals				
8	Special Tools and Tackles				
	Total				
	Total in words				



Table-3A

Name of the work:

PACKAGE NO.

PRICE SCHEDULE FOR SUPPLY OF INDIGENOUS PLANT AND EQUIPMENT INCLUDING TECHNOLOGICAL STRUCTURE

SL. NO.	DESCRIPTION	Wt.	UNIT	Qty	PRICE IN INR						
					Total Basic Price	Inland Freight & Insurance up to site	Any other charges, taxes, Levies & cess other than GST (Bidder to specify the nature & rate)	Transaction Value	CGST+SGST/UTGST, IGST as applicable)		Total Price Including GST
									Rate of CGST+SGST/UTGST, IGST as applicable)	Total GST (CGST+SGST/UTGST, IGST as applicable) Amount	
a	b	c	d	e	f	g	h	i= (f+g+h)	j	k	l=(i+k)
1	Supply of Indigenous Plant & Equipment										
1	Mechanical Plant and equipment										
	a) Main Equipment										
	b) Technological structure										
	c) Cranes, Hoists and Trolleys										



	d)Ventilation, air-conditioning and other pollution control equipment											
	e) Utilities & Services											
	- Gas facilities											
	- Compressed air facilities											
	f) Building and Yard utilities											
	g) Laboratory and other testing equipment											
	h) Fire protection system											
	i)Other Miscellaneous equipment											
2	Electrical Plant and equipment											
	a) Main equipment											
	b) Motors and controls											
	c) Transformers ,Power distribution, lighting, Earthing, Lighting protection and Cabling											
	d)Other Miscellaneous equipment											
3	Instrumentation, Control and Cabling											



4	Automation including Computers										
5	Telecommunication system including cabling and CCTV										
6	Commissioning spares										
7	Oil, Grease, Lubricants & Chemicals										
8	Special Tools and Tackles										
	TOTAL (1 to 8)										
	TOTAL(In Words)										

Bidder to specify any other taxes considered in basic price

Any other taxes, levies, duties considered in basic price (under 'h' above) other than GST

Sl.No	Particulars	Rate (%)	Amount (in Rs Lakhs)



TABLE-4A

Name of the work:

PACKAGE NO.

PRICE SCHEDULE FOR CIVIL ENGINEERING WORKS INCLUDING ALL SUPPLIES

SL.No	DESCRIPTION	Unit	Qty	RATE/ UNIT	PRICE in INR					
					Total Basic Price	Any other charges, taxes, Levies & cess other than GST (Bidder to specify the nature & rate)	Transacti on Value	(CGST+SGST/UTGST, IGST as applicable)		TOTAL PRICE
								Rate of CGST+SGS T/UTGST, IGST as applicable)	Total GST (CGST+SGST/U TGST, IGST as applicable) Amount	
a	b	c	d	e	f	g	h=(f+g)	i	j	k=(h+j)
	Civil Engineering Works including all supplies									
I	Dismantling work (Plant & Equipment , Buildings , Structures, Foundations etc.)									
II	Civil work									
1	Excavation	m3								
2	Piling (Diameter and capacity wise)	Nos								
	- Average length	m								



3	Plain Cement Concrete	m3								
4	Heat Resistant Concrete	m3								
5	Reinforced Cement Concrete									
	a) Below Ground Level	m3								
	b) At Ground Floor	m3								
	c) In Superstructure	m3								
6	Reinforcement steel works									
7	Brickwork	m3								
8	Doors, Windows & Ventilators	m2								
9	Flooring	m2								
10	Plastering	m2								
11	Road and Paved areas	m2								
12	Railway Tracks	m								
13	Any other items not mentioned above									
	Sub-total -II									
	Total price (I+ II)									
Total (in Words)										



Bidder to specify any other taxes considered in basic price			
Any other taxes, levies, duties considered in basic price above other than GST			
S.No	Particulars	Rate (%)	Amount (in Rs Lakhs)



TABLE - 5A

Name of the work:

PACKAGE NO.

PRICE SCHEDULE FOR SUPPLY OF STEEL FABRICATED AND VARIOUS BUILDING STRUCTURES FOR ERECTION OF PLANT & MACHINERY

SL. No	DESCRIPTION	Unit	Qty	RATE / UNIT	PRICE IN INR						
					Total Basic Price	Inland Freight & Insurance up to site	Any other charges, taxes, Levies & cess other than GST (Bidder to specify the nature & rate)	Transaction Value	CGST+SGST/UTGST, IGST as applicable)		TOTAL PRICE
									Rate of CGST+SGST /UTGST, IGST as applicable)	Total GST (CGST+SGST/UTGST, IGST as applicable) Amount	
a	b	c	d	e	f	g	h	i= (f+g+h)	j	k	l=(i+k)
I	Supply of Building Structures										
	a) Fabricated at Contractor's site	T									
II	Sheeting Materials for Roof/ Side/ Gable Cladding										



	a) Galvanised Corrugated Steel (GCS) Sheet	m2										
	b) Precoated Sheets	m2										
	c) Polycarbonate sheets	m2										
	d) Other	m2										
	Sub-total (II)											
	TOTAL(I + II)											
Total (in Words)												

Bidder to specify any other taxes considered in basic price			
Any other taxes, levies, duties considered in basic price (under 'h' above) other than GST			
S.No	Particulars	Rate (%)	Amount (in Rs Lakhs)



TABLE - 6A

Name of the work:

PACKAGE NO.

PRICE SCHEDULE FOR RECEIPT, UNLOADING & STORAGE,TRANSPORTATION FROM STORE TO ERECTION SITE, ERECTION, INCLUDING SUPERVISION, START-UP, TESTING, COMMISSIONING & P.G. TESTS FOR PLANT & EQUIPMENT, BUILDING STEEL STRUCTURES, SHEETING, GLAZING AND FINAL PAINTING AND REFRACTORIES

Sl. NO.	Items	Unit	Qty	Price in INR					
				Total Basic Price	Any other charges, taxes, Levies & cess other than GST (Bidder to specify the nature & rate)	Transaction Value	CGST+SGST/UTGST, IGST as applicable		TOTAL PRICE
							Rate of CGST+ SGST/ UTGST, IGST as applicable)	Total GST (CGST+ SGST/ UTGST, IGST as applicable) Amount	
a.	b	c	d	e	f	g=(e+f)	h	i	j=(g+i)
1	Mechanical Plant & Equipment								
	a) Main equipment	T							
	b) Technological Structures	T							
	c) Cranes, Hoists and Trolleys	T							
	d) Ventilation and Air-conditioning and other pollution control equipment	T							
	e) Utilities and services								



	- Gas facilities	T							
	- Compressed air facilities	T							
	- Water supply and sewerage facilities	T							
	f) Building and yard utilities	T							
	g) Laboratory and testing equipment	T							
	h) Fire protection system	T							
	i) Other Miscellaneous equipment	T							
2	Electrical Plant and equipment								
	a) Main equipment								
	b) Motors and Controls								
	c) Transformers, Power distribution, Lighting, Earthing, Lighting protection and cabling								
	d) Other Miscellaneous equipment								
3	Instrumentation, Control and Cabling								
4	Automation including Computers								
5	Telecommunication system including Cabling and CCTV								
	Refractories								
	a) Indigenous refractories								
	b) Imported refractories								



7	Building Steel Structures incl. Sheeting								
8	Any Other								
	TOTAL(1 to 8)								
Total (In Words)									

Bidder to specify any other taxes considered in basic price			
Any other taxes, levies, duties considered in basic price above other than GST			
S.No	Particulars	Rate (%)	Amount (in Rs Lakhs)



TABLE - 6B

Name of the work:					PACKAGE NO.
PRICE SCHEDULE FOR TRAINING					
A	FOREIGN TRAINING				
Sl. NO.	Description	No. of Mandays	Rate per Manday (FE)	Total Price in FE	
a.	b	c	d	e	
TOTAL					
* For Foreign Training, For Taxes and duties refer to clause 14.3 & 14.4 of GCC					



B TRAINING IN INDIA

Price in INR								
Sl. NO.	Description	No. of Mandays	Rate per Manday (IN Indian Rupees)	Any other charges, taxes, Levies & cess other than GST (Bidder to specify the nature & rate)	Transaction Value	CGST+SGST/UTGST, IGST as applicable		TOTAL PRICE
						Rate of CGST+SGST/UTGST, IGST as applicable	Total GST (CGST+SGST/UTGST, IGST as applicable) Amount	
a.	b	c	d	e	f=(d+e)	g	h	i=(f+h)



Bidder to specify any other taxes considered in basic price			
Any other taxes, levies, duties considered in basic price above other than GST			
S.No	Particulars	Rate (%)	Amount (in Rs Lakhs)



TABLE-7A

VALUE OF "Po" FOR CALCULATION OF PRICE ADJUSTMENT DUE TO
VARIATION IN PRICE INDICES IN ACCORDANCE TO
PROVISIONS OF APPENDIX-4

Sl.No.	Description	Value of Po
a	b	c
1	Supply of Indigenous Mechanical Plant and Equipment including Technological Structures (Item No.1 of Table-3A)	
	Reference Sub clause No.2.3 of Appendix-4	
2	Supply of Indigenous Electrical Plant and Equipment (Item No.2 of Table-3A)	
	Reference Sub clause No.2.4 of Appendix-4	
3	Erection of Mechanical and Electrical Plant and Equipment	
	Reference Sub clause No.2.5 of Appendix-4	
4	Supply of Steel Fabricated and Various Building Structures for Erection of Plant & Machinery	
	a) When steel issued by Employer on Cost Recovery Basis	
	Reference Sub clause No.2.6.1 of Appendix-4	
	b) When steel is procured by Contractor	
	Reference Sub clause No.2.6.2 of Appendix-4	
5	Erection of Steel Structures including Sheeting, Glazing and Final painting	
	Reference Sub clause No.2.7 of Appendix-4	



6	Civil Engineering works including all necessary supplies	
	Reference Sub clause No.2.8 of Appendix-4	
7	Erection of refractories	
	Reference Sub clause No.2.9 of Appendix-4	



TABLE-8A

Name of Work:

PACKAGE NO.-16C

PRICE SCHEDULE FOR SUPPLY OF 2 YEARS O&M SPARES

SL. NO.	Item	Quantity		FOB Price (for imported spares)	Price (in Indian rupees) (for indigenous spares)						
		Nos.	Tonne	Foreign currency	Total Basic Price	Inland Freight & Insurance up to site	Any other charges, taxes, Levies & cess other than GST (Bidder to specify the nature & rate)	Transaction Value	CGST+SGST /UTGST, IGST as applicable		Total Price Including GST
	b	c	d	e					Rate of CGST+ SGST /UTGST, IGST as applicable	Total GST CGST+ SGST /UTGST, IGST as applicable Amount	
a		c	d	e	f	g	h	i	j	k	l
A	supply of Imported 2 years O&M Spares										
1											
2											



3											
	Total (A)										
B. I	supply of Indigenous 2 years O&M Spares										
1											
2											
3											
	Total (B.I)										
B.II	Inland Transportation										
	Total (B = BI + BII)										
Percentage rates of taxes and duties(including Education Cess) included in the above price											

-



TIME SCHEDULE

1.0 Time Schedule for Completion of the Facilities

1.1 The Facilities will be commissioned within ____ months from the effective date of the Contract as per **Article-5** of the Contract Agreement. The overall time schedule for completion of the Facilities is given below:

S. No.	Items of Work	Commencement (No. of Month from Effective Date)	Completion (No. of Month from Effective Date)
1.	Basic Engineering		
2.	Detailed Design Engineering		
3.	Civil Work		
4.	Supply / Delivery of:		
i)	Building Steel Structures & Sheeting		
ii)	Mechanical Plant & Equipment including Technological Structures		
	a) Imported		
	b) Indigenous		
iii)	Electrical Plant & Equipment:		
	a) Imported		
	b) Indigenous		
iv)	Refractories:		
	a) Imported		
	b) Indigenous		
5.	Erection of Building Steel Structures & Sheeting:		
6.	Erection:		
i)	Mechanical Plant & Equipment		
ii)	Electrical Plant & Equipment		



7.	Erection of Refractories		
8.	Preliminary Acceptance		
9.	Commissioning		

2.0 Time Schedule for Feedback Data, Drawings and Documents

2.1 Within 30 days from the Effective Date of Contract, the Contractor shall submit to the Engineer/ Consultant preliminary list of all drawings and documents by title using the approved numbering system and indicating the schedule of submission of drawings in conformity with the time schedule given in **Clause 2.2** and **2.3** hereof. This list shall clearly highlight all critical drawings that can impact the contractual time for completion in case of any delay and shall be updated and submitted by the Contractor at the end of every quarter of the year.

2.2 Drawing / Documents for Approval

2.2.1 The Contractor shall submit the various drawings and documents to the Engineer / Consultant for approval, as given in the Chapter no. of Contract Technical Specification and the no. of copies to be submitted for drawings and documents applicable as per contractual scope shall be as given below:

S. No.	Description	No. of Copies	Time of Submission in weeks from the Effective Date of Contract	
			Imported	Indigenous
A	Basic Engineering:			
1.	Name Plate and Numbering System	10		
2.	Inspection procedures	5		
3.	Site plan / layout drawing showing battery limits and co-ordinated plans of all units and facilities including requirements of utilities and other parameters at battery limits (in 1:500 scale).	10		
4.	Process Engineering Assumption / Basic Data	10		
5.	Process flow sheets and P&I Diagram for equipment and services	10		
6.	Material balance sheet	10		



S. No.	Description	No. of Copies	Time of Submission in weeks from the Effective Date of Contract	
7.	Utilities / energy balance sheets and heat load calculations for air-conditioning, ventilation and cooling water systems, Design calculations for stack.	10		
8.	General arrangement & shop layout drawings including cross-sections for shops / systems / services including equipment disposition and facilities.	10		
9.	GA drawings and design criteria for steel structures	10		
10.	Civil Engineering & Structural design criteria	10		
11.	Design criteria for cable selection, number of feeders, motor ratings, lighting, earthing, etc. and electrical consumer arrangement plans	10		
12.	Single line diagrams, block diagrams, GA and layout drawings for electricals.	10		
13.	Instrumentation and control schemes and sequence logic diagrams, List of Instruments and Instruments data sheets, Panels and desk front view diagrams, Control room layout drawings	10		
14.	Design criteria, general arrangement and layout drawings for pipework and ductwork.	10		
15.	Equipment list and motor list (for information).	10		
B	Design and Engineering:			



S. No.	Description	No. of Copies	Time of Submission in weeks from the Effective Date of Contract	
1.	GA & Sectional drawings for foundation of buildings and equipment including tunnels, trenches, basements, etc.	10		
2.	Outline architectural drawings of all buildings including special features and finishes.	10		
3.	Layout and sections of roads, railway tracks, drainage & sewerage (with invert levels).	10		
4.	Structural design drawings (supported by design calculations)	10		
5.	Equipment General arrangement & major assembly and sub-assembly drawings (including equipment for various services)	10		
6.	General arrangement of pulpit, control desks, etc.	10		
7.	Colour schemes	10		

2.2.2 After approval by the Employer / Consultant, the Contractor shall submit approved drawings and documents in number of copies mentioned above, to the Employer.

2.3 Drawings / Documents for Information / Review

2.3.1 The Contractor shall submit to the Engineer / Consultant for information / review of the drawings and documents as given in the Chapter no.of Contract Technical Specification and the no. of copies to be submitted for drawings and documents applicable as per contractual scope shall be as given below :



S. No.	Description	No. of Copies	Time of Submission in weeks from the Effective Date of Contract	
			Imported	Indigenous
1.	Soil Investigation Report	5		
2.	Preliminary foundation outline drawings	5		
3.	Certified foundation drawing including load data	6		
4.	Excavation outline drawings	10		
5.	Civil working drawing including bar bending schedules	10		
6.	Locations, schedules, fixing details, details, loadings etc. for foundation / anchor bolts, inserts & embedment's	10		
7.	Design calculations for all civil and structural work.	5		
8.	Design calculations for all electrical work	5		
9.	Design calculations for all pipework and ductwork	5		
10.	Structural fabrication drawings with bill of materials	5		
11.	Performance data, characteristic including duty points	10		
12.	Assignment from Contractor for number of feeders to be provided by the Employer	10		
13.	List of electro-magnetic valves, limit switches etc.	5		
14.	Control description and schematic including PLC input / output chart.	5		



S. No.	Description	No. of Copies	Time of Submission in weeks from the Effective Date of Contract	
15.	Cable tray arrangement, cable and instrument pipe schedule and routings	10		
16.	Lighting earthing and lightening protection drawings.	10		
17.	Terminal plans and interconnection diagrams for electrical works	10		
18.	Conduit drawings and cut out details	10		
19.	Loop schemes, power supply and distribution schemes and panels and desk internal wiring diagrams external connection including terminal wiring diagrams for power control and instrumentation cables	10		
20.	Detailed drawings for pipe & duct work	10		
21.	Detailed drawings for underground and over ground services and utilities (including water system).	10		
22.	Drawings for approval of Statutory Authorities	10		
23.	Instructions for storage & preservation including those for electrical, instrumentation and communication items.	6		
24.	Erection drawings, erection specifications and Erection Instructions.	6		
25.	Refractory lining work drawings	10		



S. No.	Description	No. of Copies	Time of Submission in weeks from the Effective Date of Contract	
26.	Drawings for various sizes and shapes of refractories	5		
27.	Integrated Operation / safety and Maintenance Manuals material specification	10		
28.	Ordering Specifications for Operation & Maintenance Spares	10		
29.	Detailed Assignment Schedule for Deputation of Overseas Experts / Specialists as per GCC Clause 7.9 - For Employer's approval	5		
30.	Recommended Man-power Requirement for Operation & Maintenance of the Facilities as per GCC Clause 18.5	5		
31.	Schedule for Training of Employer's as per GCC Clause 18.6- For Employer's approval	5		

2.3.2 After "no comment" clearance by the Engineer / Consultant, the Contractor shall submit the final drawings and documents in number of copies mentioned above, to the Employer.

2.4 As-Built Drawings and Documents

2.4.1 The Contractor shall submit As-built drawings & documents **after Performance Guarantee Test, but before release of payment for PG Test certificate** as per **Clause 27** of GCC, as per the Schedule specified in Contract Technical Specification and the no. of copies to be submitted for drawings and documents applicable as per contractual scope shall be as given below:

Accordingly, payment of PG shall be released. However, if any drawing/ document requires changes / modifications after PG test, the same shall be submitted before FAC.



S. No.	Description	No. of Copies	Time of Submission in weeks from the Effective Date of Contract	
			Imported	Indigenous
1.	General arrangement, assembly and sub-assembly drawings	5		
2.	Performance data	10		
3.	Test charts and inspection certificates in bound volumes	10		
4.	All design calculations with respective approved design criteria in bound volumes	10		
5.	Flow diagrams and material balance sheets	10		
6.	Electrical & instrumentation drawings	10		
7.	Civil working drawings	10		
8.	Steel structures drawings	10		
9.	Utilities and services drawings	10		
10.	Refractories work drawings	10		
11.	Operation and safety manuals	10		
12.	Maintenance manuals	10		
13.	List of spares (Operation, Maintenance)	10		
14.	Drawings & bill of materials for Operation & Maintenance Spares	10		
15.	Ordering Specifications including catalogues & details for Operation & Maintenance Spares	10		
16.	Drawings / ordering specifications for operating consumables / supplies	10		



S. No.	Description	No. of Copies	Time of Submission in weeks from the Effective Date of Contract	
17.	One set of all documents as listed above, on CD	1 Set		

- 2.5 Equipment drawings and Erection Instructions drawings for the Plant and Equipment shall be supplied by the Contractor at least one month (**or as agreed in Contract Technical Specification**) before the shipment / dispatch of the Plant & Equipment.

**TERMS OF PAYMENT****1. General**

- 1.1 In accordance with the provisions of **Clause 12** of GCC (Terms of Payment), the Employer shall pay the Contractor for the Scope of Facilities detailed under **Clause 7** of GCC & Technical Specifications, on the basis of the price break-up given in the Price Schedule (**Appendix-1**) and Billing Schedule as per **Sub-Clause 11.7.1** of GCC.
- 1.2 The payments to be made in the Foreign currencies to the Contractor shall be made through Irrevocable Letter of Credit to be established by the Employer **for at sight payment against specified documents**. The Letter of Credit shall be established for value covering 100% of the Price payable in foreign currencies.
- 1.2.1 The Letter of Credit (LC) will be opened within 15 days from the date of receipt of correct Performance Bank Guarantee.
- The validity of Letter of Credit will be agreed upon between the Contractor and the Employer. However, LC format shall be finalized during contract finalization
- 1.2.2 If extension of validity of Letter of Credit becomes necessary, all Bank charges in India for such extension of validity of Letter of Credit, shall be borne by the Employer.
- 1.2.3 The Employer shall establish Letter of Credit and advise through the Overseas Branch of the banker to be specified by the Contractor. Should the Contractor need confirmation of Letter of Credit, charges for the same are to be borne by the Contractor. All Bank charges outside India, related to Letter of Credit, shall be borne by the Contractor. The Employer shall bear all the Bank charges in India, in establishing Letter of Credit.
- Name of the Banker shall be discussed with the successful bidder during finalization of contract.
- 1.3 The Contract is a Divisible Contract. The Contractor shall submit complete and correct separate invoices and documents for supplies and services both for payments to be made in foreign currencies and Indian currency.
- 1.4 The Contractor shall reimburse the Employer all costs, charges, damages or expenses which the Employer may have paid or incurred, if and to the extent to which the Contractor is liable under this Contract to pay upon written request of the **Engineer / Employer**, failing which such costs, charges, damages or expenses shall be deducted by the Employer from any money due or becoming due by the Employer to the Contractor under this Contract or any other Contract failing which such amounts shall be considered as debt from the Contractor to the Employer and shall be recoverable accordingly including by the way of encashment of Securities/ Bank Guarantee(s).



1.5 INCOME TAX

Any Indian Income Tax which Employer may be required to deduct by law or statute, shall be deducted at the source under relevant Chapter of Income Tax Act and the same shall be paid to Income Tax Authorities on account of the Contractor. Employer shall provide the

Contractor a certificate for such deduction of Tax. The Contractor shall indicate their Permanent Account Number with the relevant Income Tax Authority to Employer. Contractors shall maintain books of account and shall get the account audited as per relevant Section of Income Tax Act.

If the Contractor is exempted from the deduction /recovery of Income Tax, no such recovery shall be made by Employer. Contractor shall furnish valid exemption Certificate issued by Income Tax Department to this effect

- 1.6 GST shall be paid to the Contractor as per invoice. The Invoice for the supply of goods or services or both shall separately indicate the Goods and Service Tax claimed by the Contractor along with their relevant Goods and Service Tax Identification Number (GSTIN) obtained by the Contractor.
- 1.7 Other than payment through LC, the payment to the Contractor shall be released within thirty (30) days from the date of receipt of the complete and correct invoices & relevant documents along with price adjustment statement.
- 1.8 Subject to any deductions that may be made as per the Contract, the Contractor shall be entitled to receive the contract price in the following manner and Payments shall be made only after (i) Execution of the Contract Agreement by both parties and (ii) Submission of Bank Guarantee as per clause no.32 of ITT towards Contract Performance

2.0 Terms of Payment

2.1 Certifying Inspections

- 2.1.1 All provisions hereinafter referred to in Clauses 2.2.2 to 2.2.5 in respect of measurement in this appendix shall mutatis mutandis apply to all inspections required to be made in order to qualify the Contractor for any payment(s) under the Contract and any reference in the said clauses to measurements shall, for the purpose of this clause, be deemed to be a reference to certifying inspections and any reference therein to the measurement book shall, for the purpose of this clause, be deemed to be a reference to the certifying inspection book.

2.2 Work Certification

- 2.2.1 All work certifications shall be in the metric system, and except where expressly indicated to the contrary in the Contract, all work certifications shall be taken in accordance with the procedure set forth in the Contract documents notwithstanding any provision(s) in the relative standard method of measurement or any other general or local custom to the contrary.
- 2.2.2 All work certifications shall be taken jointly by the Consultant and the Contractor, and the Contractor shall be bound to present himself or his authorized representative for work



certification(s) whenever so required by the Consultant or his designated representative and shall remain present throughout the time required for joint measurements.

- 2.2.3 The Consultant shall issue an interim payment eligibility certificate to the extent of certification of work recorded in the measurement book/ sheets. All measurements of work performed by the Contractor in a month shall be completed by the 7th day of the next month jointly by the Engineer and the Contractor.

2.3 Terms of Payment other than training

- 2.3.1 Five per cent (5%) of the total Contract price specified in Appendix-1 (which is including corresponding Goods and Services Tax), excluding training charges and Goods and Service Tax (GST) on training charges shall be released on submission of basic engineering drawings & the basic engineering data (as per list finalized in Technical discussions); submission & approval of general layout drawings of the Shop for each unit of the facilities. The Contractor shall note that he shall be eligible for any payment only upon submission of Master Drawing List and Plan; submission of Works Programme; and Contract Performance Bank Guarantee as per the terms and conditions of the Contract Agreement.

- 2.3.2 Five per cent (5%) of the total Contract price specified in Appendix-1 (which is including corresponding Goods and Services Tax), excluding training charges and Goods and Service Tax (GST) on training charges shall be released on placement of orders, for identified equipment's/ items (as per list finalized in Technical discussions) and submission of un-priced of the purchase orders of the same by the Contractor;

- 2.3.3 Seventy Seven and a half percent (77.5%) of the Contract Price specified in the Appendix-1, (which is including corresponding Goods and Services Tax and Cess, if any) but excluding training charges and Goods and Services Tax (GST) on training charges shall be released towards progress payments of 77.5% as per Sub-Clause 2.5.
- 2.3.4 Two and a half percent (2.5%) of the Contract Price (which is including corresponding Goods and Services Tax), excluding training charges and Goods and Service tax (GST) on training Charges specified in the Appendix-1, shall be upon issue of the Preliminary Acceptance Certificate. The Contractor shall note that he shall be eligible for payment under this Sub-Clause 2.3.4 only upon submission of Commissioning manual, list of O&M spares, Operation & Maintenance manual along with workmen requirement
- 2.3.5 Two and a half percent (2.5%) of the Contract Price (which is including corresponding Goods and Services Tax), excluding training charges and Goods and Service tax (GST) on training charges specified in the Appendix-1, shall be upon issue of the Commissioning Certificate.
- 2.3.6 Five percent (5%) of the Contract Price (which is including corresponding Goods and Services Tax). excluding training charges and Goods and Service Tax (GST) on training charges specified in the Appendix -1, shall be released after establishment of Performance Guarantee parameters and on upon issue of performance guarantee certificate. The Contractor shall note



that he shall be eligible for payment under this Sub-Clause 2.3.6.

- 2.3.7 Two and a half percent (2.5%) of the total Contract Price (which is including corresponding Goods and Services Tax), excluding training charges and Goods and Service Tax (GST) on training charges specified in the Appendix-1, shall be released upon issue of the Final Acceptance Certificate.
- 2.3.8 All interim / progress payments shall be regarded as payments by way of advance against the final payment only and not as payment for work completed and shall not preclude defective / imperfect / incomplete Facilities to be removed. It will not be considered as an admission by the Employer of the due performance of the Contract, or any part thereof by the Contractor nor shall it preclude, determine or affect in any way the powers of the Employer under these conditions or in any way vary or affect the Contract.

2.4 Terms of Payment for Training Charges

- 2.4.1 Ninety-seven and a half percent (97.5%) of the Price including corresponding Goods and Services Tax (GST) on training charges specified in the Appendix-1, shall be released on pro-rata basis upon completion of each quarter on actual training man- days utilized during the quarter.
- 2.4.2 Two and a half percent (2.5%) of the Price including corresponding Goods and Services Tax (GST) on training charges specified in the Appendix-1, shall be released upon issue of the Final Acceptance Certificate.

The Invoice for the supply of services shall separately indicate the Goods and Service Tax claimed by the Contractor along with their relevant Goods and Service Tax Identification Number obtained by the Contractor.

2.5 Progress Payments [Seventy-seven and a half percent (77.5%) of Price]

2.5.1 Design & Engineering

- 2.5.1.1 Seventy Seven and a half percent (77.5%) of the Price along with corresponding Goods and Services Tax (GST) specified in the Appendix-1, but excluding training charges and Goods and Services Tax (GST) on training charges shall be released on pro-rata basis and as per progress of submission & approval of design & engineering in accordance with the approved Billing Schedule

2.5.2 Civil Engineering Work including all related Supplies

- 2.5.2.1 Seventy Seven and a half percent (77.5%) of the Price along with corresponding Goods and Services Tax (GST) and cess (if any) specified in the Appendix-1, but excluding training charges and Goods and Services Tax (GST) on training charges shall be released on monthly pro-rata basis subject to satisfactory progress of work as per the approved Billing Schedule.

2.5.3 Supply of Building & Technological Steel Structures and Plant & Equipment including Refractories & Commissioning Spares



- 2.5.3.1 Seventy Seven and a half percent (77.5%) of the Price along with corresponding Goods and Service Tax (GST) specified in the Appendix- 1, but excluding training charges and Goods and Services Tax (GST) on training charges shall be released as per approved billing schedule on receipt of steel structures and plant & equipment including Commissioning Spares at Site, in full and good condition, in case of indigenous steel structures and plant & equipment.

Seventy Seven and a half percent (77.5%) of the specified in the Appendix-1, shall be released for imported steel structures and plant & equipment including Commissioning Spares for which prices indicated in the Contract are in Foreign currencies, on receipt of Shipping Documents specified in the Sub-Clause 21.4.5 of GCC.

2.5.4 Ocean Freight, Customs Clearance (excluding Customs Duty), Port Clearance & Inland Transportation including Marine Insurance, etc.

- 2.5.4.1 Seventy Seven and a half percent (77.5%) of the Price along with corresponding Goods and Service Tax (GST) specified in the Appendix-1, but excluding training charges and Goods and Services Tax (GST) on training charges shall be released on pro-rata basis upon receipt of imported supplies for which the prices indicated in the Contract are in Foreign currencies, at site and against submission of necessary document along with invoices duly certified by the Employer.

- 2.5.4.2 Seventy Seven and a half percent (77.5%) of the Price along with corresponding Goods and Service Tax (GST) and Cess (if any) specified in the Appendix- 1 but excluding training charges and Goods and Services Tax (GST) on training charges shall be released for comprehensive transit, storage cum erection insurance on pro-rata progress of delivery of indigenous equipment & erection.

2.5.5 Erection of Building Steel Structures including Sheeting

- 2.5.5.1 Seventy Seven and a half percent (77.5%) of the Price along with corresponding Goods and Service Tax (GST) and cess (if any) specified in the Appendix-1, but excluding training charges and Goods and Services Tax (GST) on training charges shall be released on pro-rata basis upon satisfactory progress of work as per approved billing schedule.

2.5.6 Erection of Refractories

- 2.5.6.1 Seventy Seven and a half percent (77.5%) of the Price along with corresponding Goods and Service Tax (GST) and cess (if any) specified in the Appendix-1, but excluding training charges and Goods and Services Tax (GST) on training charges shall be released on actual Tonnage basis when the refractories are erected in position & checked.

2.5.7 Erection of Mechanical & Electrical Plant & Equipment including Technological Steel Structures, Testing, Commissioning & Performance Guarantee Tests of Facilities

- 2.5.7.1 Twenty percent (20%) of the Price including corresponding Goods and Service Tax (GST) and cess (if any) specified in the Appendix-1, but excluding training charges and Goods and Services Tax (GST) on training charges shall be released on pro-rata basis when the plant & equipment are placed on the foundation/in position.



2.5.7.2 Forty percent (40%) of the Price including corresponding Goods and Service Tax (GST) and cess (if any) specified in the Appendix-1, but excluding training charges and Goods and Services Tax (GST) on training charges shall be released on pro-rata basis when the plant & equipment are completely erected, aligned, welded/grouted & checked and connected with all the auxiliaries and utilities.

2.5.7.3 Seventeen & half percent (17.5%) of the Price including corresponding Goods and Service Tax (GST) and cess (if any) specified in the Appendix-1, shall be released on pro-rata basis after trial runs of the individual plant & equipment/unit

2.5.8 Supervision of Erection, Testing, Commissioning and Performance Guarantees Tests by Foreign Experts

2.5.8.1 Seventy Seven and a half percent (77.5%) of the Price specified in the Appendix-1, shall be released at the end of every month on pro-rata basis of utilization of mandays in that particular month duly certified by the Employer subject to the total price payable for supervision not being in excess of the provisions made in the Contract.

2.6 Timeline for Payments

2.6.1 The Contractor shall submit the invoice along with the interim payment eligibility certificate issued by the Consultant and copy of the measurement book/ sheets and all supporting documents, in 3 copies, by the 10th (tenth) day of a month to the Engineer/ Employer. The Contractor shall submit the soft copies of the bills to the Engineer/ Employer through email and hard copies through registered post.

2.6.2 An ad-hoc payment of not less than 75% of eligible running account bill / due stage payment, shall be made within 10 working days of the submission of the bill. This period of 10 days is for completion of all processes including prima facie scrutiny and certification by the Engineer-in-charge. The remaining payment shall be made after final checking of the bill within 28 working days of the submission of bill by the contractor.

In case the payment has not been released within 10 working days as prescribed above, it shall be made as soon as possible.

In case of delayed payment of bills by more than 30 working days after submission of bill by the contractor, the eligible bill shall be paid with interest at the rate of interest of General Provident Fund.

The final bill shall be paid to the contractor within three months after completion of work.

2.6.3 In cases where there is a difference of opinion as to the value of any stage, the opinion of the Engineer shall prevail, and interim payments shall be made to the Contractor on that basis; provided that the foregoing shall be without prejudice to the Contractor's right to raise a Dispute.

2.6.4 Payment by the Employer hereunder shall be deemed to be provisional and shall not be construed as the Employer's acceptance, approval, consent or satisfaction with the work done.



- 2.6.5 In the event the amounts released by the Employer under Clause 2.6.2 and 2.6.3 exceed the amount finally determined by the Engineer/ Employer, the difference thereof shall be accounted for in the next payment.



Attachment - 1 to Appendix - 3

Format of Letter of Credit

Type of L/C	Irrevocable
Date & Place of L/C	
Name & Address of Applicant	NMDC Limited
Name & Address of the Beneficiary	
Currency & Amount of Credit (in Figures & Words)	
Variation in L/C amount or additional amount permitted	
Usance of the Drafts	_____
Credit available with / by	by Advising Bank / Payment
Drafts to be drawn on	_____ ____, India
Validity of Letter of Credit	
Partial Shipment :	
Transshipment :	
Shipment from :	----- Air / Sea Port
Shipment to :	----- Air / Sea port
Latest Shipment Date	
Description of Goods	
Documents Required	As per Separate Annexure enclosed.
Specify, if any charges are to beneficiary's account	All Charges outside India to beneficiary's account.
Documents to be presented	Within 7 days / 21 days in case of Air / Sea shipment as the case may be.



Confirmation Instructions	If beneficiary wishes to be confirmed, at their cost.
Credit to be advised to the beneficiary through (Bank)	Bank Name A/c No..... Swift Code.....



Annexure forming part of Letter of Credit Application

Documents are to be presented for the Purpose of Payment and Terms & Conditions

- A. Total Letter of Credit value iswhich is equivalent to 100% Contract Value payable against the following activities :-

	Activity	Foreign Currency
(i)	Design & Engineering	
(ii)	(II) Supply of Plant & Equipment	
(iii)	(III) Refractories	
(iv)	(iii) Supply of Commissioning Spares	
(v)	(iv) Ocean Freight, Marine Insurance	
(vi)	(v) Foreign Supervision Charges	
(vii)	(vi) Training Charges	

- B. Break-up of payments and Documents to be presented against respective draws:

1. (i) 5% of the Contract value excluding Training i.e..... shall be released against submission of **Certificate** from _____ stating that the beneficiary has submitted basic engineering drawings and the basic engineering data (to be finalized during technical discussion), submission & approval of general layout drawings of the Shop and submission of L-2 network for each unit of the facility as per Appendix-3 (Terms of payment clause 2.3.1 of Contract) and indicating therein the value of payment to be claimed by beneficiary. (Original)
- (ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value, less amounts already claimed and the Present Claim of each activity. (One original and 5 Copies)
- (iii) **Copy of Courier receipt along with a Certificate** from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
2. (i) 5% of the Contract value excluding Training i.e. shall be released against submission of **Certificate** from ----- confirming that the beneficiary has placed orders for identified equipments/ items (to be finalized during technical discussion) and submitted **copies of un priced Purchase Orders for the identified bought out items by them** as per Appendix-3 (Terms of payment clause 2.3.2 of the Contract) and indicating therein the value of payment to be claimed by beneficiary.(Original)
- (ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value, less amounts already claimed and the Present Claim of each activity. (One original and 5 Copies)



- (iii) **Copy of Courier receipt along with a Certificate** from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
3. (i) 77.5% of the Price of Design & Engineering i.e. shall be released at the end of each quarter, on pro-rata basis as per clause 2.5.1 of Appendix-3 of the Contract on submission of **Certificate** from _____ stating that the **progress of submission and approval of Design & Engineering** & indicating therein the value of progress payment to be claimed by beneficiary. (Original)
- (ii) **Beneficiary's invoice** signed in ink indicating the gross value, less amount already claimed and the present claim against this activity. Invoice should carry the certificate stating that "**FEE FOR DESIGN & ENGINEERING AS MENTIONED IN TABLE-1 OF PRICE SCHEDULE (APPENDIX-1) OF THE CONTRACT NO. _____ DATED----- IS FOR THE WORK CARRIED OUT/SERVICES RENDERED IN (OUTSIDE INDIA) ONLY AND NO WORK IS REQUIRED/HAS BEEN PERFORMED IN INDIA IN RESPECT OF DESIGN & ENGINEERING.** (One original and 5 Copies)
- (iii) **Clean Airway Bill** made out in the name of _____ marked freight to pay. (One Original and 5 copies) (iv) **Packing list** : Packing list should indicate the details of goods supplied and Gross weight & Net weight for the goods supplied & each packets and it should also contained a certificate thereof that the material are suitable and securely packed for dispatch by Air / Road, which is necessary in accordance with standard practice and procedure. (One original and 5 copies)
- (iv) **Copy of Courier receipt along with a Certificate** from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ Three Copies)
4. 77.5 % of Price of Plant and Equipment and Commissioning Spares i.e. shall be released on prorate basis as per Sub-Clause 2.5.3.1 of Appendix-3 of the Contract against Shipping Documents as detailed below :-
- (i) On Board Bill of Lading / Air Way Bill made out in the name of _____ marked freight to pay. Notify party – NMDC Limited, _____, _____. (Three Original and 6 copies in case of Sea Shipment and Three Original and 3 copies in case of Air Shipment)
- (ii) **Beneficiary's invoice** signed in ink for the value of goods supplied indicating gross value of the goods less amount already drawn and the present claim. (One original and 5 copies)
- (iii) **Certificate of Country of Origin** issued / certified by the Chamber of Commerce / Industries of Contractor's country. (One original and 5 copies)
- (iv) **Packing list** : Packing list should indicate the details of goods supplied and Gross weight & Net weight for the goods supplied & each Container/palates/packages and it should also contained a certificate thereof that the material are suitable and securely



packed for dispatch by Air / Sea / Road, which is necessary in accordance with standard practice and procedure. (One original and 5 copies)

- (v) **Phytosanitary Certificate:** In case of wooden packing only (one original and 5 copies)
 - (vi) **Manufacturer's Test / Quality certificate** certifying that the material shipped is as per relevant Technical Specifications. (One original and 5 copies)
 - (vii) **Guarantee/Warranty Certificate** issued by the manufacturer (One original and 5 copies) (vii) **Inspection Certificate / Dispatch clearance Certificate** issued by _____ (Original)
 - (viii) **Insurance declaration** issued by the beneficiary to the Insurance Company for insurance cover of the consignment. The declaration should indicate the name of the vessel, the estimate date of departure, the estimate date of arrive, the name of the departure sea port, the name of arrive sea port, total gross weight, Total no. of Container/ Pallets, FOB value of supplies, Ocean / Air Freight Charges the number of letter of credit, and Contract No and date. (One original and 5 copies)
 - (ix) **Certificate** from the beneficiary to the effect that **drawings and catalogues for Customs Clearance purpose** have been kept with the packages for shipment. (One original and 5 copies)
 - (x) **Certificate** from beneficiary certifying that materials dispatched are **guaranteed as new** and as per relevant Technical Specifications and also in line with quantity of materials as stated in the packing list. (One original and 5 copies) **Copy of Courier receipt along with a Certificate** from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ Three Copies)
5. 77.5 % of Price of Refractory i.e. shall be released on prorata basis as per Sub- Clause 2.5.3.1 of Appendix-3 of the Contract against Shipping Documents as detailed below :-
- (i) **On Board Bill of Lading / Air Way Bill** made out in the name _____ marked freight to pay. Notify party – NMDCL Limited, _____ (Three Original and 6 copies in case of Sea Shipment and Three Original and 3 copies in case of Air Shipment)
 - (ii) **Beneficiary's invoice** signed in ink for the value of goods supplied indicating gross value of the goods less amount already drawn and the present claim. (One original and 5 copies)
 - (iii) **Certificate** of Country of Origin issued / certified by the Chamber of Commerce / Industries of Contractor's country. (One original and 5 copies)
 - (iv) **Packing list** : Packing list should indicate the details of goods supplied and Gross weight & Net weight for the goods supplied & each Container/palates/packets and it should also contained a certificate thereof that the material are suitable and securely packed for dispatch by Air / Sea / Road, which is necessary in accordance with standard practice and procedure. (One original and 5 copies)



- (v) **Phytosanitary Certificate:** In case of wooden packing only (one original and 5 copies)
 - (vi) **Manufacturer's Test / Quality certificate** certifying that the material shipped is as per relevant Technical Specifications. (One original and 5 copies)
 - (vii) **Guarantee/Warranty Certificate** issued by the manufacturer (One original and 5 copies)
 - (viii) **Inspection Certificate / Dispatch clearance** Certificate issued by _____
_____ (Original)
 - (ix) **Insurance declaration** issued by the beneficiary to the Insurance Company for insurance cover of the consignment. The declaration should indicate the name of the vessel, the estimate date of departure, the estimate date of arrive, the name of the departure sea port, the name of arrive sea port, total gross weight, Total no. of Container/ Pallets, FOB value of supplies, Ocean / Air Freight Charges the number of letter of credit, and Contract No and date. (One original and 5 copies)
 - (x) **Certificate** from the beneficiary to the effect that drawings and catalogues for Customs Clearance purpose have been kept with the packages for shipment. (One original and 5 copies)
 - (xi) **Certificate** from beneficiary certifying that materials dispatched are guaranteed as new and as per relevant Technical Specifications and also in line with quantity of materials as stated in the packing list. (One original and 5 copies)
 - (xii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
6. (i) 77.5% of value of Ocean Freight & Marine Insurance i. e. Shall be released on monthly pro-rata basis on the basis of **certificate** issued by _____ indicating the **value of materials received at** _____ and the amount payable against Freight and other charges as per clause 2.5.4.1 of Appendix-3 of the Contract. (Original)
- (ii) **Beneficiary's invoice** signed in ink indicating the gross value, less amount already claimed and the present claim against this activity. (One original and 5 copies) (iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
7. (i) 77.5% of Foreign Supervision charges i.e. shall be released on pro rata basis as per Clause 2.5.8.1 of Appendix-3 of the Contract against on submission of **certificate** issued by _____ certifying the **number of mandays utilized in the particulars month** and indicating therein the amount payable to beneficiary. (Original)
- (ii) **Beneficiary's invoice** signed in ink indicating the gross value, less amount already claimed and the present claim against this activity. (One original and 5 copies)



- (iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
8. (i) 97.5% of value of Training Charges i. e. shall be released on pro-rata basis upon completion of each quarter for the actual training mandays / mandays utilised during the quarter as per clause no. 2.4.1 of Appendix-3 of the Contract on the submission of **certificate** issued by _____ certifying the **number of mandays utilized in the particulars quarter** and indicating therein the amount payable to beneficiary. (Original)
- (ii) **Beneficiary's invoice** signed in ink indicating the gross value, less amount already claimed and the present claim against this activity. (One original and 5 copies)
- (iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
- 9 (i) 2.5% of Contract Price excluding Training i.e. shall be released as per Clause 2.4.2 of Appendix-3 of the Contract on submission of **Preliminary Acceptance Certificate** issued by _____ and indicating therein the amount payable to beneficiary. (Original)
- (ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value less amount already claimed and the Present Claim for each activity. (One original and 5 copies)
- (iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
10. (i) 2.5% of the Contract Price excluding Training i.e. shall be released as per Clause 2.3.5 of Appendix-3 of the Contract on submission of **Commissioning Certificate or a certificate stating that the Commissioning Test could not be conducted due to reasons attributable to _____ and the beneficiary has submitted the requisite Bank Guarantee** issued by _____ and indicating therein the amount payable to beneficiary (Original)
- (ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value less amount already claimed and the Present Claim for each activity. (One original and 5 copies)
- (iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
11. (i) 5% of the Contract Price excluding Training i.e. shall be released as per Clause 2.3.6 of Appendix-3 of the Contract on submission of **Performance Guarantee Certificate or a certificate stating that the Performance Guarantee Test could not be conducted due to reasons attributable to _____ and the beneficiary has submitted the requisite Bank Guarantee** issued by _____



_____ and indicating therein the amount payable to beneficiary (Original)

- (ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value less amount already claimed and the Present Claim for each activity. (One original and 5 copies)
 - (iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
12. (i) 2.5% of the Contract Price excluding Training i.e.....shall be released as per Clause 2.3.7 of Appendix-3 of the Contract on submission of the **Final Acceptance Certificate** issued by _____ and indicating therein the amount payable to beneficiary. (Original)
- (ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value less amount already claimed and the Present Claim for each activity. (One original and 5 copies)
 - (iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)

Note:-

1. All the documents shall indicate contract number & date and LC No. & date.
2. Wherever invoice is raised against supply of goods it should specifically mention that the items are freely Importable as per Foreign Trade Policy 2004-2009.
3. Wherever certificates are to issue by the Employer, _____ is authorised signatory. Certificate issued by other official will not entitle beneficiary to claim payment.



PRICE ADJUSTMENT DUE TO VARIATION IN PRICE INDICES

- 1.0 The prices for the items for which the prices indicated in the Contract are in foreign currencies, shall not be subject to any price adjustment / escalation.
- 1.1 Applicability of price adjustment shall be governed by clause-11.3, 11.4 and 11.5 of GCC. Price Adjustment, if any, if required to be made in terms of Contract then the same shall be paid every six (6) months.
- 2.0 The Base Date of the Contract Price is _____. *[Base date of the Contract for the purpose of price adjustment shall be the date seven(7) days before last date of submission of price bid/ updated price bid]*
- 2.1 The 'Original Price' as on Base Date shall be referred to as "Po" and the 'Revised Price' after price adjustment, if any, shall be referred to as "P" in the formulae given hereunder. "Po" and "P" are exclusive of taxes & duties. If, price adjustment becomes applicable in terms of the Contract, "P" minus "Po" shall be the net price adjustment to be made.
- 2.2 The terms LTR and LTO have been defined below under the different heads, wherever applicable. The values for LTR & LTO shall be taken based on either Gazette Notification or Tripartite Agreement. In no case LTR for Gazette Notification and LTO for Tripartite Agreement or vice-versa shall be taken. The ratio 'LTR/LTO' to be used in the formulae shall be the lower of the two ratios arrived at as aforesaid. This shall be applicable for calculating the price adjustment under clause 2.5 to 2.10 hereunder.
- 2.3 For Supply of Indigenous Mechanical Plant & Equipment including Technological Structures**

Unless otherwise specified, the Price for supply of indigenous mechanical plant & equipment including Technological Structures shall be subject to adjustment as per the following formula:

$$P = Po [0.15 + 0.85 (Mi / Mo)] \quad -$$

Where:

P = Revised price after adjustment.

Po = Original Price for Supply of Indigenous Mechanical Plant & Equipment including Technological Structures as on Base Date.

Mi = RBI Index for Manufacture of Machinery and Equipment – Commodity no. 1.3.18.0 of Index Number of wholesale price in India, prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

Mo = RBI Index for Manufacture of Machinery and Equipment – Commodity no. 1.3.18.0 of Index Number of wholesale price in India, prevailing on Base Date.

The Price Adjustment as above will be calculated based on RBI index prevailing one month prior to the actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.



2.4 For Supply of Indigenous Electrical Plant & Equipment including Automation, Instrumentation & Telecommunication

Unless otherwise specified, the Price for supply of indigenous electrical plant & equipment including Instrumentation & Telecommunication shall be subject to adjustment as per the formula given under Sub-Clause 2.3 hereof, shall be applicable for the purpose of calculation of the Price Adjustment. However, instead of Commodity no. 1.3.18.0, Commodity no. 1.3.17.00 for Manufacture of Electrical Equipment of Index Number of wholesale price in India will be applicable.

The Price Adjustment as above will be calculated based on RBI index prevailing one month prior to the actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

2.5 For Erection of Mechanical and Electrical Plant & Equipment

The prices for erection of mechanical and electrical plant & equipment shall be subject to adjustment as per the following formula:

$$P = P_o [0.15 + 0.83 (LTR/LTO) + 0.02 (F_i/F_o)]$$

Where:

P = Revised price after adjustment.

P_o = Original Price for Erection of Mechanical and Electrical Plant & Equipment as on Base Date.

F_i = Wholesale price Index for HSD published by Office of Economic Advisor, Government of India prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.

F_o = Wholesale price Index for HSD published by Office of Economic Advisor prevailing on Base Date.

LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of erection or scheduled date of erection, whichever is earlier.

LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

2.6 For Supply of Building Steel Structures and Sheeting

Unless otherwise specified, the Price for supply of building steel structures and sheeting shall be subject to adjustment in accordance with the following formulae:

2.6.1 In case Steel is given by the Employer on cost recovery basis at rates prevailing on Base Date

$$P = P_o [0.7 + 0.3(LTR/LTO)]$$

Where:



P = Revised price after adjustment.

Po = Original Price for Supply of Steel Structures and Sheeting as on Base date. The details of LTR and LTO are given at **Sub-Clause 2.6.3**

2.6.2 For steel is procured by the Contractor under the scope of work.

$$P = Po [0.15 + 0.55\{A(Si_A / So_A) + B(Si_B / So_B)\} + 0.30(LTR/LTO)]$$

Where:

P = Revised price after adjustment.

Po = Original Price for Supply of Steel Structures & Sheeting as on Base Date

Si_A = Wholesale price Index for mild steel long product, Commodity no. 1.3.14.04 as per RBI Bulletin prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

So_A = Wholesale price Index for mild steel long product, Commodity no. 1.3.14.04 as per RBI Bulletin prevailing on Base Date.

Si_B = Wholesale price Index for mild steel flat product, Commodity no. 1.3.14.05 as per RBI Bulletin prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

So_B = Wholesale price Index for mild steel flat product, Commodity no. 1.3.14.05 as per RBI Bulletin prevailing on Base Date.

A = Percentage share of Mild Steel Long Product to be used in Supply of Building Structures as mentioned in Bid Data Sheet and SCC.

B = Percentage share of Mild Steel Flat Product to be used in Supply of Building Structures as mentioned in Bid Data Sheet and SCC.

The details of LTR and LTO are given at **Sub-Clause 2.6.3**

2.6.3 For Building Steel Structures Fabricated inside Employer's Plant Premises:

LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of supply or scheduled date of supply, whichever is earlier.

LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

2.6.4 For Building Steel Structures Fabricated outside Employer's Plant Premises:

LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of supply or scheduled date of supply, whichever is earlier.



LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

Note: Formula under this Clause 2.6 can be applied for supply of material in pipeline works. However, index may be adopted based on the material specification.

2.7 For Erection of Building Steel Structures and Sheeting

Unless otherwise specified, the Price for erection and installation of building steel structures and sheeting including final painting shall be subject to adjustment in accordance with the formula given hereunder:

$$P = P_o [0.15 + 0.83 (LTR/LTO) + 0.02 (F_i/F_o)]$$

Where :

P = Revised price after adjustment.

P_o = Original Price for Erection of Steel Structures and Sheeting as on Base Date.

F_i = Wholesale price Index for HSD published by Office of Economic Advisor, Government of India prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.

F_o = Wholesale price Index for HSD published by Office of Economic Advisor prevailing on Base Date.

LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of erection or scheduled date of erection, whichever is earlier.

LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

Note: Formula under this Clause 2.7 can be applied for erection of pipeline.

2.8 For Civil Engineering Works including all necessary Supplies [refer BDS for applicable formulae for civil works]

Unless otherwise specified, the Price for the Civil Engineering works including all necessary supplies shall be subject to adjustment in accordance with the following formulae:

2.8.1 For General Civil Works:

$$P = P_o [0.15 + 0.3 (LTR/LTO) + 0.25 (C_i/C_o) + 0.1 (S_i/S_o) + 0.05 (OM_i/OM_o) + 0.05 (F_i/F_o) + 0.1 CM_i/CM_o]$$



2.8.2 For Earthwork and other granular works:

$$P = P_o [0.15 + 0.2 (LTR/LTO) + 0.1 (OMi/OMo) + 0.25 (Fi/Fo) + 0.3(CMi/CMo)]$$

2.8.3 For Railway works:

$$P = P_o [0.15 + 0.13 (LTR/LTO) + 0.13 (Ci/Co) + 0.17 (Si/So) + 0.13 (OMi/OMo) + 0.1 (Fi/Fo) + 0.2 CMi/CMo]$$

2.8.4 For Road works:

$$P = P_o [0.15 + 0.15 (LTR/LTO) + 0.13 (Bi/Bo) + 0.35 (OMi/OMo) + 0.09(Fi/Fo) + 0.13 CMi/CMo]$$

Where:

P = Revised price after adjustment.

P_o = Original Price for Civil Engineering works as on Base Date.

Ci = Wholesale price Index for cement, lime and plaster - Commodity no. 1.3.13.05 as per RBI Bulletin prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.

Co = Wholesale price Index for cement, lime and plaster - Commodity no. 1.3.13.05 as per RBI Bulletin prevailing on Base Date.

Si = Wholesale price Index for mild steel – long product, Commodity no. 1.3.14.04 as per RBI Bulletin prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower

So = Wholesale price Index for mild steel – long product, Commodity no. 1.3.14.04 as per RBI Bulletin prevailing on Base Date.

Bi = Wholesale price Index for Bitumen published by Office of Economic Advisor, Government of India prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.

Bo = Wholesale price Index for Bitumen published by Office of Economic Advisor prevailing on Base Date.

OMi = Wholesale price Index for All Commodities as per RBI Bulletin prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.

OMo = Wholesale price Index for All Commodities as per RBI Bulletin prevailing on Base Date.

Fi = Wholesale price Index for HSD published by Office of Economic Advisor, Government of India prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.



Fo = Wholesale price Index for HSD published by Office of Economic Advisor prevailing on Base Date.

CMi = Wholesale price Index for Machinery for mining, Quarrying and Construction as per RBI Bulletin prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower

CMo = Wholesale price Index for Machinery for mining, Quarrying and Construction as per RBI Bulletin prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower

LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of execution or scheduled date of completion, whichever is earlier.

LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

The Price Adjustment towards the labour component shall be payable for the quantities on pro-rata basis as per the agreed Bar Chart or actual quantity executed, whichever is less.

Following are the Coefficients which shall govern price adjustments for various types of civil works:

2.9 For Supply of Refractories

Unless otherwise specified, the Price for supply of Refractories shall be subject to adjustment as per the following formula:

$$P = P_o [0.15 + 0.85 (R_i / R_o)]$$

Where :

P = Revised price after adjustment.

Po = Original Price for Supply of Indigenous Refractories as on Base Date.

Ri = RBI Index for Refractory products – Commodity no. 1.3.13.02 of Index Number of wholesale price in India, prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

Ro = RBI Index for Refractory products– Commodity no. 1.3.13.02 of Index Number of wholesale price in India, prevailing on Base Date.

The Price Adjustment towards the labour component shall be payable for the quantities on pro-rata basis as per the agreed bar chart or actual quantity executed, whichever is less.

2.10 For Erection of Refractories

Unless otherwise specified, the Price for Erection of Refractories shall be subject to adjustment as per the following formula:



$$P = P_o [0.15 + 0.85 (LTR/LTO)]$$

Where :

P = Revised price after adjustment.

P_o = Original Price for Refractories as on Base Date.

LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of erection or scheduled date of erection, whichever is earlier.

LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.

The Price Adjustment towards the labour component shall be payable for the quantities on pro-rata basis as per the agreed bar chart or actual quantity executed, whichever is less.

2.11 For Supply of 2 years O&M spares for Indigenous Mechanical Plant & Equipment including Technological Structures

Unless otherwise specified, the Price for Supply of 2 years O&M spares for Indigenous Mechanical Plant & Equipment including Technological Structures shall be subject to adjustment as per the following formula:

$$P = P_o [0.15 + 0.85 (M_i / M_o)]$$

Where:

P = Revised price after adjustment.

P_o = Original Price for Supply of Indigenous Mechanical Plant & Equipment including Technological Structures as on Base Date.

M_i = RBI Index for Manufacture of Machinery and Equipment – Commodity no. 1.3.18.0 of Index Number of wholesale price in India, prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

M_o = RBI Index for Manufacture of Machinery and Equipment – Commodity no. 1.3.18.0 of Index Number of wholesale price in India, prevailing on Base Date.

2.12 For Supply of 2 years O&M spares for Indigenous Electrical Plant & Equipment including Automation, Instrumentation and Telecommunication

Unless otherwise specified, the Price for Supply of 2 years O&M spares for Indigenous Mechanical Plant & Equipment including Technological Structures shall be subject to adjustment as per the following formula:



$$P = P_o [0.15 + 0.85 (M_i / M_o)]$$

Where:

P = Revised price after adjustment.

P_o = Original Price for Supply of Indigenous Mechanical Plant & Equipment including Technological Structures as on Base Date.

M_i = RBI Index for Manufacture of Machinery and Equipment – Commodity no. 1.3.17.0 of Index Number of wholesale price in India, prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

M_o = RBI Index for Manufacture of Machinery and Equipment – Commodity no. 1.3.17.0 of Index Number of wholesale price in India, prevailing on Base Date.



PERFORMANCE GUARANTEES

1.0 This Appendix sets out

- (a) the performance guarantees referred to in **Clause 27** of GCC (Performance Guarantee Tests).
- (b) the preconditions to the validity of the performance guarantees, either in production and/or consumption, set forth below.
- (c) the minimum level of the performance guarantees.
- (d) the procedure for conducting the performance guarantee tests, recording of measurements / results and calculation for deriving the test results.
- (e) formula for calculation of liquidated damages for failure to attain the performance guarantees.

2. **Preconditions**

The Contractor gives the performance guarantees (specified herein) for the Facilities, subject to the following preconditions being fully satisfied:

*[List any conditions (if any) for the carrying out of the Guarantee Test referred to in **Clause 27** of GCC.]*

This will be as agreed in the Contract Technical Specification

3. **Performance Guarantee Parameters**

Subject to compliance with the foregoing preconditions, the Contractor guarantees as follows

(This shall be as agreed in the Contract Technical Specification.):

3.1 **Guaranteed Production Capacity**

[List here the production capacity that the Contractor is to guarantee, making sure to use, as performance guarantees, the figures offered by the Contractor in its bid.] and / or

3.2 **Guaranteed Maximum Consumption of Raw Materials and Utilities (All parameters shall be as per Contract Technical Specifications)**

[List here the guaranteed items of consumption per unit of production (e.g., kg, tons, kcal, kWh, etc.) that the Contractor is to guarantee, making sure to use, as performance guarantees, the figures offered by the Contractor in its bid.]



4. Failure in Guarantees and Liquidated Damages

4.1 Failure to Attain Guaranteed Parameters

If the production capacity of the facilities attained in the performance guarantee test, pursuant to **Clause 27** of GCC, is less than the guaranteed figure specified, but the actual production capacity attained in the performance guarantee test is not less than the minimum level of performance guarantee parameters specified, and the Contractor elects to pay liquidated damages to the Employer in lieu of making changes, modifications and / or additions to the facilities, pursuant to **Sub-Clause 27.4 & Sub-Clause 27.4.1** of GCC, then the Contractor shall pay liquidated damages at the rate specified.

Appropriate modification to this shall be done at the time of contract finalization with successful bidder considering the required PG parameter as agreed in Contract technical specification as per clause 3 of Appendix 5

4.2 Limitation of Liability

4.2.1 The Contractor's aggregate liability to pay liquidated damages for failure to attain the performance guarantees parameters above the minimum levels of performance guarantee parameters specified shall not exceed seven and half percent (7.5 %) of the Contract Price plus escalations, if any, excluding taxes & duties.

4.2.2 However, in case the Contractor expresses its inability to achieve a maximum level of performance guarantee parameters and reduce consumption of raw materials and Utilities below the maximum level of guaranteed maximum level of consumption of raw materials and Utilities, the Employer shall not reject the plant and equipment after commissioning and achievement of minimum Performance Guarantee parameters. After successful commissioning and achievement of minimum Performance Guarantee parameters, the total liability of the Contractor on account of delay and non-achievement of maximum PG parameters will not be more than LD.

Appropriate modification to this shall be done at the time of contract finalization with successful bidder considering the required PG parameter as agreed in Contract technical specification as per clause 3 of Appendix 5.

4.2.3 In case, even after all possible repairs and replacements the Facilities fail to attain the minimum level of performance guarantee parameters, the Employer may reject the Facility and recover the entire cost paid to the Contractor or alternatively the Employer may proceed for commercial settlement with the Contractor for acceptance of the Facilities at the negotiated Price.



APPENDIX - 6

LIST OF APPROVED VENDORS

(Refer Technical Specifications & General Technical Specifications, if any)



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GENERAL CONDITIONS OF CONTRACT (GCC)

A. CONTRACT & INTERPRETATION

1. Definitions

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

“Contract” means the Contract Agreement entered into between the Employer and the Contractor, together with the Contract Documents referred to therein; they shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.

“Contract Documents” means the documents listed in Article 1.2 (Contract Documents) of the Contract Agreement (including any amendments thereto).

“GCC” means the General Conditions of Contract hereof.

“SCC” means the Special Conditions of Contract.

“Technical Specifications/ Contract Technical Specifications” means the “Technical Specifications” provided as part of the Commercial Volume of the tender document which includes technical specifications, schedules, detailed designs, statements of technical data, performance characteristics value and all other technical particulars of the Contract.

“GTS” means the General Technical Specifications.

“Day” means calendar day of the Gregorian Calendar.

“Month” means calendar month of the Gregorian Calendar.

“Employer” or **“Employer”** means NMDCL Limited and includes the legal successors or permitted assigns of the Employer.

“Engineer” means the person appointed/ designated by the Employer in the manner provided in Sub-Clause 17.1 (Engineer) hereof and to perform the duties delegated by the Employer.

“Consulting Engineer” or **“Consultant”** means any firm or person duly appointed as such by the Employer for performance of specified activities of the works and/or for monitoring the execution of works.

“Contractor” means the person(s) whose bid to perform the Contract has been accepted by the Employer and is named as such in the Contract Agreement, and includes the legal successors or permitted assigns of the Contractor. In case Contract is with consortium of two or more members then the Contractor shall mean one or more members of consortium as the case may be.

“Contractor’s Representative” means any person nominated by the Contractor and approved by the Employer in the manner provided in Sub-Clause 17.2 (Contractor’s Representative)



hereof to perform the duties delegated by the Contractor. For site work Contractor's Representative shall also mean the representative of Sub-Contractors and Sub-Contractor's Sub-Contractors.

"Sub-Contractor", including vendors, means any person to whom execution of any part of the Facilities, including preparation of any design or supply of any Plant and Equipment, is sub-Contracted directly or indirectly by the Contractor, and includes its legal successors or permitted assigns.

"Contract Price" means the sum specified in Article 2.1 (Contract Price) of the Contract Agreement, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.

"Base Date" means the date given in Sub-Clause 2.0 of Appendix-4 of Contract Agreement which shall be considered in price variation formulae as given in Appendix-4 of Contract Agreement.

"Facilities" mean the work specified in Clause 7 hereof and detailed out in the, Technical Specification for which all supply & services are to be carried out by the Contractor under this Contract.

"Plant and Equipment" means permanent plant, equipment, machinery and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract but does not include Contractor's Equipment.

"Installation Services" or "Services" means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Contractor under the Contract; e.g., design & engineering, supervision work, Customs & Port clearance, loading & unloading, dismantling & modification, intermediate storage, transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor's Equipment and the supply of all construction materials required), installation, testing, pre-commissioning, commissioning, demonstration of performance guarantee tests, the provision of operations and maintenance manuals, training, etc.

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

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

"Effective Date of Contract" shall be the date of signing of contract or 30 days from date of Letter of award of contract (LAC), whichever is earlier.

"Excepted Matters" is defined as – "Arbitration Agreement terms consists of conditions stating that disputes arising out of certain issues cannot be open for adjudication for arbitration which are deemed as excluded from the scope of arbitration. These are called 'Excepted matters'.



The following is list of “Excepted Matters” and on which clauses/issues the decision of owner / Engineer in Charge / Site in Charge is final and binding, the Contractor shall not raise any dispute on any such account (the decision owner/engineer in charge/site in charge) and the same shall not be arbitrable”

1. Interpretation of contract documents
2. Special conditions of the contract
3. Submission of tender
4. Contractor’s onus and duties before filing tender document
5. Escalation clause
6. Action and compensation in case of Bad work
7. Inspection and audit of contract works
8. Measurement Book

“Time for Completion” means the time specified in Article 5 of the Contract Agreement within which Completion of the Facilities as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) is to be attained in accordance with the stipulations made in the Contract Agreement and the relevant provisions of the Contract.

“Inspector” / “Inspecting Engineer” shall mean any person or firm nominated by or on behalf of the Employer or his duly authorized agent to inspect equipment, materials, supplies or work under the Contract.

“Pre-commissioning” means the checking, testing including conducting of integrated trial runs (cold integrated trial runs in case of Facilities involving operation at high temperature) and meeting other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning as provided in Clause 24 (Preliminary Acceptance) hereof.

“Preliminary Acceptance” of the Facilities means that the Facilities have been completed operationally and structurally and put in a tight and clean condition, and that all work in respect of Pre-commissioning of the Facilities have been completed; in other words, that the Facilities are fit for Start-up & Commissioning and Preliminary Acceptance Certificate has been issued as provided in Clause 24 (Preliminary Acceptance) hereof.

“Program of Performance” shall mean the program submitted by the Contractor in accordance with Clause 18.1

“Preliminary Acceptance Certificate” means the Certificate to be issued by the Employer on successful completion of Preliminary Acceptance Tests.

“Commissioning” means operation of the Facilities by the Contractor to a level of output as provided in Clause 25 (Commissioning) hereof.

“Commissioning Certificate” is the Certificate to be issued by the Employer as per Sub-Clause 25.3 hereof.



“Completion of the Facilities” means the Facilities have been commissioned as per Clause 25 (Commissioning). The Facilities will be considered completed in all respects and accepted when performance guarantee parameters are established as per Clause 27 (Performance Guarantee Test)

“Taking Over” means, on commissioning, the Employer shall be responsible for the care & custody of the Facilities together with the risk of loss or damage thereto, and shall thereafter take-over the Facilities.

“Performance Guarantee Test” means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities are able to attain the Performance Guarantees specified in the Contract as per Clause 27 hereof.

“Performance Guarantee Certificate” means the Certificate to be issued by the Employer upon successful establishment of Performance Guarantees Parameter as specified in **Appendix-5** to Contract Agreement.

“Final Acceptance” means the acceptance by the Employer of the Facilities which certifies the Contractor’s fulfillment of the Contract in respect of Performance Guarantees of the Facilities in accordance with the provisions of Clause 27 hereof and completion of Defects Liability Period.

“Final Acceptance Certificate” is the Certificate to be issued by the Employer as per Clause 28 hereof.

“Defect Liability Period” means the period of validity of the warranties given by the Contractor commencing from the date of Commissioning of the Facilities, during which the Contractor is responsible for defects with respect to the Facilities as provided in Clause 30 (Defect Liability) hereof.

2. Contract Documents

- 2.1 Subject to Article 1.3 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and parts thereof) are intended to be correlative, complementary and mutually explanatory. The Contract shall be read as a whole.
- 2.2 The Contractor shall be required to provide at least one original + **10 (Ten)** copies and two electronic copies (in OCR format) of signed Contract Agreement for Employer’s use within **30 (thirty)** days of the date of signing of the Contract.

3. Interpretation

3.1 Language

- 3.1.1 All correspondence and communications to be given and all other documentation to be prepared and supplied under the Contract shall be written



in English, and the Contract shall be construed and interpreted in accordance with English language.

3.2 **Singular and Plural**

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

3.3 **Headings**

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

3.4 **Persons**

3.4.1 Words importing persons or parties shall include firms, Corporations, Companies, Joint Ventures, Consortiums and Government entities.

3.5 **Incoterms**

3.5.1 Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by ***current edition of Incoterms in vogue.***

Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce, 38 Course Albert 1^{er}, 75008 Paris, France.

3.6 **Entire Agreement**

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

3.7 **Amendment**

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

3.8 **Contractor**

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



3.8.2 Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed.

3.8.3 All employees, representatives or Sub-Contractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control & supervision of the Contractor and shall not be deemed to be employees of the Employer, and nothing contained in the Contract or in any Sub-Contract awarded by the Contractor shall be construed to create any Contractual relationship between any such employees, representatives or Sub-Contractors and the Employer.

3.9 Consortium

3.9.1 If the Contractor is a consortium of two or more parties, all such parties shall be jointly and severally bound to the Employer for the fulfillment of the obligations of the Contractor as per provisions of the Contract and shall designate one of such party to act as a Lead Member (the "Lead Member") with authority to bind the consortium.

3.9.2 Notwithstanding the provisions of being jointly and severally liable to Employer by all members of consortium, the Lead Member of consortium shall be primarily responsible for full execution of the entire Scope of work of this Contract, so that the Employer gets the facilities completed in time in all respects.

3.9.3 The Lead Member shall be authorized to incur liabilities and receive instructions for and on behalf of any & all members of the consortium and the same shall be binding on all consortium Members.

3.9.4 Unless otherwise expressly specified in the contract, only the consortium Lead Member shall be authorized to make all communications including notices under the contract for or on behalf of any or all members of the consortium.

3.9.5 Lead Member of the consortium shall undertake full responsibility for timely completion of the awarded work. Lead Member of the consortium shall take the overall responsibility of project management of entire project. However, each party shall remain responsible towards the other party for its respective scope of work for its actions and deficiencies.

3.9.6 Lead Member of the consortium shall be responsible for resolving any disputes/ misunderstanding / undefined activities etc., if any, amongst all the members of the consortium. In case any one or more of the members of the consortium become insolvent or are unable to fulfill their contractual obligations, the Lead Member of the consortium will be liable for the execution of the balance scope of work of the Contract without any demur/ condition and all the liabilities of the consortium partner(s) shall automatically be deemed to be taken over by the consortium Lead Member.



3.9.7 The composition or the constitution of the consortium may be permitted to alter only with the prior consent of the Employer in writing under the following circumstances:

- a. **Substitution for default/ material breach of Contract by the consortium member:** If any member of the consortium fails to deliver or perform any contractual obligation(s) within the time period specified in the contract, or within any extension thereof granted by the Employer;
- b. **Substitution for Insolvency:** If any member of the consortium become bankrupt or otherwise insolvent, the Contractor may substitute the member of the consortium after giving written notice to the Employer, without any compensation to the member of the consortium, provided, that such termination will not prejudice or affect any right of action or remedy which has accrued and/or will accrue thereafter to the Employer;
- c. **Substitution under any other exceptional circumstances:** At any time during the execution of the Contract, if need arises for substitution of the consortium member under unforeseen exceptional circumstances, then the Employer may permit such substitution at its discretion.

Note: The lead member has to submit all the documents and establish the reasons for substitution of the consortium member. Further, the Employer may seek additional documents like letter of undertaking, additional guarantees etc. or verify that the new consortium member satisfies the eligibility criteria proportionate to the balance scope of work of the outgoing consortium member before approving such substitution. Upon approval, the Lead Member shall submit the amended Consortium Operating Agreement within 7 days from the date of such approval. The Lead Member is responsible to ensure that there is sufficient handholding to the new consortium member for seamless substitution of the consortium member.

3.9.8 All employees, representatives or Sub-Contractors engaged by the consortium in connection with the performance of the Contract shall be under the complete control & supervision of the Contractor and shall not be deemed to be employees of the Employer, and nothing contained in the Contract or in any Sub-Contract awarded by the Contractor shall be construed to create any Contractual relationship between any such employees, representatives or Sub-Contractors and the Employer.

3.9.9 The notarized Consortium Operating Agreement (COA) between Lead Member of consortium and all other consortium members submitted during the bid submission stage shall form part of this Contract Agreement. Any Amendments in



the Consortium Operating Agreement (COA) sought by the Employer in writing prior to signing of Contract shall be furnished at the time of signing of the Contract Agreement. The validity of the Consortium Operating Agreement will be until all obligations, liabilities and warranties undertaken/given by the consortium in connection with the Contract with the Employer have been settled. In case of any need for changes or amendments in the Consortium Operating Agreement arise during the execution of Consortium Operating Agreement including but not limited to share of scope of work, such changes or amendments shall be done only upon prior approval of the Employer in writing.

3.10 **Waiver**

3.10.1 Subject to **Sub-Clause 3.10.2** below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

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

3.11 **Severability**

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

4. **Notices**

4.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, post / airmail post, special courier, email to the address of the relevant party set out in the Special Conditions of Contract, with the following provisions.

4.1.1 Any notice sent by airmail post or special courier shall be confirmed within two (2) days after dispatch by an e-mail, except as otherwise specified in the Contract.

4.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and



conveyed to the postal authorities or courier service for transmission by airmail or special courier.

4.1.3 Any notice delivered personally or sent by email shall be deemed to have been delivered on date of its dispatch.

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

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

5. Governing Law

5.1 The Contract including the Arbitration proceedings shall be governed by and interpreted in accordance with laws of India.

6. Settlement of Disputes

6.0 APPLICABLE LAW, AMMICABLE SETTLEMENT, CONCILIATION AND ARBITRATION:

6.1 APPLICABLE LAW: This Agreement shall be construed and governed in accordance with the Indian substantive Laws.

6.2 AMICABLE SETTLEMENT:

6.2.1 If any dispute arises between the Employer and Contractor as specified in Sub Clause 43.5, the parties shall seek to resolve any such dispute or difference by mutual consultation/ amicable settlement process. The Contractor shall notify the Employer of its intent to initiate an amicable settlement process within a period of 30 days from the date of notification of Employer's/ Engineer's estimate of Contractor's claim.

For Contracts where Integrity Pact is applicable and in case both the parties are agreeable, dispute may be tried to settle through mediation before the panel of IEMs in a time bound manner i.e. not more than five sittings.

The prevailing sitting fee of IEM as per Company rules shall be shared equally by the parties and expenses on travel and stay arrangements of IEMs, which shall be equal to that of Independent Board Member of NMDC, shall be shared equally.

6.2.2 If the parties fail to resolve such a dispute or difference by mutual consultation, then the dispute may be settled through Conciliation / Arbitration / other remedies available under the applicable laws.



6.3 CONCILIATION:

- 6.3.1 If the parties fail to settle the disputes through amicable settlement process, the parties shall take recourse to the conciliation proceedings for resolving such dispute, question, claim or differences.
- 6.3.2 A party (“claimant”) shall notify the other party (“respondent”) in writing about such a dispute it wishes to refer for Conciliation within a period of 30 days from the date of closing of Amicable Settlement process or 90 days from date of notification of Employer’s/ Engineer’s estimate of Contractor’s claim. Such Invitation for Conciliation shall contain sufficient information as to the dispute to enable the other party to be fully informed as to the nature of the dispute, amount of the monetary claim, if any, and apparent cause of action.
- 6.3.3 The conciliation process shall be initiated by appointment of a Sole Conciliator or Conciliatory Committee. The Conciliatory Committee shall comprise of either Sole Conciliator or Conciliatory Committee comprising of three members, one member from each category i.e., Technical, Commercial and Legal. Conciliatory Committee shall be formed from the panel of experts maintained by NMDC. CMD, NMDC shall suggest three names to the Contractor to constitute the Conciliatory Committee within 30 days of receipt of notice for conciliation. The Contractor shall submit the consent for Conciliatory Committee within 14 days of receipt of recommendation from NMDC.
- 6.3.4 The selection of Sole Conciliator or the Conciliatory Committee shall be decided based on the claim amount and guidance on the same is provided below. Number of conciliators depending on the claim amount is detailed in the table below:

Claim Amount (excluding Interest)	Number of Conciliator/s
Upto Rs. 2 crores	Sole Conciliator to be appointed
Above Rs. 2 crores up to Rs. 250 Crores	Conciliatory Committee to be appointed

- 6.3.5 The above committee shall conduct the conciliation proceedings in accordance with the provisions of Arbitration and Conciliation Act 1996 and its amendment thereof. The venue of the conciliation shall be at Hyderabad.
- 6.3.6 In the case of any vacancy the CMD, NMDC shall suggest name(s) for substitution on the Conciliatory Committee. The Contractor shall submit the consent within 14 days. Failure of Contractor’s consent within 14 days shall be considered as deemed acceptance of the suggested member(s) by the Contractor.
- 6.3.7 Upon constitution of the Conciliatory Committee, Law Department of NMDC will issue the appointment letters to Conciliatory Committee members and inform same to the parties concerned.



- 6.3.8 The Conciliatory Committee members shall give a declaration of independence and impartiality (in the format at Annexure- I) to both the parties before the commencement of the Conciliatory Committee proceedings.
- 6.3.9 Conciliator's Fee (As per SCOPE Forum for Conciliation & Arbitration – SFCA): Each Conciliator's fee will be fixed with regard to the amount in dispute including determined interest in each case to be shared equally by the parties as under;

Up to Rs. 5 Lakhs	Rs.30,000/-
From Rs.5 Lakhs one to Rs. 25 Lakhs	Rs. 30,000/- + Rs.2000/- per lakh or part thereof subject to a ceiling of Rs. 70,000/-
From Rs.25 Lakhs one to Rs. 1 Crore	Rs. 70,000/- + Rs.2000/- per lakh or part thereof subject to a ceiling of Rs. 2,22,000/-
From Rs. 1 Crore one to Rs. 5 Crore	Rs. 2,20,000/- + Rs.30,000/- per Crore or part thereof subject to a ceiling of Rs. 3,40,000/-
From Rs. 5 Crore one to Rs. 10 Crore	Rs. 3,40,000/- + Rs.25,000/- per Crore or part thereof subject to a ceiling of Rs. 4,65,000/-
From Rs. 10 Crore one to Rs. 50 Crore	Rs. 4,65,000/- + Rs.20,000/- per Crore or part thereof subject to a ceiling of Rs. 12,65,000/-
Over Rs. 50 Crore	Rs. 12,65,000/- + Rs.10,000/- per Crore or part thereof subject to a ceiling of Rs. 25 lakh

In addition to the above, each Conciliator will be entitled to receive fee for study of the pleadings, case material, writing of the award etc. With regard to the amount in dispute in each case to be shared equally by the parties as under;

Up to Rs. 5 Lakhs	Rs.10,000/-
From Rs.5 Lakhs one to Rs. 25 Lakhs	Rs. 20,000/-
From Rs.25 Lakhs one to Rs. 1 Crore	Rs. 30,000/-
From Rs. 1 Crore one to Rs. 5 Crore	Rs. 40,000/-
From Rs. 5 Crore one to Rs. 10 Crore	Rs. 50,000/-
From Rs. 10 Crore one to Rs. 50 Crore	Rs. 60,000/-
Over Rs. 50 Crore	Rs. 70,000/-

Note 1: In the event where the dispute does not involve monetary claim or disputed amount has not been quantified / indicated Conciliator's fee will be consolidated Rs 1.00 Lakh inclusive of fee for study of the pleadings, case material and writing of the award etc.

Note 2: In the event where the dispute does not involve monetary claim or disputed amount has not been quantified / indicated, administrative fee will be Rs. 65,000/-



Note 3: In the event, the Conciliation Committee is of a sole Conciliator in place of three or more Conciliators, he shall be entitled to receive an additional amount of 25% on the fee payable as per the table set out above.

- 6.3.10 Upon acceptance of the invitation to conciliate, the respondent shall submit its counter claim, if any, within a period as specified by the Conciliatory Committee.
- 6.3.11 The parties may consider filing their claims and counterclaims with details as mentioned below. However more details may be requested during the Conciliation process by either party or by Conciliatory Committee which needs to be complied with promptly;
- a) Chronology of the dispute
 - b) Brief of the contract
 - c) Brief history of the dispute
 - d) Issues
 - e) Details of Claim(s)/Counter Claim(s) supported by documents and other evidence deemed appropriate
 - f) Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract
 - g) At any stage of the conciliation proceedings the conciliator or Conciliatory Committee may request a party to submit to him such additional information as he deems appropriate.
- 6.3.12 Conciliatory Committee will commence its meetings only after completion of the pleadings.
- 6.3.13 The parties shall be represented by their in-house employees/executives. Ex-officers of NMDC who have handled the dispute matter in any capacity are not allowed to attend and present the case before Conciliatory Committee on behalf of Contractor. However, ex-employees of parties may represent their respective organizations.
- 6.3.14 Solicitation or any attempt to bring influence of any kind on either Conciliatory Committee Members or NMDC is completely prohibited in conciliation proceedings and NMDC reserves the absolute right to close the conciliation proceedings at its sole discretion if it apprehends any kind of such attempt made by the Contractor or its representatives.
- 6.3.15 Conciliator or Conciliatory Committee as the case may be, shall do detailed analysis of claims based on the pleadings and contentions of the parties, and make a proposal for settlement to both the parties with possible terms of settlement. Both the parties shall submit their respective consent or objections to the Conciliator or the Conciliatory Committee within the time limit prescribed by the Conciliator or Conciliatory Committee. Considering the response of the parties, the Conciliator or Conciliatory Committee shall attempt to bring about Conciliation between the Parties. Thereafter, the Conciliator or Conciliatory Committee based on the outcome of such an attempt make its final report of Conciliation or failure as accepted by the



parties and submit it to CMD, NMDC. Both parties may give effect to the Conciliation Report at the earliest.

- 6.3.16 Parties shall not claim any interest on claims/counterclaims from the date of notice invoking conciliation till execution of settlement agreement, if so arrived at. In case, parties are unable to reach a settlement, no interest shall be claimed by either party for the period from the date of notice invoking conciliation till the date of Conciliatory Committee recommendations and 30 days thereafter in any further proceeding.
- 6.3.17 Either party shall refer any dispute for Arbitration or judicial proceedings if the conciliation process has failed.
- 6.3.18 Confidentiality: The Conciliator or Conciliatory Committee and the parties must keep confidential of all matters relating to the conciliation proceedings. Confidentiality extends also to the settlement agreement, except where its disclosure is necessary for purposes of its implementation and enforcement.

6.4 ARBITRATION:

- 6.4.1 All disputes or differences which may arise between the Employer and Contractor in connection with this Contract (other than those in respect of which the decision of any person is expressed in the Contract to be final and binding) and Excepted Matters, shall, after written notice by either party ("claimant") within sixty (60) days of failure of conciliation to the other ("respondent") and to the Chairman cum managing Director of the NMDC Ltd. (who will be the appointing authority), be referred for adjudication to the sole or three (3) Arbitrator(s) to be appointed as hereinafter provided. The notice invoking arbitration shall specify all the points of disputes with details of the amount claimed to be referred to arbitration at the time of invocation of arbitration and not thereafter. If the claim is in foreign currency, the claimant shall indicate its value in Indian Rupee for the purpose of constitution of the arbitral tribunal.
- 6.4.2 A person of any nationality may be an arbitrator, unless otherwise agreed by the parties. Appointment of sole arbitrator or 3 arbitrators shall depend on the claim value as defined below;

Claim Amount (excluding Interest)	Number of Arbitrator/s
Claim Amount - upto 25% of contract value (Above claim amount shall be within the limits of Rs. 50 Lakhs and up to Rs. 5 crores)	Sole Arbitrator to be appointed
Claim Amount - upto 25% of contract value (above claim amount shall be within the limits of Rs. 5 crores and upto Rs. 100 crores)	3 Arbitrators to be appointed



Refer clause No. 6.4.9 for claim amount exceeds the above referred percentage of 25% of contract value or maximum value of total claim value of Rs.100 crores.

- 6.4.2.1 **Appointment of Sole Arbitrator:** The Appointing Authority will send within ninety days of receipt of the notice of arbitration a panel of three names of persons, not directly connected with the work, to the Contractor who will select any one of the persons named to be appointed as a sole Arbitrator and intimate its selection within 30 days of receipt of names. If the appointing authority fails to send to the Contractor the panel of three names, as aforesaid, within the period specified, the contractor shall send to the appointing authority a panel of three names of persons who shall also be unconnected with the organization by which the work is executed. The appointing authority shall on receipt of the names as aforesaid select any one of the persons named and appoint him as the sole Arbitrator. If the appointing authority fails to select the person and appoint him as the sole Arbitrator within 30 days of receipt of the panel and inform the Contractor accordingly, the Contractor shall be entitled to invoke the provisions of the Indian Arbitration and Conciliation Act 1996 as amended from time to time.
- 6.4.2.2 **Appointment of 3 Arbitrators:** In case of 3 Arbitrators one arbitrator shall be selected by each party and notified the other party within a period of 30 days from the notice of invoking arbitration. The two individual selected arbitrators shall then select the 3rd Arbitrator, who shall be the presiding arbitrator, within additional period of 30 days. All the three Arbitrators selected as aforesaid shall be independent. If a party fails to appoint an arbitrator within thirty days from the receipt of a request to do so from the other party; or the appointed arbitrators fail to agree on the presiding arbitrator within thirty days from the date of their appointment, the appointment shall be made, upon request of a party.
- 6.4.3 The fees of Arbitrators will be guided by Schedule IV of Arbitration and Conciliation Act, 1996 and any amendment thereof or both the parties can negotiate on the Fees before the commencement of Arbitration proceedings.
- 6.4.4 The further progress of any work under the contract shall unless otherwise directed by the Employer / Engineer continue during the arbitration proceedings and no payment due or payable by/to the Employer shall be withheld on account of such proceedings. It shall not be open to arbitrator to consider and decide whether or not such work shall continue during the arbitration proceedings.
- 6.4.5 The arbitral tribunal shall give reasons for its award. Each party shall bear its own cost and the cost of arbitration shall be equally borne by each party. The award rendered in any arbitration hereunder shall be final and binding upon the parties. The parties agree that neither party shall have any right to commence or maintain any suit or legal proceeding concerning any dispute under this agreement until the dispute has been determined in accordance with the arbitration proceeding provided for herein and then only to enforce or facilitate the execution of an award rendered in such arbitration.



- 6.4.6 Notwithstanding anything above, the mechanism for settling the dispute through Arbitration may be considered in cases where the disputed amount or the amount of all claims put together does not exceed 25% of the contract value or maximum of disputed claim amount shall not exceed Rs.100 crores whichever is lower. In case the disputed amount exceeds the above referred percentage of 25% of contract value or maximum value of total claim value of Rs.100 crores, the parties shall be within their rights to take any other recourse / remedies that may be available to them under the applicable laws other than Arbitration also after providing prior intimation to the other party.
- 6.4.7 Parties agree that neither party shall be entitled for any pre-reference or pendente-lite interest, i.e. date of cause of action till the date of the Award by the Arbitral Tribunal. Parties agree that claim for any such interest shall not be considered and shall be void. The Arbitral Tribunal shall have no right to award pre-reference or pendente-lite interest in the matter.
- 6.4.8 The laws applicable to the Contract shall be the laws in force in India. The Courts of Hyderabad, Telangana State shall have exclusive jurisdiction in all matters arising under this Contract. The seat, place and venue of the arbitral proceedings shall be Hyderabad, Telangana State, India.
- 6.4.9 "In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018 or any additional notifications / guidelines thereof by Ministry of Heavy industries and Public Enterprises or Ministry of Steel.
- 6.4.10 Arbitration in respect of contracts, with foreign parties for value of more than Indian Rs. 50 lakhs and up to Indian Rs. 50 crores shall be governed by the Rules of Indian Council of Arbitration (ICA). Arbitration with foreign contractor or in consortium contracts (including foreign contractor), where the contract value is more than Indian Rs. 50 crores shall be governed by the Rules of Arbitration of International Chamber of Commerce (ICC), Paris. The seat, place and venue of the arbitral proceedings shall be Hyderabad, Telangana State, India.
- 6.4.11 Parties further agree that following matters shall not be referred to Conciliation and Arbitration;
- a. Any claim, difference or dispute relating to, connected with or arising out of NMDC's decision to initiate any proceedings for suspension or banning, or decision to suspend or to ban business dealings with the Bidder/Contractor and /or with any other person involved or connected or dealing with bid/ contract/ bidder/ contractor.



- b. Any claim, difference or dispute relating to, connected with or arising out of NMDCL's decision under the provisions of Integrity Pact executed between the NMDCL and the Bidder/ Contractor.

6.4.12 The applicable interest on arbitral award i.e., from the date of award till the date of actual payment, shall be @ daily average of SBI MCLR + 1%.

B. SUBJECT MATTER OF CONTRACT

7. Scope of Facilities

7.1 Scope of Supplies and Services

- 7.1.1 Unless otherwise expressly limited in the Technical Specifications, the Contractor's obligation cover survey, investigations (soil and topographic investigation), design & engineering; civil engineering work; dismantling, if any, of existing building, structures & equipment; modification / diversion, if any, of utility / services; fabrication & supply of steel structures; manufacture (including associated purchases and / or sub-contracting) & supply of plant & equipment and refractories; Customs & Port clearances (excluding Customs Duty, Cess, IGST, etc of items for which prices are quoted in Foreign currency); inland transportation; intermediate storage; insurance & handling; erection work; testing; pre-commissioning; start-up & commissioning and demonstration & establishment of performance guarantee parameters of the Facilities as detailed hereafter, in accordance with the plans, specifications, drawings, codes and any other documents as specified in the Technical Specifications.
- 7.1.2 The Contractor shall, unless specifically excluded in the Contract, perform all such work and / or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities (within the Battery limits as defined in the Technical Specification) as if such work and / or items and materials were expressly mentioned in the Contract without any extra cost to Employer.
- 7.1.3 The Contractor shall furnish the items with its specifications & prices of spare parts required for the operation and maintenance of the Facilities for the period of two years. The Contractor shall also provide the names of suppliers giving sufficient details to enable the Employer to procure such spares at a later date when necessary, after successful commissioning.



7.2 **Design, Drawings & Technical Documents**

7.2.1 The Contractor shall be responsible for supply of all the design, drawings and technical documents & information in respect of the plant & equipment as per **Appendix 2** to Contract Agreement & commissioning spares. The Contractor shall deliver the design, drawing, technical documents & information, to the Employer.

7.3 **Dismantling & Demolition of Existing Building, Structures, Plant & Equipment (As specified in Technical Specifications)**

The Contractor shall be responsible for carrying out dismantling / demolition of necessary existing buildings and structures including foundations, covered works and plant & equipment and stacking and expeditious removal of the debris to the dumping ground to be specified by the Employer within a distance of 10 km from the site.

7.4 **Supply of Plant & Equipment, Structures, Commissioning Spares, Operation & Maintenance Spares, Initial Fills & Lubricants and Special Tools & Tackles**

7.4.1 **Plant and Equipment**

The contractor shall be responsible for supply of plant & equipment as described in the Technical Specifications and Drawings / documents.

7.4.1.1 The Contractor shall furnish a copy of the unpriced Orders/ Contracts for all the bought-out items **“as mutually agreed”**.

7.4.2 **Commissioning Spares**

7.4.2.1 The Contractor shall, within the Contract Price, supply adequate commissioning spares required during Start up and commissioning along with the plant & equipment mentioned in **Clause 7.4.1**, hereof.

7.4.2.2 Should the commissioning spares found to be inadequate, the Contractor shall supply without any extra cost to the Employer, additional required commissioning spares within the time schedule to ensure that the Facilities are commissioned.

7.4.3 **Operation and Maintenance Spares**

7.4.3.1 The Contractor shall furnish list of spares required for the normal operation and maintenance of the Facilities, for a period of two years which will be required after commissioning. Price for such lists shall be submitted at least 12 months before the scheduled commissioning. If,



the completion schedule is more than 12 (twelve) months or 6 (six) months if, the completion schedule is twelve months or less

7.4.3.2 A list of such operation & maintenance spares along with their itemized prices shall be furnished by the Contractor. The itemized prices of such spares shall be kept valid for a period of up to twelve months.

7.4.3.3 The list of spares along with itemized price shall include such details as:

- a) Item number of equipment in Contract
- b) Designation
- c) Number per item
- d) Materials indicating chemical composition and physical properties like fits and tolerances, finishes, heat treatment, etc.
- e) Manufacturing drawing number/ordering specification number / Vendor name & address.
- f) Catalogue reference

7.4.3.4 The Contractor shall supply complete ordering specification including manufacturing drawings with bill of materials, material specification & catalogues with reference details and list of suppliers shall also form part of such ordering specification.

7.4.3.5 The Contractor shall undertake to supply operation & maintenance spares at reasonable price at any time later during the life of the Facilities on request from the Employer. In case during the life of the Facilities, any spare(s) becomes obsolete or goes out of Contractor's production programme, the Contractor shall serve prior written notice of not less than six months to the Employer to that effect and furnish detailed manufacturing drawings to the Employer for such spares, if not already furnished. Contractor shall also ensure that the Employer is in a position to procure such spares in sufficient quantities at reasonable prices before these become obsolete or go out of production programme as stated above.

7.4.4 Initial Fill and Lubricants

7.4.4.1 The Contractor shall supply along with the Plant & Equipment the oils, grease & lubricants required for the initial fill including flushing liquor and also chemicals for pickling, etc., well in advance, for commissioning of the Plant & Equipment.

7.4.4.2 The cost of such initial fill of oils including hydraulic oils, grease and other lubricants is included in the Contract Price. Should the oil, grease & lubricants found to be inadequate, the Contractor shall supply without



any extra cost to the Employer, additional required oil, grease & lubricants, within the time schedule to ensure commissioning is not held-up. The un-used oil, grease & lubricants shall be the property of the Employer.

7.4.4.3 The Contractor shall be responsible for supply of adequate quantities of such oils, grease & lubricants as may be required for this purpose till commissioning as per **Clause 25** hereof.

7.4.4.4 These oils, grease & lubricants should be preferably of Indian origin. In the case of imported oil, grease & lubricant, specification for the same shall be furnished by the Contractor for procurement in future.

7.4.4.5 The Contractor shall also furnish consumption rates of all the consumables along with estimated annual requirement and ordering specification for timely procurement by the Employer for future requirements.

7.4.5 Special Tools & Tackles

The Contractor shall supply along with the Plant & Equipment special tools & tackles, instruments and appliances which will be required for erection, commissioning, operation and maintenance of the Facilities.

The Contractor shall provide ordering specification including the names of suppliers giving sufficient details to enable the Employer to procure such special tools, tackles, instruments and appliances, at a later date when necessary, after successful commissioning.

7.5 Civil Engineering Work (As specified in Technical Specifications)

7.5.1 Unless otherwise expressly limited and/or excluded elsewhere in the Contract from Contractor's scope, the Contractor shall be responsible for the construction of all civil foundation for structures and equipment, construction of super structures, buildings and all other connected civil construction works included in the scope of work as per Technical Specifications in accordance with Sub-Clause 22.2 hereof.

7.5.2 It is presumed that the Contractor has already inspected the site and satisfied itself about the actual site conditions and has collected any other information which may be required by the Contractor. All necessary soil tests over and above those carried out by the Employer are to be undertaken by the Contractor and no extra claim on this account shall be admitted.

7.5.3 The Contractor shall be held responsible for proper performance for buildings and structures including all other civil work for a period of 12 months after commissioning of the Facilities. Any defect found during this period will be made



good by the Contractor at its own cost failing which the Employer reserves the right to take remedial measures at the Contractor's risk and cost.

7.5.4 All excavated materials shall remain the property of the Employer.

7.5.4.1 All fossils, coins, articles of value of antiquity and structure and other remains or things of geological and archaeological interest discovered on the site of works shall be the absolute property of the Employer and the Contractor shall take all precautions to prevent his workmen or any other person removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal inform the Employer of such discovery and carry out the removal under the supervision of the Employer of the same and hand it over to the Employer.

7.6 Scope of work for Erection of Structures, Plant & Equipment and Refractories

7.6.1 The scope of work of the Contractor amongst others, shall be complete erection of the Plant and Equipment, steel structures, refractories, etc., as given in the Technical Specifications.

7.6.2 The Contractor shall intimate the Employer in writing well in advance about the requirement of shut down of any of the existing units / facilities for inter-connection / incorporation of additional facilities. The shutdown period shall be mutually discussed and finalised. The work to be undertaken during the shutdown period shall be planned meticulously by the Contractor to reduce the shutdown period to the minimum.

7.6.3 The Contractor shall use permanent pipe and clamps scaffolding for working at heights.

7.7 Technical Services (This Clause shall be read in conjunction with Contract Technical Specifications)

7.7.1 Technical Services to be provided by the Contractor shall include the following amongst others:

- a) Raw material testing, if necessary.
- b) Basic design, layout, engineering & drawings.
- c) Detailed design, layout, engineering & drawings.
- d) Drawings / data for carrying out Plant Engineering and detailed design/drawings of civil, structural and services.
- e) Technical services relating to planning, procurement, manufacturing, inspection, expediting, packing, shipping, storage, etc.



- f) Supervision of civil & structural engineering work & erection work including specialized erection services.
- g) Technical consultation / liaison / guidance relating to detail design and plant engineering by Contractor's Sub-Contractors, Co-ordination relating to site work and other engineering work, feedback data and information to the Employer / Consultant for the Contractor's scope of supply and services.
- h) Project Management Services including co-ordination relating to customs clearance, transportation, insurance, claim settlement, inspection of supplies, construction planning and scheduling, erection planning, field construction engineering, trial runs, start up, commissioning and performance guarantee tests.
- i) Training of Employer's Personnel.
- j) Deputation of Experts/ Foreign Experts for supervision of design and manufacture of Plant and Equipment as well as for supervision of erection, cold tests, commissioning, guarantee tests, etc.
- k) Quality control and adherence to time schedule, control of site work and other Indian works.
- l) Clearance of installations from the statutory and other concerned authorities on behalf of Employer. The Contractor shall also assist in preparing application forms, providing necessary drawings, documents, test certificates etc., including necessary co-ordination with statutory and other concerned authorities.
- m) Post Commissioning services in accordance with terms and conditions stipulated under the Contract, if so specified in **SCC**.

7.8 Training of Employer's Personnel (This Clause shall be read in conjunction with Contract Technical Specifications)

Subject to stipulations of the Contract, the Contractor shall arrange for training in India & abroad of the Employer's personnel for operation, maintenance and other services of the facilities under the Contractor's scope of supply. The contractor shall furnish the details of the training to be provided to the Employer's personnel for the approval of the Employer. Employer may indicate the field of training and man-days to the contractor for compliance.

- 7.8.1 The traveling and living expenses of the Employer's trainees shall be borne by the Employer. The Employer shall also arrange necessary travel documents for its trainees. The Contractor shall, however, assist in arranging visa and medical insurance for such trainees, wherever necessary.



7.9 Deputation of Experts / Foreign Experts for Supervision of Erection, Commissioning & Performance Guarantee Tests.
(This Clause shall be read in conjunction with Contract Technical Specifications)

- 7.9.1 The Contractor shall depute at site its Experts/ Foreign Experts to supervise the erection, commissioning and conducting of performance guarantee tests of the Plant & Equipment with its auxiliaries as contracted herein so as to establish to the Employer that the guarantees as agreed by the Contractor in accordance with the **Appendix-5** of Contract Agreement, are fully met.
- 7.9.2 Particulars (Biodata) of the Experts/ Foreign Experts shall be furnished by the Contractor to the Employer / Engineer and the Consultant for approval sufficiently in advance and not less than 15 days (in case of Domestic Experts) or 30 days (in case of Foreign Experts) before their deputation. The Contractor shall obtain at its own cost, necessary work permits, passports, visas, police permits and expenses for customs duty related to personal and other effects of any Experts / personnel who are non-residents of India, employed or engaged by him for work.
- 7.9.3 The Contractor further guarantees that, in case the number of mandays for foreign Experts actually utilized exceeds the quantum indicated in **Appendix-1** of the Contract Agreement, such additional Experts/ Foreign Experts mandays shall be deputed by the Contractor for completing its scope of work, but no extra payment for deputing such extra mandays shall be payable by the Employer unless additional deputation is required for the reasons attributable to the Employer.
- 7.9.4 If some of the Experts deputed for supervision of erection, commissioning and Performance Guarantee Tests are required by the Employer beyond the Final Acceptance of the Facilities (Post commissioning services) after fulfillment of all the Contractual obligations by the Contractor, the Contractor shall provide such services in accordance with the terms and rates stipulated in the Contract or to be mutually agreed upon between the Employer and the Contractor if not already provided for in the Contract.
- 7.9.5 All the facilities required by the Experts / Foreign Experts/ Specialists, deputed for supervision of erection, commissioning, performance guarantee tests, etc., shall be provided by the Contractor to the Experts / Foreign Experts/ Specialists.
- 7.9.6 In the event, Expert is not found of required skill / expertise, then the Employer will have the right to send the Expert back at the cost of the Contractor after communication with the contractor.
- 7.9.7 The Contractor shall bear and pay all the cost / expenses for deputation of foreign experts required as per Contract including all costs / expenses towards



remuneration, air travels from their Country to India / at site and back to their country as well as any other places to be visited in connection with the supervision of design & manufacture of Plant & Equipment, surface travel, local transport, accommodations, food & incidentals, communication system, medical, insurance, personal Indian Income Tax, etc.

7.10 Demonstration of Performance Guarantee

- 7.10.1 The Contractor guarantees the equipment for its workmanship, materials, design and satisfactory performance in accordance with the relevant specifications & provisions of this Contract. The guarantee for performance includes individual items and systems for the ratings / output as well as for the integrated operation of the Plant. The Contractor's responsibility under this guarantee shall not in any way be reduced, diminished or absolved for any reason whatsoever in respect of supplies, materials and equipment not manufactured by the Contractor. The Contractor, upon successful commissioning of each equipment / system will conduct performance guarantee tests to demonstrate the integrated operation of all equipment / systems.
- 7.10.2 The details of the performance guarantee tests, test procedures, test schedules, for the demonstration of the performance guarantees shall be submitted to the Employer which will be mutually agreed upon. Any subsequent deviation / modification in the agreed schedule, if considered necessary, at a later date shall be mutually discussed and agreed upon.
- 7.10.3 After commencing a test, it shall be completed unless in the opinion of either Employer or Contractor a safety hazard exists which necessitates shutdown.
- 7.10.4 The Contractor shall undertake to demonstrate the Performance Guarantee Tests and achieve the guaranteed production capacity in a sustained manner and also the other parameters as specified in **Appendix-5** of the Contract Agreement.

7.11 Division of Scope of Facilities among members of Joint Venture or Consortium

- 7.11.1 In case, the Contractor is a Consortium of two or more firms, the division of Scope of Facilities indicated at **Sub-Clauses 7.2 to 7.10** hereof, shall be given by the Contractor.

8. Commencement Date, Time for Completion and Bonus

8.1 Commencement Date

The date of commencement of work shall be the Effective Date of Contract unless and otherwise any other date is mutually agreed between the Employer and the Contractor at the time of signing of contract.



8.2 Time for Completion

The Contractor shall attain Completion of the Facilities as defined at **Clause 1** hereof within the time stated in the **Article-5** of Contract Agreement or within such extended time to which the Contractor shall be entitled under **Clause 42** (Extension of Time for Completion) hereof.

8.3 Bonus on Early Completion

8.3.1 If the contractor attains completion of work / facilities before the stipulated time of completion, the Employer shall pay to the contractor a bonus at the rate of 0.5% of the contract price plus escalation, if any, excluding taxes and duties per complete fortnight ahead of Time Schedule up to a maximum of 2.5% of the contract price plus escalation, if any, excluding taxes and duties.

8.3.2 No bonus shall be payable in case of delay beyond scheduled completion date irrespective of reasons for such delay. The incentive / bonus clause shall be operated by considering the original time schedule and not on extended time due to any reason whatsoever. NMDC's decision on applicability of bonus will be final and binding on the Contractor.

8.3.3 The amount of bonus, if payable, shall be paid along with final bill after completion of work.

Note: For applicability of the bonus clause please refer SCC / BDS

9. Contractor's Responsibilities (This Clause shall be read in conjunction with Contract Technical Specifications)

9.1 The Contractor shall carryout works as mentioned in Scope of Facilities under Clause 7 hereof.

9.2 The Contractor shall be deemed to have entered into this Contract on the basis of a proper examination of the data relating to the Facilities provided by the Employer, and on the basis of information that the Contractor have obtained from the inspection of the Site (if access thereto was available) and of other data readily available to it relating to the Facilities prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities. The Contractor shall satisfy himself regarding the accessibility to site by existing roads,



feasibility of taking materials / equipment to site and availability of Labour and local conditions.

- 9.3 The Contractor shall at its own expenses obtain all permits and licenses from Indian and Foreign Government required for the performance of work under this Contract and the Contractor shall bear any fee payable to the Government or local licensing authority for obtaining permits and licenses at their own cost (except where the Employer is statutorily required as per Indian laws, rules, statutory notifications to pay the fees and/or file applications for the permits/licenses in which case the Contractor shall render assistance to the Employer). The Contractor shall perform the work in accordance with the conditions of all applicable permits and license. The Contractor shall provide evidence of license granted and any restriction contained therein.

The necessary Statutory Fees for such permits, approvals and / or licenses payable by the Contractor, are included in the Contract Price.

- 9.4 The Contractor shall comply with the Indian Laws that may be in vogue as on Base Date of the Contract or may come into force during currency of the Contract, that binds upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Sub-Contractors and their personnel.

10. Employer's Responsibilities

- 10.1 The Employer shall ensure the accuracy of information and / or data to be supplied by the Employer, except when otherwise expressly stated in the Contract.
- 10.2 The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of land access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way. The Employer shall give full possession of land and accord all rights of access thereto on or before the mutually agreed date(s).
- 10.3 If requested by the Contractor, the Employer shall use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and / or licenses necessary for the execution of the Contract from State or Central Government Authorities.
- 10.4 To the extent specified in the Contract or agreed upon by the Employer and the Contractor, the Employer shall provide to the Contractor sufficient, properly qualified operating & maintenance personnel; shall supply & make available all raw materials, &



utilities, and shall perform all work and services of whatsoever nature, for properly carrying out pre-commissioning, commissioning and performance guarantee tests by the Contractor at or before the time specified in the Program of Performance hereof and in the manner thereupon specified or as otherwise agreed upon by the Employer and the Contractor.

- 10.5 The Employer shall be responsible for the continued operation of the Facilities after Commissioning and shall facilitate the Contractor in performing the Performance Guarantee Test(s) for the Facilities.
- 10.6 All costs and expenses involved in the performance of the obligations under this Clause 10 hereof, shall be the responsibility of the Employer, save those to be incurred by the Contractor with respect to the performance of Performance Guarantee Tests.

C. PAYMENT

11. Contract Price

- 11.1 The Contract Price as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement shall be for the entire Scope of the Facilities including spares, oils, grease, lubricants, flushing liquor, chemicals for pickling etc required during Start up and Commissioning and scrap in any form generated inside the plant premises. The break-up of the Contract Price is given in the Appendix-1 to the Contract Agreement.

11.2. Price Basis

11.2.1 The Contract Price quoted in Indian Rupees shall comprise of basic price including all duties, taxes and levies other than Goods and Services Tax (GST) as may be applicable and prevailing as on base date on taxable value of the Contract (Basic price + other charges, duties levies taxes other than GST) and GST as may be applicable and prevailing as on base date. While the basic price will constitute the consideration under the Contract, the payment of Goods and Services Tax (GST) and other taxes, duties, levies, cess, etc. thereon, will be reimbursed on actuals against documentary evidence. Apart from the above, price variation, if applicable and statutory variation on account of taxes and duties shall be paid extra.

11.2.2 The Contract Price does not include Customs Duty, Cess and IGST on the imported plant & equipment specified in the Contract, for which prices indicated in the Contract are in Foreign Currencies. However, Contract Price includes Customs Duty, Cess and IGST on the imported plant & equipment for which prices indicated in the Contract are in Indian Rupees.



Customs Duty, Cess and IGST for replacement against short supply, damaged, defective items, of such imported Plant & Equipment for which prices indicated in the Contract are in Foreign Currencies shall be borne by the Contractor.

- 11.2.3 The Contract Price does not include Income Tax and IGST on imported Engineering / Technical Services/Foreign Supervision & Training by overseas experts for which prices indicated in the Contract are in Foreign currencies.
- 11.2.4 The Contract Price includes price towards supervision by Experts/ Foreign Experts for a number of mandays specified in Appendix-1. Should the actual mandays deployed is more than the number indicated in Appendix-1, the Employer shall not pay any extra price to the Contractor for extra mandays unless additional deputation is required for the reasons attributable to the Employer.
- 11.2.5 The prices for imported supplies for which prices are quoted in foreign currency, are for delivery on F.O.B. (Free on Board) Port of shipment basis. However, the Contract price shall include the prices towards ocean freight, Customs & Port clearances (excluding Customs, Cess and IGST) handling including loading & unloading, inland freight & insurance up to plant site for items for which prices are quoted in Foreign currencies. The prices for indigenous supplies for which prices are quoted in Indian Rupees, are for delivery at plant site basis
- 11.2.6 Construction Water & Construction Power required for Construction & Erection Work at site, if supplied by the Employer shall be charged as per Sub-Clauses 22.2.2 & 22.2.3 hereof.
- 11.2.7 The Contractor shall use such items of steel as are made by Steel Authority of India Limited (SAIL) / TATA Steel/ RINL/Essar/JSW and which are required for execution of all civil and building structural work including sheeting and technological structures. Such items of steel as are made by SAIL/ TATA Steel/ RINL/Essar/JSW and required for the work shall be procured from SAIL/ TATA Steel/ RINL/Essar/JSW -Stockyards.

11.3 Firm Contract Price

- 11.3.1 The Price for items for which the price indicated in the Contract is in Foreign currencies, shall be firm and not subject to any escalation, except in the event of a change in the scope of work or specification or as otherwise provided in the Contract. However, scope of work in pursuance of **Sub-Clause 7.1.2**, hereof, shall not be taken as change in the scope of work or specification.
- 11.3.2 The Price for items for which the price indicated in the Contract is in Indian Rupees, except as provided in the **Sub-Clause 11.3.3** hereof, shall be firm, not subject to any escalation except in the event of a change in the scope of work or specification or as otherwise provided in the Contract. However, scope of work



in pursuance of **Sub-Clause 7.1.2**, hereof, shall not be taken as change in the scope of work or specification.

11.3.3 Unless otherwise specifically indicated in the Contract, the Price for the following heads shall be subject to price adjustment due to variation in price indices as per **Appendix-4** (Price Adjustment due to variation in Price Indices):

- Supply of Indigenous Mechanical Plant & Equipment including Technological Structures.
- Supply of Indigenous Electrical Plant & Equipment.
- Erection of Mechanical & Electrical Plant & Equipment including Technological Structures.
- Supply of Building Steel Structures & Sheeting.
- Erection of Building Steel Structures & Sheeting.
- Civil Engineering works including all necessary supplies.
- Supply of Refractories.
- Erection of Refractories.
- O&M spares for cases where O&M spares is included in the Contract Price.

11.4 Ceiling of Price Variation

11.4.1 The Price Variation (plus or minus) as per Appendix-4 shall be subject to a ceiling amount of 15% of the overall contract price. Taxes as applicable on the escalation amount shall be paid extra.

11.4.2 For the purpose of calculation of ceiling on Price variation, the taxes & duties included in the Contract Price as on Base Date, the advance payments as per Appendix-3 shall be deducted from the Contract Price.

11.4.3 The statutory variation in Taxes, Duties being reimbursed at actuals as per Sub-Clause 14.6 hereof, shall not be included in fifteen percent (15%) ceiling on Price Adjustment.

11.5 Validity of Price Variation

11.5.1 Price variation shall be allowed in the Contract Price as follows:

- a. Price adjustment, if any, shall be allowed only for that part of the Facilities / works, which are executed within the scheduled "Time for Completion" and the price adjustment will be limited to the price adjustment arising from the Base date of the Contract to the



scheduled completion as indicated in Contract Agreement or actual completion period of the respective items of work whichever is lower.

- b. If completion of facilities / works is achieved within the scheduled 'Time for Completion' (as per sub-clause above) but beyond scheduled period of completion as indicated in Contract Agreement, the price variation shall be calculated on the basis of the lower of the following two RBI Indices/ WPI Indices of Economic Advisor specified in Appendix-4:
 - 1) RBI Index/ WPI Index of Economic Advisor as on the scheduled date of completion;
or
 - 2) RBI Index/ WPI Index of Economic Advisor as on the Actual date of completion.
- c. If completion of the Facilities / works is delayed beyond scheduled "Time for Completion", due to the reasons not attributable to the Employer, notwithstanding the extension to the "Time for Completion" is granted, no price variation shall be allowed in the Contract Price for the portion of work executed beyond scheduled "Time for Completion".
- d. If completion of Facilities / works is delayed beyond scheduled "Time for Completion" due to reasons attributable to the Employer and extension to the "Time for Completion" is granted, price variation, if any, shall be paid in the Contract Price, for the variations arising between the base date and actual date of completion of the respective item of work within the "Extended Time for Completion" of the Contract.

In the event of Contract period getting extended, due to reasons attributable to Employer, the contractor agrees that the adjustment in the price is limited to the value arrived based on the agreed price variation terms/ formulae stipulated in the Contract and no claims other than price variation shall be admissible on account of such delay.

However, if the completion of facilities / works is delayed beyond scheduled date of the "Time for Completion" due to reasons attributable to both the parties, then the period for delay attributable to the Employer will be considered as Employer's delay and the price variation shall be applicable during this period as well.

- 11.5.2 The Contractor shall submit its first Statements for Price Variation, if any, every six months with all break-up and supporting documents to justify the Price Variation. Subsequent Price Variation Statements shall be submitted by the Contractor after every six months. The variation amount shall be paid/ deducted as per payment terms.
- 11.5.3 Price Variation for 2 years O&M spares (if part of Contract price) shall be governed in general by Clauses 11.3.3, 11.4 and 11.5.1-11.5.3 hereof.



11.6 Adjustment of Price for Weights and Physical Quantities of Work

11.6.1 The Contract is for Turnkey Completion of Scope of Facilities as specified in the Clause 7 hereof & Technical Specifications. The physical quantities and weights as given in the contract/ billing schedule, are indicative only for the purpose of making progress payments on prorata basis as per Clause 2.3 of Appendix-3 of Contract Agreement. Neither the Contractor shall be entitled to get any additional price from the Employer, nor the Employer is entitled to deduct any amount from the Contract Price due to variation in physical quantities and weights.

11.7 Billing and Dispatch Schedule

11.7.1 The Contractor within 90 (ninety) days of the Effective Date of the Contract shall submit detailed Billing Schedules (breakup of the Price Schedule contained in the Appendix-1) for the purpose of giving the value of Po for the consideration of Price Adjustment, if applicable, in accordance to the Appendix-4 and release of progress payments in accordance to Appendix-3, which will be scrutinized and approved by the Engineer/ Employer. The detailed Billing Schedules shall be based on Time Schedule included in Appendix-2 (Time Schedule) to the Contract Agreement and PERT network as per Sub-Clause 18.1.1 hereof, for respective progress payment terms in accordance with Clause 2.5 of Appendix-3.

The Contractor shall submit the billing schedule preferably following the guidelines mentioned below:

- i. Billing Schedule is in line with the Works Programme.
- ii. Billing Schedule shall not be front loaded, and the delivery of supply items shall be staggered in line with the civil works and erection schedule.
- iii. Billing schedule shall have a clear and detailed cost breakdown structure to avoid multiple iterations or revisions of the billing schedule. Contractor shall note that billing schedule shall not be revised more than 2 times during the entire duration of the Contract except for any exceptional circumstances approved by the Employer.
- iv. Rates and values of work items in the billing schedule shall be as close as possible to the actual costs of the work.

11.7.2 Within 6 (six) months from the Effective Date/ Commencement Date (as applicable) of Contract, a detailed shipping schedule matching to billing schedule & Works Programme, shall be submitted by the Contractor, indicating the break-up of the complete Plant & Equipment, structures and refractories into



shipment units with approximate weights and dimensions and the respective dates upon which such units will be dispatched from the Contractor's and / or its Sub-Contractor's works. The Contractor shall arrange for supplies of the Plant & Equipment, structures and refractories in the logical sequence required for erection at site within the overall Time for Completion of the Facilities unless otherwise agreed to by the Employer. The Contractor shall promptly give written notice to the Employer of any anticipated delay in maintaining such schedule stating reasons and remedial measures, thereof. This shall not, however, in any way absolve the Contractor from his responsibility of timely delivery of plant & equipment as per Contractual time schedule.

12. Terms of Payment

12.1 General

12.1.1 No advance will be provided to the Contractor, unless specified in ITT/ BDS and the payments will be linked with the progress.

12.1.2 All payments shall be made as specified in Appendix-3 (Terms of Payment), directly by the Employer to the Contractor unless otherwise provided in the Contract or agreed between the Parties.

In case the Contractor is a consortium of two or more parties as indicated in the Sub-Clause 3.9 of GCC, the Employer shall make direct payment to all such parties on certification of the Lead Member.

However, certification of the Lead Member will not be required for each Invoice to release payment to its consortium members directly, provided the Lead Member of the consortium submits a general authorization document specifying the amount to be paid and terms of processing the payment.

12.1.3 If as per provisions of Contract any payment is made directly by the Employer to the Sub-Contractors, such payments shall constitute a proper discharge of Employer's obligations for such payments to the Contractor.

12.1.4 The payments will be made in the currencies quoted by the Contractor and included in the Contract unless otherwise agreed to between the Parties.

12.1.5 The Contractor shall furnish the detailed Billing Schedule as per Sub-Clause 11.7.1 hereof, for each item under the scope of work of the Contract, for the approval of Employer, which after the approval only, will be the basis for submission of invoices for progress payments.

12.1.6 The Employer shall release the payment (**other than LC**) to the Contractor within thirty (30) days from the date of receipt of the complete and correct invoices & relevant supporting documents.



- 12.1.7 All interim / progress payments shall be regarded as payments by way of advance against the final payment only and not as payment for work completed and shall not preclude defective / imperfect / incomplete Facilities to be removed. It will not be considered as an admission by the Employer of the due performance of the Contract, or any part thereof by the Contractor nor shall it preclude, determine or affect in any way the powers of the Employer under these conditions or in any way vary or affect the Contract.

13. Securities

13.1 Issuance of Securities (Bank Guarantees)

- 13.1.1 The Contractor shall provide the Securities in the form of Bank Guarantees specified below in favour of the Employer at the times, and in the amount, manner and form specified below.
- 13.1.2 The Bank Guarantee shall be in the form provided in the Annexure A to B hereof or in another form acceptable to the Employer as mutually agreed prior to contract finalization with the successful bidder.
- 13.1.3 The Bank Guarantee for Indian Rupee payments shall be issued and be payable/operable by Scheduled Commercial Bank in India or nationalized bank in India at the place where designated facility is located or any other location acceptable to the Employer.
- 13.1.4 The Bank Guarantee for Foreign Currency payments shall be issued by Scheduled Commercial Bank based on counter Bank Guarantee to be issued by Overseas Bank acceptable to Scheduled Indian Bank and be payable by Scheduled Commercial Bank or State Bank of India (SBI).
- 13.1.5 In case the project gets delayed then the BG shall be extended by the contractor for such delayed period. However, if the delay is due to reasons not attributable to Contractor, the BG extension charges shall be reimbursed by the Employer.

13.2 Performance Bank Guarantee

- 13.2.1 The Contractor shall, within 30 (thirty) from the effective date of Contract, provide a Bank Guarantee (as per Annexure-I hereof) for the due performance of the Contract in amount equivalent to **3%** of the Contract Price (including taxes and duties as included in the Price Schedules) in the same currency or currencies. This should be valid up to Defect Liability Period plus three months. In case the



contractor is a consortium, the Performance Bank Guarantee shall be submitted by any member of the consortium on behalf of the consortium or by each individual member of the consortium in proportion to the price for their respective scope of work as per the Contract.

In case the Contract Price increases due to Change in Facilities pursuant to Clause 41 hereof, the Contractor shall amend the value of the Performance Guarantee or issue an additional Bank Guarantee for an amount of 3% of the increased Contract Price.

In case the contractor submits the foreign portion of the BG in Indian Rupees then the BG amount shall be 10% more than the equivalent Rupee value to take care of the exchange rate variation.

- 13.2.1.1 If the Contractor fails to provide the Performance Bank Guarantee, the Employer shall have the right to take risk purchase action including forfeiting the bid security, and get the Facilities executed by any other party at the risk and cost of the Contractor, after expiry of the notice for terminating the Contract for such default by the Contractor.
- 13.2.2 The Bank Guarantee shall automatically become null and void after three (3) months after completion of Defect Liability Period, provided, however, that if the Defect Liability Period has been extended on any part of the Facilities pursuant to Sub-Clause 30 hereof, the Contractor shall issue an additional Bank Guarantee in an amount proportionate to the Price of that part. The Bank Guarantee shall be returned to the Contractor immediately after its expiration, provided, however, that if the Contractor, pursuant to Sub-Clause 30.5 hereof, is liable for an extended warranty obligation, the performance Bank Guarantee shall be extended for the period of 12 months from date of its restoration and up to the amount equal to 15% value of the component / part / equipment.

13.3 Bank Guarantee for release of payments towards Commissioning

- 13.3.1 The Contractor shall provide Bank Guarantee (as per Annexure-II hereof) to the Employer for an amount equivalent to the payment under Sub-Clause 25.4 hereof, in the same currency or currencies valid for a period of 12 months.
- 13.3.2 The Bank Guarantee shall be returned to the Contractor as soon as Commissioning Certificate has been issued, at the latest, however, on the expiry of 12 months from the date of release of payment against Bank Guarantee.



13.4 Bank Guarantee for release of payments towards Performance Guarantee Certificate

13.4.1 The Contractor shall provide Bank Guarantee (as per Annexure-II hereof) to the Employer for an amount equivalent to the payment under Clause 27 hereof, in the same currency or currencies for a period of 12 months.

13.4.2 The Bank Guarantee shall be returned to the Contractor as soon as the Performance Guarantee Test is successfully completed and the guaranteed output and other parameters are met, at the latest, however, on expiry of 12 months from the date of release of payment against Commissioning Certificate.

13.5 Bank Guarantee for release of payments towards Final Acceptance Certificate

13.5.1 The Contractor shall provide Bank Guarantee (as per Annexure-II hereof) to the Employer for an amount equivalent to the payment under Clause 28 hereof, in the same currency or currencies valid for a period of 12 months.

13.6 Claims under Security (Bank Guarantee)

If the Employer considers itself entitled to any claim under any Bank Guarantee. Notwithstanding contained herein above, the Employer can encash the Bank Guarantee for any default / breach of contract without any notice.

The actual expenditure incurred by the Contractor for extension of BG/Additional Insurance Premium shall be reimbursed to the Contractor in case delay in completion of project is not attributable to the Contractor.

14. Taxes & Duties

14.1 Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its Sub-Contractors or their employees by Municipal, State or Central Government Authorities.

However, subject to stipulations of the Contract, the payment of GST, Customs and Cess, as applicable, will be reimbursed (on actual) against documentary evidence to be produced by the Contractor. **In case of Input Tax credit is not available for certain elements (refer price schedule) then reimbursement of taxes shall be restricted to the ceiling value as per price schedule.**

All taxes & duties payable outside India in respect of performance of the Contract shall be borne & paid by the Contractor. The Employer shall have no liability whatsoever on this account.



- 14.1.1 TDS under GST laws, if applicable, shall be deducted from Contractor's bills at applicable rates and a certificate as per rules, for tax so deducted shall be issued to the Contractor
- 14.1.2 The Contractor shall bear and pay all the liabilities in respect of non-observance of all legal formalities as per various statutory provisions.
- 14.2 Notwithstanding Sub-Clause 14.1 hereof, the Employer shall bear and pay Customs Duty, Cess, and IGST on imported Plant & Equipment for which prices indicated in the Contract are in Foreign Currencies. Customs Duty, Cess and IGST for replacement against short supply, damaged, defective items, of such imported Plant & Equipment for which prices indicated in the Contract are in Foreign Currencies shall be borne by the Contractor.
- 14.2.1 The Contractor shall bear and pay Customs Duty, Cess, and IGST on imported plant & equipment for which prices indicated in the Contract are in Indian Rupees.
- 14.3 Notwithstanding Sub-Clause 14.1 here, the Employer shall bear and pay GST on reverse charge basis on imported services for which prices indicated in the Contract are in Foreign currencies, directly to the authorities. Income Tax on foreign services shall be withheld from the bills of the contractor at the appropriate rate and remitted to the Income Tax authorities. The Employer shall furnish a certificate of income tax withheld to the Contractor.
- 14.3.1 The personnel Income Tax of Overseas Contractor's experts, if payable, shall be paid by the Overseas Contractor's experts directly and the Employer shall neither be liable to pay the Income Tax nor for filing the tax return for Overseas Contractor's experts
- 14.3.2 The Employer will furnish to the Overseas Contractor, the original tax receipts in connection with payments made under the Contract.
- 14.4 **Avoidance of Double Taxation**
- 14.4.1 In case the Overseas Contractor becomes entitled to receive or receives any tax exemptions, reductions, allowances or privileges in the foreign country on account of taxes & duties paid by the Employer in India, on behalf of the Overseas Contractor for imported supplies & services or due to Avoidance of Double Taxation Treaty between Governments of Overseas Contractor's Country & India then the same shall have to be reimbursed by the Overseas Contractor to the Employer.
- 14.4.2 A certificate from an independent Chartered Accountant stating as given thereunder, shall be furnished by the Contractor to the Employer, as soon as possible:



- i) Refund / Reimbursement due on account of tax paid by the Employer in India, where available under said treaty, has been claimed by the Contractor, and
- ii) Refund / Reimbursement obtained, has been paid by the Contractor to the Employer.

14.4.3 The Overseas Contractor shall provide to the Employer expeditiously all details, information's, clarifications & documents, to the extent that such disclosure is reasonable, as may be required to file the requisite return with the Indian Income Tax Authorities to permit the Employer to get the same assessed in the most economical manner as per the provisions of the Income Tax Act / Agreement for Avoidance of Double Taxation.

14.5 INPUT TAX CREDIT

14.5.1 Contractor shall be required to issue tax invoice in accordance with GST and GST Rules, as applicable from time to time, so that input credit can be availed by Employer. In the event that the Contractor fails to provide the invoice in the form and manner prescribed under the GST Act read with GST Invoicing Rules there under, Employer shall not be liable to make any payment on account of GST against such invoice.

14.5.2 The classification/description of goods/services as per GST Tariff should be correctly done by the Contractor to ensure that input tax benefit is not lost to the Employer on account of any error on the part of the Contractor.

14.5.3 The Contractor shall comply with all the provisions of the GST Act /Rules / requirements like providing of tax invoices, payment of taxes to the authorities within the due dates, filing of returns within the due dates etc. to enable Employer to take Input Tax Credit. The Contractor shall always comply with the requirements of applicable laws and provide necessary documents as prescribed under the Rules & Regulations, as applicable from time to time. In particular, if any tax credit, refund or other benefit is denied or delayed to Employer due to any non-compliance / delayed compliance by the Contractor under the Goods & Service Tax Act (such as failure to upload the details of the sale on the GSTN portal, failure to pay GST) or due to non-furnishing or furnishing of incorrect or incomplete documents by the Contractor, the Contractor shall be liable to reimburse Employer for all such losses and other consequences including, but not limited to the tax loss, interest and penalty. Notwithstanding anything contained anywhere in the Contract Agreement, Employer shall be entitled to recover such amount from the Contractor by way of adjustment from the invoice or from any other Securities like Bank Guarantees available to Employer. In addition to the amount of GST, Employer shall also be



entitled to recover interest at the rate prescribed under GST Act and penalty, in case any penalty is imposed by the tax authorities on Employer.

14.5.4 Notwithstanding anything contained anywhere in the Contract Agreement, in the event that the input tax credit of the GST charged by the Contractor / Vendor is denied by the tax authorities to Employer due to reasons attributable to Contractor/Vendor. Employer shall be entitled to recover such amount from the Contractor / Vendor by way of adjustment from the next invoice or from Bank Guarantee. In addition to the amount of GST, Employer shall also be entitled to recover interest and/or penalty, as the case may be, imposed by the tax authorities on Employer.

E Invoicing

Contractor has to provide a declaration whether the aggregate turnover for prescribed financial years exceed notified limit or not under GST law for the purpose of E Invoicing. Such declaration to be provided by the contractor is mandatory. If the declaration is not provided by the contractor, payments to said contractor shall be withheld.

Note: Currently, if the aggregate turnover of any of the financial years FY 2018-19, FY 2019-20 or FY 2020-21 exceeds 50 crores, E Invoicing provisions are applicable. However, there may be amendments/changes regarding the applicability of E Invoicing provisions subsequently, which the contractor has to adhere and follow. Hence, contractor has to abide by the provisions under GST law and provide the declaration accordingly as per amended/updated provisions for E Invoicing under GST law.

If E-Invoicing provisions under GST law are applicable to contractor, then the contractor shall report all the taxable supplies made to employer to Invoice Registration Portal ('IRP') and generate Invoice Reference Number ('IRN') and IRN embedded Quick Response code ('QR Code'). If supplies to employer are not reported to IRP (or) IRN and IRN embedded QR are not generated by contractor, wherever applicable, payments to the said contractor shall be withheld/recovered by employer. This IRN reporting to the IRP portal will be verified by employer based on the counter party IRN details made available by Government portal through employer GSTIN as recipient.

Further, the contractor shall provide the invoice with IRN embedded QR code for supplies made to employer. The IRN embedded QR code has to be generated and provided in the invoice as per Goods and Services Tax Act, rules and notifications made thereunder for all the taxable supplies under this contract. If the IRN embedded QR code is not provided in the invoice of contractor, payments shall be withheld/recovered by employer.



Changes/Amendments in E Invoicing provisions under GST law

Any changes/amendments in E Invoicing provisions under GST law (or) any changes/amendment of limits and period for applicability of E invoicing provisions, contractor shall abide by said changes under GST law and comply with E Invoicing provisions for all supplies made to employer.

Implication of non-compliance with E invoicing requirements

In case the ITC is denied to the employer or if the invoice with QR code reference is delayed to employer due to any non-compliance by the contractor (such as failure to upload the details of the supply on the IRP portal, failure to generate IRN and IRN embedded QR code, failure to incorporate IRN embedded QR code in invoice etc.), or due to non-furnishing or furnishing of incorrect or incomplete invoices by the contractor, the contractor would reimburse the loss to employer, including interest or penalty as the case may be.

Any mismatch between the particulars provided in physical invoice and details uploaded to IRP portal shall not be entertained by employer and the payments will be withheld/recovered till the mismatches are cleared/ rectified by such contractor.

The Employer reserves the right to seek additional/revised declarations from the contractor as the case may be due to changes/amendments in E Invoicing provisions

14.6 Variations in Taxes & Duties

14.6.1 For the purpose of the Contract, it is agreed that the 'Contract Price' specified in Article 2 ("Contract Price" & "Terms of Payment") of the Contract Agreement is based on the taxes, duties, levies etc. and charges prevailing on Base date (hereinafter called "Tax" in this Sub-Clause 14.6 hereof). If any rate of tax is increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of Contract, which was or will be assessed on the Contractor, Sub-Contractors or their employees in connection with performance of the Contract, an adjustment of the Contract Price shall be made as per Sub-Clauses 14.6.2 & 14.6.3, hereof, by addition to the Contract Price or deduction therefrom, as the case may be.

14.6.1.1 For taxes and duties which are eligible for Input Tax Credit, the adjustment in the Contract Price towards variations in taxes, imposition of new taxes or abrogation of existing taxes shall be applicable.



For other taxes & duties, the variations in the taxes, enactment of new taxes or abrogation of existing taxes, which takes place within the scheduled Contractual delivery / execution period shall be applicable.

Whereas the variations in the taxes, enactment of new taxes or abrogation of existing taxes, which takes place during the extended period shall be applicable only if the reasons for delay is attributable to Employer.

However, Base Date for statutory Variation & imposition of new taxes and duties shall be the date seven (7) days before last date of submission of price bid / updated price bid as per Appendix-4 Clause 2.0

- 14.6.2 The adjustment in the Contract Price towards variation in the taxes shall be made by the Employer on production of the documentary evidences by the Contractor.
- 14.6.3 The Contract Price shall be adjusted towards variations in taxes in respect of only finished equipment supplied by the Contractor to the Employer. No adjustment in the Contract price shall be made for variations in the taxes on raw-materials, parts, component / intermediate components, assemblies / sub-assemblies, etc.
- 14.6.4 For the purpose of adjustment in the Contract Price towards variation in taxes, the Contract Price shall be the price including price adjustment due to variation in price indices, as payable in accordance with Appendix-4.

14.7 Goods & Service Tax

- 14.7.1 Invoices for all Taxable Supplies shall be made to “ (Name of the Facility) ” for availing Input Tax credit of Goods and Service Tax under relevant Rules and shall be furnished by the Contractor to the Employer for availing Input Tax credit of Goods and Service Tax. Where input tax credit is available to the Employer, the amount of CGST, SGST or IGST shall be reimbursed in full without any limit. However, where input tax credit is not available to the employer, the total amount of GST reimbursed to the contractor shall not exceed the total of CGST, SGST and IGST quoted in the price tables, subject to 14.6.1.1.

The Invoice shall separately indicate the Goods and Service Tax claimed by the Contractor along with their relevant Goods and Service Tax Identification Number obtained by the Contractor.

- 14.7.2 The Contractor shall submit all other Documents required by the Employer to avail the Input Tax credit of Goods and Service Tax. In case, the Contractor fails



to submit the required document for availing the Input Tax credit of Goods and Service Tax by the Employer in respect of inward supplies, the same may be recovered by the Employer from the Contractor unless the Contractor furnishes proper justification.

- 14.7.3 Contractor shall issue tax invoice indicated all the specified fields in the Tax invoice rules including HSN/SAC codes, GSTIN Number, etc. as per GST Act/Rules. The Contractor shall be under obligation for charging correct rate of tax as prescribed under the respective GST tax laws. Further the Contractor shall avail and pass on benefits of all exemptions / concessions available under GST laws
- 14.7.4 The contractor shall submit to Employer the GST compliant tax invoice/debit note on the basis of which Employer will claim the Input Tax Credit in its return. Address of the recipient under GST laws will be the address of "Engineer" as mentioned in the Special Conditions of the Contract
- 14.7.5 It is the responsibility of the contractor to determine the place of supply in terms of the place of supply rules.
- 14.7.6 In the event of non-reporting of invoices for supplies effected to Employer within the prescribed time limit or non-acceptance of purchase data submitted by Employer relying on the invoice received from contractor, Employer has the right to withhold the GST.
- 14.7.7 Contractor shall attend to all issues on reconciliation of invoices, mismatch reports etc. to the satisfaction of Employer.
- 14.7.8 The Contractors shall maintain GST compliance at any given point of time. The Contractor shall submit to the Employer GST compliant tax invoices / debit notes / revised tax invoices on the basis of which Employer will be able to claim Input Tax Credit as per GST laws.
- 14.7.9 If the contractor fails to upload the invoice details in the GSTR return or fails to pay applicable taxes under GST, additional cost of interest or penalty levied to Employer by revenue authorities due to any default by contractor shall be recovered from the contractor.
- 14.7.10 In case Employer has to incur any liability (like interest etc.) due to denial / reversal of input tax credit in respect of the invoice submitted by the contractor, for the reasons attributable to the contractor, the same shall be recovered from the contractor.



14.7.11 The contractor shall declare whether the services are being supplied fully or partly out of a Fixed Establishment as specified in the CGST Act. In case some or all the services are being supplied from a Fixed Establishment in India, the foreign contractor shall obtain registration under GST and shall raise GST invoices in INR corresponding to supplies being invoiced in foreign currency.

14.8 Income Tax

Any Indian Income Tax which Employer may be required to deduct by law or statute, shall be deducted at the source under Indian Income Tax Act on account of the Contractor. Employer shall provide the Contractor a certificate for such deduction of Tax. The Contractor shall indicate their Permanent Account Number with the relevant Income Tax Authority to Employer.

D. CONFIDENTIAL INFORMATION

15. Copyright

15.1 The copyrights in all drawings, documents and other materials containing data and information including drawings/ordering specifications / catalogues for fast wearing parts furnished by the Contractor to the Employer shall remain vested in the Contractor; however the Employer shall have the right to use all such drawings, documents and other material, data and information for execution of the Contract and operation and maintenance of the Facilities being subject of the Contract.

16. Confidential Information

16.1 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 document, 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 Sub-Contractor(s) such documents, data & other information it receives from the Employer to the extent required for Sub-Contractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Sub-Contractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this clause.

16.2 The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other



information received from the Employer for any purpose other than the design, procurement of Plant and Equipment, construction or such other work and services as are required for the performance of the Contract.

- 16.3 The obligation of a party under Sub-Clauses 16.1 and 16.2 hereof, 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.
- 16.4 The above provisions of this clause (Clause 16 hereof) 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.
- 16.5 The provisions of this clause (Clause 16 hereof) shall survive termination, for whatever reason, of the Contract.

E. WORK EXECUTION

17. Representatives

17.1 Engineer

17.1.1 The Employer shall appoint an Engineer who shall act as Employer's Representative at the time of signing of Contract. Engineer can be an direct employee or an external Consultant to whom the duties are delegated by the Employer as specified in Article 6 of the Contract Agreement. If the Engineer is not named in the Contract, then within fourteen (14) days of the Effective Date, the Employer shall notify the Contractor in writing the name of the Engineer. The Employer may from time to time appoint some other person as the Engineer in place of the person previously so appointed. The Engineer 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 Engineer, except as herein otherwise provided.

17.2 Contractor's Representative

17.2.1 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 with the consent of Employer.



- 17.2.2 The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent.
- 17.2.3 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 Engineer 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 Engineer 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.
- All notices, instructions, information, and other communications given by the Contractor to the Employer under the Contract shall be given to the Engineer, except as herein otherwise provided.
- 17.2.4 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 Sub-Clause 22.4 hereof. The Contractor on receipt of such notice, shall remove such person from the Facilities. If any representative or person employed by the Contractor is removed in accordance with Sub-Clause 17.2.4 hereof, the Contractor shall promptly appoint a replacement.

17.3 Co-operation with Other Contractors

- 17.3.1 The Contractor shall, upon written request from the Engineer, provide all relevant technical information to the other Contractors employed by the Employer on or near the Site for any associated Plant & Equipment to enable the Employer to obtain the efficient & economical design of the associated Plant & Equipment.
- If required by the Contractor, the other contractors of the Employer will enter into a confidentiality agreement to ensure the technical information is not unlawfully disclosed.
- 17.3.2 The Contractor shall, upon written request from the Engineer, give all reasonable opportunities for carrying out the work to any other Contractors employed by the Employer on or near the Site and shall co-ordinate with the other Contractors for any interface activity under its Scope of Facilities.
- 17.3.3 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 Engineer shall determine the resolution of any difference or conflict that may arise between the Contractor & other Contractors in regard to their work *in* consultation with Contractors.



18. Work Program

18.1 Program of Performance

- 18.1.1 Within the time frame as per Technical Specifications, Contractor shall prepare and submit to the Engineer the Master PERT Network for the performance of the Contract, showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commission the Facilities with details of start and finish date of each activity, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract as per Clause 10 hereof, so as to enable the Contractor to execute the Contract in accordance with the programme and to achieve Acceptance of the Facilities in accordance with the Contract.
- 18.1.2 The Master PERT Network so submitted by the Contractor shall be in accordance with the Time Schedule included in Appendix-2 (Time Schedule) to the Contract Agreement and any other dates and periods specified in the Contract.
- 18.1.3 The Engineer shall approve the Master PERT Network after scrutiny and discussions with the Contractor within two (2) weeks of submission of Master PERT Network. The Contractor shall submit finalized Master PERT Network (herein after referred as "Works Programme") in number of copies (both in hard copy and electronic format) as required by the Employer.
- 18.1.4 The Contractor shall ensure that the Works Programme shall include Sub-Programs, the sequence and duration of activities and any restraints thereto, that the Contractor shall adopt to achieve key dates as per Time Schedule and to fulfil all Contract obligations. This Works Programme shall become the basis of administration of the time related aspects of the Contract.
- 18.1.5 The Contractor shall provide the Engineer with substantiation for each constraint whether target start, target finish or mandatory constraint entered by the Contractor into the Works Programme. The number of constraints shall be kept to an absolute minimum.
- 18.1.6 The Works Programme shall include activities for all the phases and stages of the Works, clearly showing all logical interdependencies and stages in the development of the Contractor's design, procurement, installation, commissioning and setting to work.
- 18.1.7 The Contractor shall prepare the Works Programme which shall include a detailed work breakdown structure covering the following:
- a. Preparation, submission and review of Design Documents showing all items where review by the Engineer if required;



- b. All activities associated with civil engineering works;
- c. Procurement of all major materials and items of Contractor's Equipment for the Works, including the dates orders are to be placed, manufacture period and the expected delivery date to the Site for each item;
- d. All manufacture or prefabrication of materials or components;
- e. All activities associated with erection and installation works;
- f. All activities associated with the securing of necessary permits and other statutory approvals for the Works;
- g. All interfaces related to the Project that may affect the progress of the Works;
- h. Testing and commissioning activities which demonstrate an understanding of the interfaces and requirements of Clause 23, 25 and GTS; and
- i. Training.

18.1.8 The Contractor's Works Programme shall comply with the following guidelines:

- a. all programmes submitted in both hard copy and electronic data format.
Note: Electronic data format shall be a workable programme i.e, if the programme is developed using Primavera, the electronic format of the works programme shall be in .XER format;
- b. all programmes, shall be prepared using the latest version of CPM scheduling software Primavera Project Planner or similar;
- c. a standard Gregorian calendar shall be used for planning and execution of the Works. All programme submissions shall include details of the Contractor's allowance for Public Holidays and non-work periods. If a Key Date or Milestone falls on a Public Holiday or non-workday, it shall be effective the next working day;
- d. the planning unit for the duration of all programme activities shall be the day. Any activity having a duration of more than 10% (ten percent) of the overall duration from completion of the facility shall be divided into sub-activities that shall not exceed 10% (ten percent) of the overall duration from completion of the facility;
- e. logical interdependencies (predecessors and successors) of all programme activities to be established.

18.1.9 All programmes constituting the Works Programme shall be organized in a logical work breakdown structure including work stages or phases. Each activity shall be coded appropriately for ease of understanding and administration of the activities.



18.1.10 The Contractor shall update progress and revise the finalized Works Programme every month and submit the updated works programme (hard and electronic format) to the Engineer, but without modification in the Times for Completion given in the Clause 1.1 of Appendix-2 and any extension granted in accordance with Clause 42 hereof, and shall submit all such revisions to the Engineer.

18.1.11 The Contractor shall intimate the Employer / Engineer, in writing well in advance, about the requirement of shut down of any of the existing Units / facilities for inter-connection / incorporation of additional units / facilities. Such notice in any case shall not be less than 14 days. The shutdown period shall be mutually discussed and finalized. The work to be undertaken round the clock during the shutdown period shall be planned meticulously by the Contractor to reduce the shutdown period to the minimum.

18.2 Maintenance of Records

18.2.1 The Contractor shall monitor progress of all the activities specified Program of Performance hereof and maintain daily, weekly and monthly progress reports. The Contractor shall submit to the Engineer a monthly progress report along with Computerized Network Analysis Report every month. The progress report shall be in a form acceptable to the Engineer and shall indicate:

- (a) percentage completion achieved compared with the planned percentage completion for each activity; and
- (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.
- (c) records of manpower and Contractor's equipment on the Site;
- (d) copies for that month of quality assurance documents, test results and certificates;
- (e) safety statistics, accident data collection including details of any hazardous incidents and activities relating to environmental aspects and public relations;
- (f) any outstanding issues with age analysis of each issue, details of the party responsible to resolve the issue
- (g) look ahead plan for the upcoming month/ two months
- (h) updated master drawing list and plan
- (i) **Progress photographs, in colour, of the various items/ components of the work done up to date, to indicate visually the actual progress of the work.**

18.2.2 Hindrance Register/ e-Hindrance Register shall be maintained regularly at the Site by the Contractor as per Annexure-J, indicating the reasons for Hindrances.



The same shall be communicated to the Employer on monthly basis, for obtaining their signature (in case of manual form)/ consent (in case of e-register) as per Annexure-J mentioned hereof. The Employer shall sign the Hindrance Register / provide consent within 7 days from the date of sharing of the Hindrance Register.

There will be one Hindrance Register for one Package/Contract. The periodicity of maintenance shall be monthly.

18.2.3 Progress Review Meeting

Employer shall arrange progress review meeting periodically (not exceeding 3 months) to monitor the progress of the work. It will be mandatory on the part of the Lead Member of the consortium to attend such meetings with their consortium members.

18.3 Progress of Performance

18.3.1 If at any time the Contractor's actual progress falls behind the Program of Performance hereof, or it becomes apparent that it will so fall behind other than as a result of a cause listed in Clause 42 [Extension of Time], the Engineer shall notify the same to the Contractor, and the Contractor shall, within 15 (fifteen) days of such notice, by a communication prepare and submit to the Engineer a revised program, taking into account the prevailing circumstances, and shall notify the Engineer of the revised methods being adopted to expedite progress so as to attain Completion of the Facilities within the Time for Completion under Sub-Clause 8.2 (Time for Completion) hereof, any extension thereof entitled under Sub-Clause 42.1 (Extension of Time for Completion) hereof, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.

18.3.2 Unless the Engineer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Employer to incur additional costs, the Contractor shall pay these costs to the Employer, in addition to Liquidated Damages due to Delay (if any) under Clause 29.2 below.

18.3.3 If at any time, the Contractor becomes aware of any constraint attributable to the Employer which may delay the activities in the critical path and thereby affect the actual progress, the Contractor shall intimate the Employer to resolve such issue or constraint through notice in writing well in advance but not less than 14 days. In the event of failure of such advance notice to the Employer, the



Employer shall be discharged from any liability towards claims in connection with the activity.

- 18.3.4 The Contractor shall, in the event of any industrial disputes, labour unrests etc. involving the Contractor's workforce on the Site (but not the Employer's employees), ensure that the project progress is not affected.

18.4 Work Procedures

- 18.4.1 The Contract shall be executed in accordance with the Contract Documents including Appendices to the Contract Agreement and Annexure hereof.
- 18.4.2 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 provisions contained in the Contract.

18.5 Manpower Requirement for Operation & Maintenance of Facilities

- 18.5.1 The Contractor shall submit to the Employer within a reasonable period but not later than six (6) months from the Effective Date of the Contract, the recommended manpower requirement category wise and unit wise for the regular operation of the Facilities at the Guaranteed Production Capacity as per Contract. The manpower requirement shall include the requirement for the maintenance of the Facilities. The Contractor shall also submit job specifications for each category of personnel particularly in the critical positions to enable the Employer to deploy / recruit such personnel.

18.6 Training

- 18.6.1 The Contractor shall identify the key positions and number of persons both in maintenance and operations department to be trained for efficient running of the plant.
- 18.6.2 The Contractor shall arrange for training of the personnel of the Employer, abroad / in India for the man-days indicated in price schedule.
- 18.6.3 The Contractor shall submit Schedule for Training of personnel of the Employer within a reasonable period but not later than six (6) months from the Effective Date of Contract. The schedule shall be mutually agreed upon between the Employer and the Contractor.
- 18.6.4 The Contractor shall supply five (5) copies of Training Manuals, Instructions and other connected literature to the Employer in English Language. In addition, each trainee shall be provided the necessary manuals, literatures etc.



19. Subcontracting

- 19.1 List of Approved Vendors forming a part of the Contract Agreement, specifies major items of supply or services and indicates name of approved Vendors against each item. Insofar as no Vendor is listed against any such item, the Contractor shall prepare a list of Vendors for such item for inclusion in approved list given in **GTS, if any** of the Contract Agreement.

Any change/ addition in the vendor list shall require prior approval of the Employer.

- 19.2 The contractor may engage sub-contractors with the prior approval of Employer as per stipulated procedures of the Employer for such major items from those listed in the lists referred to in Sub-Clause 19.1. Such approval, by the Employer for any of the Sub-Contractors / Vendors shall not relieve the Contractor from any of its obligations, duties or responsibilities under the Contract. Contractor may revise its plan for sub-contracting, as per its requirement with prior approval of Employer thereafter.

- 19.3 The Contractor shall not sub-contract Works comprising more than 70% (seventy per cent) of the Contract Price to a single contractor. The Parties expressly agree that for the purposes of computing the value of sub-contracts under this Clause 19.3, the Contract Price shall exclude any sub-contract for the procurement of plant and equipment.

- 19.4 The Contractor shall at all times remain solely responsible and liable for
- a. all acts, omissions, and other failures of any of its employees, personnel, or other persons that it subcontracts any of its obligations hereunder and any actions on the part of such person shall be attributable to the Contractor.
 - b. its subcontractors to comply with all Applicable Laws including industrial relations, safety and environmental issues. For the avoidance of doubt, it is clarified that any and all sub-contracting activities shall be in compliance with the Contract Labour (Regulation and Abolition) Act, 1970. It is expressly clarified that for the purposes of the Contract Labour (Regulation and Abolition) Act, 1970, the "principal Employer" shall be deemed to be the Contractor and not NMDC. In this regard, the Contractor agrees to indemnify and hold harmless NMDC against any claims, costs, expenses, damages and charges levied or incurred by NMDC in relation to any non-compliance by the Contractor or any of its subcontractors, of any provision of the Contract Labour (Regulation and Abolition) Act, 1970.

- 19.5 The Employer shall interact only with the Contractor for all matters related to the performance of this Agreement. The Employer, if the situation so warrants, under emergency conditions, and in the event the Employer, acting reasonably, believes that any act or omission is or potentially may result in (a) the commission of an illegal act; (b)



safety or environmental issues relating to the Project; may interact, instruct and direct the sub-contractors and the Contractor shall ensure that the sub-contractors are required to follow all such directions of the Employer. The Employer shall at all times keep the Contractor informed of any such direct interactions with the sub-contractors. It is clarified that such direct interactions will not absolve the Contractor from its responsibilities and obligations specified in the Agreement. Further any direction, instruction given to the sub-contractor shall be complied by the Contractor as if directly given to the Contractor.

- 19.6 If any Sub-Contractor engaged upon the works at the site executes any works which in the opinion of the Employer is not in accordance with the contract documents, the Employer may by written notice to the Contractor request him to terminate such subcontract and the Contractor upon the receipt of such notice shall terminate such Subcontract and dismiss the Sub-Contractor(s) and the later shall forthwith leave the works, failing which the Employer shall have the right to remove such Sub-Contractor(s) from the site/ location.
- 19.7 On the request of the Contractor, the Employer may make direct payment in respect of equipment supply / work to the Sub-Contractor / Vendor on certification by the Contractor. Such payments do not relive the Contractor from its obligations under the Contract.

20. Design and Engineering

20.1 Specifications and Drawings

- 20.1.1 The Contractor shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good engineering practice.
- 20.1.2 The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Engineer / Consultant or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.

20.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the Engineer / Consultant & shall be treated in accordance with Clause 41 hereof.



20.3 **Approval / Review of Technical Documents by Engineer / Consultant**

20.3.1 The Contractor shall prepare (or cause its Subcontractors to prepare) and furnish to the Engineer the drawings / documents listed at Sub-Clause 2.2 of Appendix-2 to the Contract Agreement for approval or review as specified and in accordance with the requirements of Sub-Clause 18.1 (Program of Performance) hereof. (However, this shall be read in conjunction with Contract Technical Specification)

The Contractor shall also prepare and submit a Master Drawing List and schedule to the Engineer within 30 days from effective date of Contract highlighting all critical drawings that can impact the contractual time for completion in case of any delay. The Contractor shall also update the same from time to time and submit to the Engineer which shall contain the following details but not limited to:

- a. Discipline wise list of drawings.
- b. Status of Review/ Approval of each drawing. For the purpose of indicating the status of approval / review of a document, following status categories may be followed or any alternate categories may be mutually agreed by both the parties:

- **Category A:** APPROVED / REVIEWED, No Comments The Contractor can proceed with the work.
- **Category B:** REVIEWED, As commented. Revised Drawing required.

The Contractor shall proceed with execution of works taking care of and incorporating Client / PMNC comments in respective and including all other related documents. "Contractor" shall submit the Drawing again duly revised incorporating Engineer's remarks.

- **Category C:** Not Meeting Specifications, Resubmit.

Major non-conformance and deviations to contract specifications and the document is rejected. Contractor is to resubmit for Review after incorporating comments.

- **Category D:** Document retained for Information.



The documents / drawings submitted by the Contractor shall be accorded the status category as above by the Employer depending upon the nature of comments on review.

- c. Scheduled date of submission
- d. Actual date of submission
- e. Revision status (say R0, R1, R2 etc.)

- 20.3.2 Any part of the Facilities covered by or related to the drawings / documents shall be reviewed and approved by the Engineer. To enable the Engineer to accord approval and to review documents the Contractor shall submit back-up data / drawings / basic calculations / assumptions as may be required by the Engineer, and the same shall be as specified in Contract Technical Specifications.
- 20.3.3 Within 14 (fourteen) days from the first date of receipt of drawings/ documents, the Engineer shall approve or shall notify the Contractor in writing of its remarks and the modifications that the Engineer proposes along with the reasons thereof.
- 20.3.4 The Contractor shall address the remarks within 7 (seven) days from the date of receipt of such remarks and resubmit the revised drawings/ documents for approval. Except for the initial submission and review of the drawings/ documents submitted by the Contractor, the time limits for:
- a. Revision and resubmission of the drawings/ documents addressing the remarks of the Engineer is 7 (seven) days.
 - b. Review, approval or remarks (if any) on the revised drawings/ documents by the Engineer is 7 (seven) days.
- 20.3.5 The Engineer shall endeavor to provide maximum remarks to the extent possible in the first review in order to minimize the revisions in the drawings/ documents submitted by the Contractor
- 20.3.6 The Engineer's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract.
- 20.3.7 The Contractor shall not depart from any approved drawing / document unless the Contractor has first submitted to the Engineer an amended drawing / document and obtained the Engineer's approval thereof, pursuant to the provisions of this Sub-Clause 20.3 hereof.



20.4 **As-Built Drawings**

20.4.1 The Contractor shall prepare, and keep up to date, a complete set of As-Built drawing and records of the execution of the Works, showing the exact As-Built locations, sizes and details on the Works as executed with cross references to all relevant specifications and data sheets. These drawing and records shall be kept at Site and shall be used exclusively for the purpose of this Sub-Clause 20.4. The Contractor shall provide 10 (ten) hard copies and 2 (two) electronic copies (OCR format) of As-Built drawings and records to the Authority before release of payment for PG Test certificate as per Clause 27 of GCC.

20.5 **Operation and Maintenance Manuals**

20.5.1 The Contractor shall prepare, and keep up-to-date, a complete set of operation and maintenance manuals for the Works (the “O&M Manuals” in these Conditions).

20.5.2 The format and other relevant details of the O&M Manuals shall be as stated in the Technical Specifications and, in any case, these manuals shall:

- a. be in sufficient detail for the Employer to:
 - i. operate, maintain and adjust the Works to ensure that the performance of the Works, Section and/or Facility (as the case may be) continues to comply with the performance criteria/parameters specified in the Technical Specifications; and
 - ii. operate, maintain, dismantle, reassemble, adjust and repair the Facility; and
- b. include an inventory of spare parts required for the Employer's future operation and maintenance of the Facility.

20.5.3 The Contractor shall submit 10 (ten) hard copies and 2 (two) electronic copies (OCR format) of provisional O&M Manuals before commencement of Commissioning activities. If during the Tests on Completion any error or defect is found in the provisional O&M Manuals, the Contractor shall promptly rectify the error or defect at the Contractor's risk and cost.

20.5.4 The Contractor shall submit 10 (ten) hard copies and 2 (two) electronic copies (OCR format) of final O&M Manuals before issuance of final Acceptance Certificate.



21. Procurement

21.1 Plant & Equipment, Structures, Refractories, etc.

21.1.1 The Contractor shall not carry out fabrication work at Employer's site without necessary prior approval from the Employer.

21.2 Import Licence & Export Licence

21.2.1 Import Licence

In case of requirement of any import license, the same shall be arranged by the Employer and the Contractor shall provide necessary assistance.

21.2.2 Export License

The Contractor, if required for execution of Contract, shall obtain and maintain the necessary Export License from the competent authorities and shall pay at his cost any fee connected therewith. Failure to obtain and maintain Export Licenses shall not be considered as Force Majeure.

21.3 Packing

21.3.1 The Contractor shall include and provide for securely protecting and packing the materials so as to avoid loss or damage during handling & transport by air, sea, rail and road.

21.3.2 All packing cases, packing and other similar materials shall be new and supplied free by the Contractor and same will not be returned.

21.3.3 Notwithstanding anything stated in this clause, the Contractor shall be entirely responsible for loss, damage or depreciation or deterioration to the materials & supplies due to faulty and / or insecure packing.

21.4 Transportation

The Contractor shall be entitled to select any safe mode of transport operated by any person to carry the Plant & Equipment, Structures, Refractories, Spares, Tools & Tackles, First fill of Lubricants, etc.

21.4.1 Transportation by Ship/ Air

21.4.1.1 The Indian Contractor shall be free to transport the material through any reputed shipping agency.

21.4.1.2 The Bills of Lading should be drawn so as to show:

SHIPPER'S Any shipping agency of international repute

CONSIGNEE _____



PORT OF DISCHARGE - [**Contractor to indicate**]

21.4.1.3 The Contractor shall forward the non-negotiable copies of the shipping documents to the Employer indicating the freight and insurance value of the consignment immediately after shipment of each consignment.

21.4.2 **Transportation by Wagons**

21.4.2.1 In case of dispatch of consignment in Railway wagons, the Contractor shall ensure that the following is observed by the Contractor and their Sub-contractors:

- i) Identify, place necessary indents on the Railways and obtain at the appropriate time the correct type of wagons required, keeping in view the consignments to be despatched.
- ii) In case of over dimensioned (O.D.) consignments, the Contractor shall obtain the sanction for movement of the O.D. Consignment from the Railways.
- iii) Non-availability of special wagon or handling the consignments shall not be an excuse for payment of demurrage and if so shall be to the Contractor's account.
- iv) Care being taken to avoid all possible chances of damages during transit and to ensure that all packages are firmly secured.
- v) The destination shall be indicated in SCC.

21.4.2.2 The RR / Challans duly endorsed by the Engineer or Authorised representative of the Employer, will be handed over to the Contractor for taking delivery of consignments from Railway unloading the same from wagons and subsequent handling, transportation, and storage at site after submission of custody-cum-indemnity bond in the form provided in the Bidding Document or in another form acceptable to the Employer. The demurrage charges, if any, will be payable by the Contractor.

21.4.2.3 The consignee for rail dispatches shall be clearly marked as *Designated Facilities* (ref. 1.1 of **SCC**), NMDCL Limited

21.4.3 **Transportation by Road**

21.4.3.1 In case of the consignments dispatched by road, the Contractor shall ensure that the following is observed by the Contractor and the Sub-contractors:

- i Identify and obtain the correct type of trucks / trailers, keeping in view the nature of consignments to be despatched.



- ii Care being taken to avoid all possible chances of damages during transit to ensure that all packages are firmly secured.
- iii All consignments despatched by road shall be on “Door Delivery” and freight paid basis.

21.4.3.2 The RR / Challans duly endorsed by the Engineer or Authorised representative of the Employer, will be handed over to the Contractor for taking delivery of consignments from Trucks, unloading the same from Trucks and subsequent handling, transportation & storage at site after submission of Custody-cum-Indemnity Bond in the form provided in the Bidding Document or in another form acceptable to the Employer. The demurrage charges, if any, will be payable by the Contractor.

21.4.3.3 The consignee for road dispatches shall be clearly marked as Designated Plant (ref. 1.1 of **SCC**), NMDCL Limited

21.4.4 Shipping Documents for imported Plant & Equipment, Structures, Refractories, etc.

21.4.4.1 The Overseas associates of the Contractor shall send the following shipping documents through Banks to the Employer:

- a) Three (3) original and 3 (three) copies of clean Bill of Lading or one (1) clean Airway Bill / House Airway Bill & 3 (three) copies, in case of air freight.
- b) One (1) original & three (3) copies of Contractor's signed Invoices.
- c) Four (4) copies of Packing List.
- d) Four (4) copies of Certificate of Country of Origin.
- e) Four (4) copies of Inspection Certificate/ **Despatch Clearance Certificate** issued by the Engineer / Employer's Authorised Representative
- f) Four (4) copies of certificate from the Contractor to the effect that drawings and catalogues for Customs clearance purpose have been kept with the packages for shipment.
- g) Four (4) copies of Manufacturer's Guarantee / Warranty / Quality Test Certificate.
- h) Proof of Insurance.
- i) Four (4) copies of Certificate from the Overseas Contractor to the effect that the contents in each case are not less than that entered



in the Invoices and Packing Lists and the Quality are guaranteed as new and as per the relevant Technical Specifications.

21.4.4.2 The Overseas associates of the Contractor shall send the documents as listed above, in one set, to the Employer at the address given in the **SCC** and Letter of Credit.

21.4.4.3 The Contractor shall send the following documents with the cargo:

- Quality Certificate (one copy)
- Packing List six (6) copies comprises two (2) copies in case No. 1 of each consignment and four (4) copies in each case (three inside the Box and one copy in a special packet at the outer side of the Box).

21.4.5 Dispatch Documents for Transportation of Plant & Equipment, Structures, Refractories, etc. by Wagon & Road

21.4.5.1 The Contractor shall arrange to dispatch the following documents to the Employer at the address given in the SCC.

- a) Four (4) photocopies of the clean rail / lorry receipt.
- b) Four (4) copies of Contractor's signed invoice.
- c) Four (4) copies of Challan and Packing List.
- d) Four (4) copies of Inspection Certificate/ Despatch Clearance Certificate issued by the Engineer / Employer's Authorised Representative
- e) Four (4) copies of manufacturer's test certificate.

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

21.6 Customs Clearance

21.6.1 The original shipping documents shall be handed over to the Contractor by the Employer for Port clearance and Customs clearance and taking delivery of consignments from Port, subsequent handling, transportation and storage at site, against submission of the Custody-cum-Indemnity Bond for full value of



supplies in the form provided in the Bidding Document or in another form acceptable to the Employer.

21.6.2 The cheque/ Demand Draft (DD) will be handed over to Contractor by the Employer for payment of custom duty, IGST, etc.

21.6.3 For the demurrage / Port charges, if any, on account of the delay in Custom/ Port clearance, the party responsible for such delay shall bear the charges.

21.7 Processing/ Assembly

21.7.1 Some imported equipment/components under this Contract included in the scope of Foreign Contractor (for which prices are quoted in Foreign Currency) as listed in Annexure hereto may be required by other Indian Consortium Member for further processing/ assembly. The Indian Contractor (Consortium member) shall clear such equipment/ components from Indian port and shall arrange to dispatch them to Plant premises. Further, transportation from Plant under job work to other Consortium Member shall be allowed after giving a Indemnity Bond / Bank Guarantee (as per clause 21.7.3) for the landed cost of such imported equipment/ components to indemnify the Employer. These equipment/ components shall be considered as free supply by Employer. The Consortium member receiving the equipment/ components for further processing/ assembly, shall raise GST Invoice as per the Contract for their part of supply / service and Employer shall avail necessary Input Tax credit on the same.

21.7.2 Some equipment/components under this Contract included in the scope of Indian Contractor (for which prices are quoted in Indian Rupees) as listed in Annexure hereto may be required by other Indian Consortium Member for further processing/assembly. These equipment/components shall be directly dispatched by the concerned Contractor to the other Consortium Member

21.7.3 Any item/ part of the existing equipment required to be taken out of plant premises for job work shall be issued to the Contractor on submission of Bank Guarantee for equal value of the item/ part. The value of the item of the part shall be indicated by Employer. The Bank Guarantee shall be issued and payable at Place, where site is located and shall be kept initially valid for a suitable period to be mutually agreed. However, in case value of such items is less than 20% of the respective Performance Bank Guarantee, no additional Bank Guarantee is required to be submitted and the materials can be taken out against Indemnity Bond.



21.7.4 After job work as referred at 21.7.1, the items/ parts shall be returned immediately but not later than the period allowed under GST Act (at present 3 years from the date of removal in case of Capital Goods). The scrap if any, generated during job work shall be the property of the Contractor.

22. Civil Engineering Works, Erection and Installation

22.1 Setting out

22.1.1 **Benchmark:** The Contractor shall be responsible for the true and proper setting-out of the Facilities periodically in relation to benchmarks, reference marks, check lines and levels provided to it in writing by or on behalf of the Employer.

22.2 Civil Engineering Work

22.2.1 The Contractor shall carryout Civil Engineering Work as per the Technical Specification in accordance with conditions given below:

22.2.1.1 The Contractor shall make its own arrangement for all labour, construction, tools & tackles & construction materials. All temporary approach roads to the site for carrying out construction work shall be constructed and maintained by the Contractor at its own cost.

22.2.1.2 The Contractor shall make arrangement at its own cost for drawing and distributing water and power from a single point. The Contractor should have adequate water storage capacity to meet its requirements.

22.2.1.3 The Contractor shall take all necessary precautions to avoid damage to any property of the Employer or any third party. The Contractor shall also ensure that the progress of work of other Contractors in the adjoining areas is not hindered.

22.2.1.4 The Contractor shall take all precautions during execution, especially while excavating to avoid interference with or damage to underground works, such as cables, pipe lines, drains, etc. and provide all possible protection to these works and in case they are damaged, rebuild / divert them at its own cost (This shall be read in conjunction with Clause 22.7.8)

22.2.1.5 The Contractor shall carry out, at its own cost, necessary precision survey to set out and check the setting of all works including foundation & anchor bolts, etc., to the required tolerances using the grid reference points available in the plant site.

22.2.1.6 Materials brought to the site shall not be removed from the site without the written consent of the Employer. The Contractor shall submit well in advance for approval of all samples, specimens as the Employer



may demand from time to time. Any material brought to site and rejected by the Employer shall be removed by the Contractor from the site of work immediately.

- 22.2.1.7 The Employer may during the progress of work, order the removal of part or whole of the work executed, found not in accordance with the approved drawings / specifications / written instructions. No extra claims shall be entertained for removal & re-execution of such work.
- 22.2.1.8 No work shall be covered up or put out of view without the clearance of the Employer. In the event of failing to do so, the Contractor shall uncover any part of the work or make openings in or through the works as the Employer may direct and they shall be made good with materials approved by the Employer and should match with workmanship of the surrounding work.
- 22.2.1.9 The Contractor shall provide sufficient strong and stable stagings so as to ensure safety of the labour & structures.
- 22.2.1.10 The Contractor shall dismantle and remove the stagings and other temporary facilities like stores, offices, labour camp, etc., on completion of work, clear and clean the site where such temporary facilities were built and restore the same to original condition.
- 22.2.1.11 After completion of work, the Contractor shall carry out micro leveling of the site within battery limit ensuring proper grades and slopes to achieve efficient drainage of the site. The Contractor shall remove all debris, surplus earth, etc., and dump the same at place(s) as directed by the Employer within a distance of 10 km from the site.
- 22.2.1.12
- a) The cost of testing of concrete and any other material, shall be borne by the Contractor.
 - b) The Contractor shall install its own testing facilities at site for testing of construction materials like cement, aggregates, concrete cubes, soil etc. and this shall be read in conjunction with the contract technical specification.
 - c) Testing shall be carried out by the Contractor in the presence of Employer's representative. However, the Contractor shall arrange for such testing, in case of exigencies on the Employer's instructions, at any other testing laboratory as approved by the Employer without any extra cost to the



Employer. All test results shall be submitted by the Contractor to the Employer for his approval.

- d) Any special measures or techniques which may be necessary for construction of structures, e.g., dewatering, sheet piling, diaphragm walls, well sinking, well point system, continuous pouring of concrete, etc., shall be deemed to have been taken into account by the Contractor and no extra claim, whatsoever, shall be entertained and this shall be read in conjunction with the contract technical specification.

22.2.1.13 In respect of any portion of works which is to be embedded or covered up by other works, the Contractor shall submit them to Employer for technical inspection and have the necessary clearance certificates duly signed by the Employer and Contractor before letting such portion to be embedded or covered.

22.2.1.14 Wherever works are to be carried out in proximity or within existing facilities, Contractor may have to adopt special methodology of construction suited to prevailing conditions. The Contractor shall make necessary schemes in advance and finalize the same with the approval of the Engineer / Consultant.

22.2.2 Construction Water

22.2.2.1 Unless specified otherwise in the special conditions of contract, the Contractor shall make his own arrangements for construction water as well as for supply of drinking water for his labour.

22.2.2.2 Without prejudice to Clause 22.2.2.1, the Employer, at its discretion, may supply Construction Water at a single point within a distance of 300 m from the battery limit. All costs of extraction and distribution of water from such source will be borne by the Contractor.

22.2.2.3 In case Construction Water source is provided by the Employer, the Employer will not be responsible for sufficient yield of water from such source and the Contractor shall be responsible for making at his own cost alternative arrangements for water, if necessary. The Engineer/ Employer reserves the right to limit the quantity of water to be allowed to be drawn by the Contractor.

22.2.2.4 The Contractor shall be responsible to store water in sufficient quantities to meet its requirements and ensure that there is no wastage of water.



22.2.2.5 Construction Water supply by the Employer is on chargeable basis and cost of water shall be recovered @ 1% of the gross value of civil works done by the Contractor.

22.2.2.6 Laying, and rerouting of any distribution lines shall not be allowed without prior approval of the Employer.

22.2.3 Construction Power

22.2.3.1 The Contractor shall be responsible to provide within the scope of work, Construction Power necessary for execution of work at site, Contractor's field office(s), camps, godowns, workshops and residential accommodation for contractor's staff and labour, quarry rights, borrow areas and access roads to or about the job site(s) and temporary works and facilities whatsoever.

22.2.3.2 Any assistance which the Employer renders to the Contractor in supply of Construction Power shall be without any attendant obligation or liability on the Employer for any failure, omission and delay.

22.2.3.3 Without prejudice to the provisions of clause 22.2.3.1 hereof and following clauses thereunder, as and when adequate power supply becomes available for the Site, the Employer may, at its discretion provide for supply of power to the Contractor in bulk at one point within 300 meters of battery limit, for construction & erection. The Contractor shall make its own arrangements to lay and maintain necessary distribution lines and wiring at its own cost. Construction Power supplied by the Employer shall be metered and charged at prevailing rate from time to time. No claim shall be entertained for any change in the tariff rates.

22.2.3.4 The Contractor shall ensure that the electrical equipment employed by the Contractor will be such that the aggregate power factor does not fall below 0.9 at the Employer's terminal point.

22.2.3.5 The electrical installations for construction power shall conform to Indian Electricity Rules.

22.2.3.6 The Contractor will employ Electricians having valid Electrical License for carrying out the installations as well as for maintenance.

22.2.3.7 The Contractor shall be responsible for all damages, losses, etc., if it is due to the Contractors negligence, improper installation, operation and/ or maintenance of Contractors part of installations.

22.2.3.8 At all times, IEA Regulations shall be followed failing which the Employer has a right to disconnect the power supply without any reference to the Contractor. No claim shall be entertained for such



disconnection by the Engineer/ Employer. Power supply will be reconnected only after production of fresh certificate from authorized electrical supervisors.

22.2.3.9 The Employer will not be liable for any loss or damage to the Contractor's equipment as a result of variation in voltage or frequency or interruption of power supply or other loss to the Contractor arising there from.

22.2.3.10 In case of damage to any of the Employer's equipment on account of fault, intentional or unintentional on the part of the Contractor, the Employer reserves the right to recover the cost of such damage from the contractor's bill.

22.2.3.11 Laying and rerouting of any distribution lines and wiring shall not be allowed without prior approval of the Employer.

22.2.4 Structural Load Test

The Contractor shall carry out structural load test on any part of the building / structure at its own cost if such structural load test is warranted due to unsatisfactory test results of concrete cubes and if so directed by the Employer.

However, the tests, if required will be as specified in Contract Technical Specification.

22.2.5 Royalties for the Construction Materials

22.2.5.1 Royalties for the construction materials, e.g., sand, stone aggregates, boulders, Moorum etc. as prescribed from time to time by the State Government shall be recovered from the bills of the Contractor and paid to the State Government by the Employer if there is a demand from statutory authorities in this regard. The Contractor shall submit necessary documentary evidence that the Contractor has paid the royalties directly to the statutory authorities at source.

22.2.6 Explosives

22.2.6.1 In case explosives are required for blasting of hard rock, the same shall be arranged by the Contractor at its own cost. Fulfillment of statutory obligations shall be the responsibility of the Contractor.

22.3 **Contractor's Supervision:** The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Contractor's Representative(s) shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who



are skilled and experienced in their respective discipline and supervisory staff who are competent to adequately supervise the work at hand.

22.4 Labour

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

22.4.2 The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees & labour and labour of its Sub-Contractors / Vendors.

22.4.3 Labour Rules

22.4.3.1 In respect of all labour directly or indirectly employed on the works by the Contractor, the Contractor shall comply with and implement all the Provisions of the Contract Labour (Regulation and Abolition) Act 1970, or any amendment thereof, and all legislations and Rules of the State and / or Central Government or other local authority formed from time to time governing the protection of health, sanitary arrangements, wages, welfare and safety of labour employed on the works and the Contractor shall be deemed to be the Principal Employer for this purpose. The rules and other statutory obligations with regard to fair wages, welfare and safety measures, maintenance of register, etc., will be deemed to be part of the Contract. The Contractor will get itself registered with the concerned statutory authorities as provided in the Act and shall be directly responsible of the authorities thereunder for compliance with the provisions thereof.

22.4.3.2 Reporting of Accidents

The Contractor shall be responsible for the safety of its own and its Sub-Contractors' workmen and employees. All accidents at site are to be immediately reported to the required authorities.

The Contractor shall be responsible for all such accidents attributable to their own employees, subcontractors and workmen.

22.4.3.3 Preservation of Peace

The Contractor shall take requisite precautions and use its best endeavor to prevent riotous or unlawful behaviors by, or amongst his workmen and / or others employed on the works, by the Contractor its Sub-Contractors and for the preservation of peace and protection of



the inhabitants and security of the property in the neighborhood of the works / site.

22.4.3.4 Use of Intoxicants

The use or sale of ardent spirits or other intoxicating beverages, upon the works or in any of the building, boarding houses, encampments or other tenements owned, occupied by or within the control of the Contractor or any of its employees or its Sub-Contractor is strictly forbidden, and the Contractor shall secure strict compliance.

22.4.3.5 Observance by Sub-Contractors

The Contractor shall also be responsible for the compliance of all the rules & regulations by his Sub-Contractor(s)

22.4.4 Contract Labour Rules

22.4.4.1 The Contractor will get himself registered with the concerned statutory authorities as provided in the Act and shall be directly responsible to the authorities for compliance with the provisions thereof and NMDC shall have no relation of Employer and Employee for contractual worker / labour.

22.4.4.2 The Contractor shall also maintain all records/register/return/cards such as:

- (a) Register of workmen employed by Contractor
- (b) Employment Card
- (c) Muster Roll
- (d) Register of wages-cum-muster roll
- (e) Submission of Return

22.4.5 Compliance with Statutory Laws and Other Regulations of Govt. / Local Authority

All statutory / labour rules of Govt./local authorities as applicable at Plant site shall be strictly followed by Contractor. Contractor shall indemnify Employer against any such implication.

The following Acts with latest amendment thereof shall be complied with by the Contractor:

- a) Employee Provident Fund & Misc. Provision Act, 1952.
- b) Contract Labour Act (Regulation and Abolition Act), 1970
- c) Minimum Wages Act, 1948
- d) Payment of Wages Act, 1936
- e) Workmen Compensation Act, 1923.
- f) Building and Other Construction Workers (BOWC) Act 1996



- g) Employers Liability Act, 1938
- h) Industrial Disputes Act 1947
- i) Maternity Benefit Act 1961
- j) Mines act 1952
- k) Payment of Bonus Act
- l) Gratuity Act
- m) Factories Act, 1948
- n) Apprenticeship Act, 1961
- o) Family Pension Act, 1952
- p) ESI Act
- q) Shops & Establishments Act
- r) Employee Pension scheme
- s) Cess Act, 1996
- t) Any other Relevant Statutory Act and all other applicable laws from time to time

22.4.6 Special Relief for NMDC Production Project applicable for Contract Laborer's **(SRNPP Provisions)** are indicated below;

(i) Tenderers are required to consider an additional amount of Rs. 170/- (Rupees One Hundred Seventy only) per man-day as SRNPP (Special Relief for NMDC Production `Project applicable for the contract Laborer's to be engaged locally at production projects (BIOM-Bacheli and Kirandul/DIOM-Donimalai/Panna) for execution of the contract.

(ii) NMDC's initiative towards improvement in the benefits to the Contract labour under the scheme named SRNPP has been implemented in the NMDC production projects of the company viz Kirandul Complex, Bacheli Complex, Donimalai and Panna Projects from 1/10/2010. Under this scheme an additional amount of Rs. 170/- per day over and above statutory minimum wages on actual attendance is payable as "Special Relief for NMDC Production Project (SRNPP)" to the Contract Laborer's working in production projects of the company. Any escalation in SRNPP rate shall be reimbursed by the Employer.

The payment of fair wages shall be ensured strictly by the contractors to the contract Laborer's without fail. The fair wages shall not be less than SRNPP plus the minimum wages prescribed by the Statutory Authority.

Accordingly, Terms and Conditions regarding payment of SRNPP have been incorporated. The Bidder must provide above said additional amount to be paid to all Contract Labour on actual attendance and record the same in attendance register along with maintaining the records of payment at the time of weekly payment. This shall be certified by the Engineer-in-charge concerned.

Bidder shall consider SRNPP in their quote as per above details.



22.5 Contractor's Equipment

22.5.1 The Contractor shall mobilize all construction equipment, tools, tackles & consumables to ensure timely completion of work and quality of workmanship. On request, the Employer may provide the Contractor any special handling / construction equipment needed in the interest of work subject to availability and on payment of hire charges and other conditions of Employer.

22.6 Site Regulations and Safety

22.6.1 The Contractor shall comply with the Site regulations, during the execution of the Contract at the Site, as given under the Chapter "Safety in Contract Works".

22.6.2 The employees /labour of the Contractor / Sub-Contractor and Plant & Equipment brought to Site shall be subject to gate pass to be issued by Security Department or the respective Department.

22.6.2.1 Preparation of gate pass normally takes around 10 days' time. The Contractor / Sub-Contractor shall plan their programme in advance accordingly.

22.6.2.2 Employer shall have the right to refuse the gate pass to any workers/representatives without assigning any reason. The contractor shall ensure that gate pass issued to their workers/ representatives/ Sub-contractors are not misused. All representatives/ workers of the Contractors/ Sub-Contractors shall possess admit pass.

22.7 Erection

22.7.1 The Contractor shall provide all temporary ladders, scaffolding materials, platforms, supports and other necessary facilities required for handling, erection, testing and visual inspection of supplies at the point of installation and shall also provide necessary packing plates, wedges, shims, levelling screws etc., required for erection of equipment and structures.

22.7.2 The Contractor shall return to the Employer all crates, packing cases and packing materials and all returnable supplies at a place and manner designated by the Employer.

22.7.3 The Contractor shall provide erection consumables like oxygen and acetylene gas, welding rods, solder lugs, oil, grease, kerosene, cotton waste, etc., required for erection of plant equipment and steel structures.

22.7.4 The Contractor shall construct and maintain its own site offices and stores as required for the work and arrange for maintaining in neat manner of the area placed at the Contractor's disposal. The temporary allotment of land for the



purpose of site office, stores and temporary works for execution of Contract, shall be on the following terms:

- 22.7.4.1 Land will be allotted free of charge for the purpose of site office and site stores. However, land for labour camp shall be arranged by the Contractor at his risk and cost.
- 22.7.4.2 The allotment shall remain valid till the period of Contract and shall automatically cease after expiry of the Defect Liability period of the Contract. The validity shall also automatically cease on termination of Contract due to any reason whatsoever.
- 22.7.4.3 On completion of the work and expiry of the Defect Liability period, the Contractor shall remove all structures built by the Contractor and restore the land to its original condition.
- 22.7.5 The Contractor shall provide sufficient fencing, notice boards and lights to protect and warn others as may be considered necessary by the Employer / Consultant.
- 22.7.6 All guarantees and test certificates obtained by the Contractor during the execution of work shall be transferred to the Employer before issue of Preliminary Acceptance Certificate.
- 22.7.7 The plant & equipment and structures will be erected by contractors as per the instructions of equipment suppliers and the contractor shall use to the maximum extent, pre-assembly and mechanization in order to fulfill the erection and construction targets.
- 22.7.8 The Contractor shall be responsible for protection and / or diversion of underground and all existing over ground services, wherever required and / or diversion of the underground services which are indicated in the drawing made available to the Contractor. In case there are underground services which need to be protected and / or diverted but are not shown in the drawing, the Contractor shall be responsible to execute the same at extra price, if any, to be mutually agreed between Contractor & Employer.

22.8 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 that it is necessary in order to prevent damage to the Facilities.



In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefor. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. Otherwise, the cost of such remedial work shall be borne by the Employer.

22.9 Site Clearance

22.9.1 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.

22.9.2 After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish, debris, and surplus material of any kind from the Site and shall leave the Site and Facilities clean and safe.

22.10 Lighting, Fencing and Watching

The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary within battery limit for the proper execution and the protection of the Facilities and for the safety of the public.

22.11 Work at Night and on Holidays

As and when the Engineer considers it necessary to carry out work on extended hours / three shift basis or on Public Holidays so as to meet the Time for Completion and request the Contractor to carry out work on extended hours / three shifts or on Public Holidays, the Contractor shall carry out the work accordingly to meet the Time of Completion.

23. Test and Inspection

23.1 After finalization of Billing schedule, the equipment/ items to be inspected at Shop or at Site shall be identified jointly by the Contractor and the Engineer. Inspection of all such items shall be carried out at manufacturer's sites as per approved Quality Assurance Plan (QAP). For rest of the equipment / items, dispatch clearance shall be issued by the "Engineer" after receipt of test guarantee certificates/internal inspection report from the Contractor or its sub-contractors / manufacturer.



- 23.1.1 The Contractor shall at its own expense carry out at the place of manufacture and / or on the Site all such tests and / or inspections of the Plant and Equipment and any part of the Facilities as are specified in the Contract or as per approved QAP.
- 23.2 The Engineer or his designated representative(s) shall be entitled to attend the aforesaid test and / or inspection, provided that the Employer shall bear costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.
- 23.3 Whenever the Contractor is ready to carry out any such test and / or inspection, the Contractor shall give a fourteen (14) days advance notice of such test and / or inspection and of the place and time thereof to the Engineer along with relevant test certificates. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Engineer or his designated representative(s) to attend the test and / or inspection.
- 23.4 The Contractor shall provide the Engineer with a certified report of the results of any such test and / or inspection.
- If the Engineer or his designated representative(s) fails to attend the test and / or inspection within 14 days, or if it is agreed between the parties that such persons shall not do so, then the Contractor may proceed with the test and / or inspection in the absence of such persons, and will provide the Engineer with a certified report of the results thereof, based on which the Employer will issue the dispatch clearance.
- 23.5 If any Plant and Equipment or any part of the Facilities fails to pass any test and / or inspection, the Contractor shall either rectify or replace such Plant and Equipment or part of the Facilities and shall repeat the test and / or inspection upon giving a notice under Sub-Clause 23.3 hereof.
- 23.6 The Contractor shall afford the Engineer, at the Employer's expense, access at any reasonable time to any place where the Plant and Equipment are being manufactured or the Facilities are being installed to inspect the progress and the manner of manufacture or installation, provided that the Engineer shall give the Contractor a reasonable prior notice.
- 23.7 No equipment/material shall be dispatched without inspection as per approved quality assurance plan (QAP) unless waived/ dispatch clearance issued by the Employer. Inspection may be carried out by Employer's authorized representative/third party agency (to be appointed by Employer).



Inspection certificates/dispatch clearance so issued shall form the part of valid documents for claiming progress payments by the Contractor.

- 23.8 The execution of a test and / or inspection of Plant and Equipment or any part of the Facilities, or the attendance by the Employer or the Engineer, or the issue of any test certificate or waiver certificate pursuant to Sub-Clause 23.4 hereof, shall not relieve the Contractor from any of its responsibilities under the Contract.

24. Preliminary Acceptance

- 24.1 The Contractor shall submit a Commissioning Manual 3 months prior to completion of erection of facilities. Commissioning Manual shall include but not limited to:

- a. Process for carrying out trial runs of individual equipment/ units
- b. Calibration mechanism
- c. Checklist for commencing Commissioning Activities
- d. Schedule of Commissioning Activities
- e. Troubleshooting Process

- 24.2 On completion of erection of the Facilities by the Contractor, trial runs for individual equipment / units shall be conducted by the Contractor to prove that the Facilities have been supplied and erected as per Contract and after erection, Facilities are fit for startup and commissioning.

Trial runs shall be so designed to conduct the systematic check of the components and of the functional operation thereof. Trial runs shall comprise idle, no-load and part-load trial runs, as applicable.

Trial runs shall be conducted by the Contractor under its sole responsibility and employing its own personnel. The Employer's supervisory personnel and skilled operating personnel shall, however, witness the trial runs.

On successful completion of trial runs and liquidation of the defects and / or deficiencies, indicated / listed by the Employer to the Contractor during trial runs (except minor defects and / or deficiencies which in the opinion of the Employer will not affect the operation, safety & commissioning of the Facilities), the Contractor shall so notify the Employer in writing for conducting integrated trial runs.

- 24.2 On receipt of the notice from the Contractor for conducting integrated trial runs, the Employer, if required, shall deploy the necessary operating personnel, and provide raw materials, utilities & services as per Clause 10 hereof.
- 24.3 As mutually agreed between the Contractor and the Employer after the operating personnel have been deployed by the Employer and raw materials, utilities & services



have been provided by the Employer in accordance with Sub-Clause 24.2 hereof, the Contractor shall conduct Pre-Commissioning including integrated trial runs of the Facilities, in preparation for Commissioning.

24.3.1 In case of Facilities involving operation at high temperature, trial runs on individual equipment / units and integrated trial runs shall be conducted in cold condition.

- 24.4 As soon as all works in respect of integrated Pre-Commissioning are completed and the Facilities are ready for Commissioning, the Contractor shall so notify the Engineer in writing.

This Clause shall be read in conjunction with Contract Technical Specifications

- 24.5 The Engineer shall, within seven (7) days after receipt of the Contractor's notice either issue a Preliminary Acceptance Certificate (PAC) stating that the Facilities are fit for start-up and commissioning, as at the date of the Contractor's notice or notify the Contractor in writing of any defects and / or deficiencies.

If the Engineer notifies the Contractor of any defects and / or deficiencies, the Contractor shall then correct such defects and / or deficiencies and shall repeat the procedure described in Sub-Clause 24.4 hereof.

If the Engineer is satisfied that the defects and / or deficiencies, indicated / listed by the Employer to the Contractor have been liquidated and the Facilities are fit for start-up and commissioning, the Engineer shall, within seven (7) days after receipt of the Contractor's notice, issue a Preliminary Acceptance Certificate stating that the Facilities are fit for start-up and commissioning, as at the date of the Contractor's repeated notice.

If the Engineer is not so satisfied, then the Employer shall notify the Contractor in writing of any defects and / or deficiencies within seven (7) days after receipt of the Contractor's repeated notice, and the above procedure shall be repeated.

Pending minor defects/ deficiencies, which will not affect start up and Commissioning, PAC will be issued by the Employer.

- 24.6 As soon as possible, after issue of Preliminary Acceptance Certificate, the Contractor shall complete outstanding defects and / or deficiencies, if any, so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Employer will subject to GCC Clause 24.5, undertake such completion and deduct the costs thereof from any money owing to the Contractor.



25. Commissioning

- 25.1 After the issue of Preliminary Acceptance Certificates, the Contractor shall start-up and commission the Facilities in accordance with provisions and terms of Contract Technical specification.

The Employer shall provide the operating and maintenance personnel and all raw materials, utilities & services required for commissioning. The contractor shall supply the commissioning spares and oil, grease, lubricants & chemical etc. required for commissioning as per Clause 7.4.2 & 7.4.4 hereof.

- 25.2 The Contractor shall conduct commissioning test as specified in Contract Technical Specifications and wherever applicable establish ____ percent of the guaranteed production capacity for a continuous period of 72 hours.

- 25.3 The Commissioning Certificate shall be issued by the Employer subject to the following:

- a) Commissioning test as per sub-clause 25.2 has been successfully completed and the quality of materials produced, and other parameters related to commissioning are as per Contract Technical Specifications.
- b) The Contractor to the satisfaction of the Employer, has met all the objections / observations, if any, contained in the Preliminary Acceptance Certificate.
- c) Upon fulfillment of above condition, the Contractor will apply to the Employer to issue the Commissioning Certificate. Within 7 days of receipt of Contractor's application, Employer will issue the Commissioning Certificate.

- 25.4 In the event of delay in conducting the commissioning test for reasons attributable to the Employer for more than **60 (sixty)** days after issue of PAC, the Contractor shall receive payment towards commissioning against Bank Guarantee of equal value valid for 12 months.

In case of delay beyond six months for conducting the commissioning test for reasons attributable to the Employer, the conducting of commissioning test and Contractor's subsequent balance obligations and commercial implication thereto, if any, shall be mutually finalized between the parties.

26. Taking Over

- 26.1 Taking over of the Plant will be carried out from the **date of Commissioning mentioned in the Commissioning Certificate**. After the taking over, the Employer shall provide consumables and shall be responsible for the care & custody of the Facilities together with the risk of loss or damage thereto.



- 26.2 The Employer shall have the right to take possession or use any completed or partially completed work. Such possession or use shall not be deemed to be an acceptance of any work done not in accordance with the Contract. However, any damage to such work solely due to such provision or use shall be to the Employer's account.

However, priority will be given to the Contractor for conducting Commissioning over commercial production in order to adhere to the contractual Time for Completion.

27. Performance Guarantee Test

- 27.1 The Contractor shall guarantee that during the performance guarantee test, the Facilities and all parts thereof shall attain the performance guarantee parameters specified in Appendix-5 to the Contract Agreement, subject to and upon the conditions specified therein. Upon successful completion of Performance Guarantee Test as per Appendix-5, the Contractor shall apply to the Employer to issue the Performance Guarantee Certificate. Within 14 days after receipt of Contractor's application the Employer shall issue the Performance Guarantee Certificate.
- 27.2 If, for reasons attributable to the contractor the performance guarantee parameters specified in Appendix-5 to the Contract Agreement, are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and / or additions to the Facilities or any part thereof as may be necessary to meet performance guarantee parameters. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and / or additions, and shall request the Employer to allow the Contractor to repeat the performance guarantee test so as to establish the performance guarantee parameters.
- 27.3 If, for reasons attributable to the contractor, the performance guarantee parameters specified in Appendix-5 to the Contract Agreement are not attained either in whole or in part, after first campaign of performance guarantee test as per Sub-Clause 27.2 hereof, the Contractor shall at its own cost make good any deficiencies and the Contractor shall be allowed by the Employer to repeat the performance guarantee tests twice after first campaign of guarantee test and the Contractor must establish the performance guarantee parameters.
- 27.4 In case the Contractor expresses its inability to achieve the performance guarantee parameters but attains above the minimum acceptance level of performance guarantee parameters, as specified in Appendix-5 to the Contract Agreement, either in whole or in part in spite of repeated performance guarantee tests conducted by the Contractor, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account by encashment of Contractor's



Bank Guarantee(s) at the rate specified in Appendix-5 to the Contract Agreement for the respective items, subject to a maximum of seven and half percent (7.5%) of the Contract Price plus escalation, if any, excluding taxes and duties, in respect of the failure to meet the minimum level of performance guarantees in accordance with the provisions in Appendix-5 to Contract Agreement.

The Employer shall not reject the plant & equipment after commissioning and achievement of minimum acceptance level of performance guarantee parameters. After successful commissioning and achievement of the minimum acceptance level of performance guarantee parameters, the total liability of the contractor on account of delay and demonstration of maximum PG parameters shall not be more than Liquidated Damages.

In case, even after all possible repairs and replacements the Contractor fails to attain the minimum level of performance guarantee parameters, the Employer may reject the Facility and recover the entire cost paid to the Contractor or alternatively the Employer may proceed for commercial settlement with the Contractor for acceptance of the Facilities at the negotiated Price.

27.4.1 In case, the Contractor is a consortium, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the account of each member of consortium, or by encashment of their Bank Guarantees, subject to a maximum of seven and half percent (7.5%) of the Contract Price plus escalation, if any, excluding taxes and duties of the respective Scope of Facilities. However, each member of consortium, will be liable for damages in the ratio of the respective Contract price.

27.5 In case, the performance guarantee test has not been carried out for reasons attributable to the Employer within a period of six month from the date of commissioning mentioned in Commissioning Certificate, the Contractor shall receive payment towards Performance Guarantee, against Bank Guarantee of equal value to be valid for a period of 12 (twelve) months beyond aforesaid six (6) months period and conducting of the Performance Guarantee Tests and its commercial implications, if any, shall be mutually finalized between the parties.

27.6 In case Bank Guarantee is submitted as per Sub-Clause 27.5 hereof, by the Contractor then the same shall be returned to the Contractor as soon as the performance guarantee test is successfully completed and the guaranteed output and other parameters are met, at the latest, however, on expiry of twelve (12) months from the date of release of payment against Commissioning Certificate.

28. Final Acceptance

28.1 Final Acceptance shall occur in respect of the Facilities when:



- a) the performance guarantee tests have been successfully completed or the amount of Liquidated Damages along with applicable GST, if recoverable, has been recovered by the Employer from the Contractor.
 - b) The Contractor has submitted all final drawings & documents for the respective Facilities in accordance with the provisions of this Contract as given in Appendix-2.
 - c) the Contractor has fulfilled all the obligations under the Contract.
- 28.2 At any time after the events set out in Sub-Clause 28.1 hereof, have occurred, the Contractor may give a notice to the Engineer requesting for the issue of Final Acceptance Certificate (FAC) in respect of the Facilities specified in such notice as at the date of such notice.
- 28.3 The Engineer shall, within seven (7) days after receipt of the Contractor's notice, issue a Final Acceptance Certificate.
- 28.4 Payment for Final Acceptance may be released against BG of equal value valid for 12 months after fulfillment of Sub-Clause 28.1 a & b.

F. GUARANTEES AND LIABILITIES

29. Completion Time Guarantee

- 29.1 The Contractor guarantees that it shall attain "Completion of the Facilities" as defined in Clause 1, within the Time for Completion as specified in the Article-5 of the Contract Agreement or within such extended time to which the Contractor shall be entitled under Clause 42 hereof.
- 29.2 **Liquidated Damages due to Delay in "Completion of the Facilities"**
- 29.2.1 If the Contractor fails to attain "Completion of the Facilities" as defined in Clause 1 hereof, within the Time for Completion or any extension thereof under Clause 42 hereof, due to reasons attributable to the Contractor,
- a. If the time for completion is less than or equal to 18 months, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account or by encashment of Contractor's Bank Guarantees at the rate of 0.5% of the Contract Price plus escalation per week, if any, excluding taxes & duties per complete week of delay up to a maximum of 5% of the Contract Price plus escalation, if any, excluding taxes & duties.



- b. If the time for completion is greater than 18 months, then the allowable period for levy of LD shall be equal to 15% of total Contract duration in weeks. LD of 5% of contract price plus escalation, if any excluding taxes and duties, shall be recovered every week of delay calculated on pro-rata basis (rounded-off to nearest decimals for calculation of weekly value)

29.2.2 In case, the Contractor is a consortium, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the account of each member of consortium by encashment of their Bank Guarantees hereof, up to a maximum of 5% of the Contract plus escalation, if any, excluding taxes & duties of the respective Scope of Facilities. However, each member of consortium, will be liable for damages in the ratio of the respective Contract price.

29.2.3 However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Contractor under the Contract.

29.3 The aggregate ceiling on Liquidated damages due to delay in completion of facilities and for non-fulfillment of Performance Guarantee parameters in accordance with the Contract shall be limited to 10% (ten percent) of the Contract Price plus escalation, if any, excluding taxes & duties.

29.4 Any recovery of Liquidated damages shall be effected from the amount payable to the Contractor against Commissioning, Performance Guarantee Test, Final Acceptance Certificate and Performance Bank Guarantee. Liquidated Damages will not be recovered from the running bills prior to above payments.

29.5 The levy of LD shall be on the final executed value / amended value, including escalations (excluding taxes) as applicable, of the contract including additions to scope by way of interim approvals. However, LD shall not be levied on amount paid under amicable settlement, conciliation and arbitral awards settled after completion of work. Imposition of LD shall be based on recommendations, subject to approval of Competent Authority.

30. Defect Liability

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



Defect liability shall not apply to normal wear and tear. Plant will be operated and maintained as per Operation and Maintenance manuals provided by the Contractor.

- 30.2 The Defect Liability Period shall be twelve (12) months from the date of commissioning mentioned in the Commissioning Certificate or eighteen (18) months from the date of Preliminary Acceptance Certificate (PAC), whichever is earlier, provided the delay in commissioning after PAC is not due to reasons attributable to the Contractor.

If during the Defect Liability Period any defect be found in the design, engineering, materials and workmanship or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer and at its cost, repair, replace or otherwise make good such defect as well as any damage to the Facilities caused by such defect.

The Contractor may, with the consent of the Employer and after submission of Bank Guarantee for the equivalent cost of Plant & Equipment, remove from the Site any Plant and Equipment or any part of the Facilities that are defective if the nature of the defect, and / or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site. However, in case value of such items is less than 20% of the respective performance bank guarantee, no additional bank guarantee is required to be submitted and the material can be taken out against indemnity bond. In case of defective parts not repairable at Site but become essential in the mean time for the commercial use of the plant, the Contractor shall replace at Site free of cost to the Employer, the defective parts, before the defective parts are removed from the Site.

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

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

If the Contractor does not commence the rectification either by repair or replacement of such defects within 30 (thirty) days from the date of notice by the Employer or does not complete the rectification with reasonable diligence and within a reasonable time, the Employer may, at its option, rectify the defects at the Contractor's expense. The Employer shall, in such case, deduct from payment due to the Contractor the expenses incurred by the Employer for remedy of such defects without prejudice to the other rights of the Employer under the Contract.



- 30.4 If the Facilities or any part thereof cannot be used by reason of such defect and / or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons.
- 30.5 In addition, the Contractor shall also provide an extended warranty for any such replaced or repaired component of the Facilities for the period of minimum 12 months but not more than 36 months cumulatively or as it may be stipulated in Contract Technical Specifications. Such obligation shall be in addition to the defect liability specified under Clause 30 hereof.

31. Patent Indemnity

- 31.1 The Contractor shall, subject to the Employer's compliance with Sub-Clause 31.2 hereof, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing by reason of the installation of the Facilities by the Contractor.

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

- 31.2 If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in Sub-Clause 31.1 hereof, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf at the risk & cost of the Contractor.

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



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

32. Limitation of Liability

- 32.1 Except in cases of criminal negligence or willful misconduct,
- a) neither party shall be liable to the other, whether in Contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, which may be suffered by the other Party in connection with the Contract, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and
 - b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise including the cost of repairing or replacing defective equipment, shall not exceed the 100 % (Hundred Percent) of the Contract Price plus escalation, provided that this limitation shall not apply to any obligation of the Contractor to indemnify the Employer with respect to copyright, patent infringement, workman compensation etc.
 - c) the aggregate liability of the Employer to the Contractor except for GCC sub-clause 31.3, whether under the Contract, in tort or otherwise, at any point of time during the execution/performance of the Contract, shall not exceed the 'total Contract Price less payments already released to the Contractor. In any event, The liability of the Employer to the Contractor shall not exceed 100% of the Contract Price plus escalations.

G. RISK DISTRIBUTION

33. Transfer of Ownership

- 33.1 The title of ownership of Imported plant & equipment, structures, refractories, tools & tackles, first fill of lubricants and all other goods (including spare parts) whose prices in the Contract are indicated in Foreign Currency, shall be transferred to the Employer after loading on FOB port of shipment basis as per current edition of Incoterms.



- 33.2 The title of ownership and property for indigenous Plant & Equipment, Structures, Refractories, spares, tools & tackles, first fill of lubricants, etc. shall pass on to the Employer after the Contractors have affected the dispatch of same to the Employer or the Contractors have effected the sale, in course of transit, as per GST Act/Rules and the Contractors have prepared necessary documentation for handing over the same to Employer's authorized representative
- 33.3 The property of Plant & Equipment, Structures, Refractories, spares, tools & tackles, first fill of lubricants, etc. issued to the Contractors under Bailee Agreement / Bond is vested with the Employer all the time till erection, commissioning, and completion of Performance Guarantee Tests as per the terms and conditions of the Contract.
- 33.4 The transfer of title to ownership for the steel structural work (fabricated at site) including glazing & sheeting, civil construction work and refractory work under this Contract shall pass on to the Employer on its accretion and release of payment.
- 33.5 Notwithstanding the transfer of ownership of the Plant and Equipment, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to Clause 34 (Care of Facilities) hereof, until Commissioning of the Facilities in which such Plant & Equipment, Structures and Refractories are incorporated.

34. Care of Facilities

- 34.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of commissioning and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Sub-Contractors in the course of any work carried out, pursuant to Clause 30 (Defect Liability) hereof. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a) & (b) of Sub-Clause 34.2 & Sub-Clause 40.1 hereof.
- 34.2 If any loss or damage occurs to the Facilities or any part thereof by reason of :
- a) any use or occupation by the Employer or any third party (other than a Sub-Contractor) authorized by the Employer.
 - b) any use of or reliance upon any design, data or specification provided by or on behalf of the Employer, or any such matter for which the Contractor has disclaimed responsibility herein,



the Employer shall pay to the Contractor all sums payable in respect of the Facilities executed, notwithstanding that the same be lost, destroyed or damaged. If the Employer requests the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Contractor shall make good the same at the cost of the Employer in accordance with Clause 41 (Change in the Facilities). The Employer shall either request a change in accordance with Clause 41 (Change in the Facilities) hereof, excluding the performance of that part of the Facilities thereby lost, destroyed or damaged, or, where the loss or damage affects a substantial part of the Facilities, the Employer shall terminate the Contract pursuant to Sub-Clause 45.1 (Termination for Employer's Convenience) hereof, except that the Contractor shall have no entitlement to profit in respect of any unexecuted Facilities as at the date of termination.

- 34.3 With respect to any loss or damage caused to the Facilities or any part thereof by reason of any of the matters specified in Sub-Clause 40.1 hereof, the provisions of Sub-Clause 40.3 hereof, shall apply.

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

- 35.1 Subject to Sub-Clause 35.2 hereof, the Contractor shall indemnify and hold harmless the Employer and its employees from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property (other than the Facilities whether accepted or not), arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, or agents, except any injury, death or property damage caused by the negligence of the Employer, its employees, or agents.

- 35.2 If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under Sub-Clause 35.1 hereof, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf at the risk of the Contractor.

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



36. Insurance

36.1 The Contractor shall take out a composite and comprehensive Marine-cum-Erection Insurance Policy or separate insurance policies for transit and storage-cum-erection with an Insurance Regulatory and Development Authority (IRDA) registered Insurance Company(s). The policy shall cover total erected value of the Facilities (115% for the contracts with completion period upto 18 months or 125% for the contracts with completion period above 18 months, of Contract price excluding the design & engineering and supervision services price, training) and all risks specifically inclusive of the following:

36.1.1 All Risk Insurance: The policy shall cover all risks and escalations, and revisions arising out of physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the Defect Liability Period while the Contractor is on the Site for the purpose of performing its obligations during the Defect Liability Period. Basically —All Riskll arising out of the following perils shall deemed to have been covered in the policy but not limited:

Location Risk	Such as Fire, Lightning, Theft, Burglary, Pilferage, Short Deliver, Non-Delivery, Breakage etc.
Handling Risk	Such as impact of falling objects, Transportation, collision, failure of cranes, Denting, Bending, Tearing, bursting whether caused by Contractor itself, its subcontractors, customers, or other parties.
Operation & Maintenance	Such as failure of safety devices, Leakage of electricity or water, Insulation failures, short circuits, tearing apart by centrifugal forces, entry of foreign material/ substances , explosion, fire while caring out welding/gas cutting, damage to plant and equipment under erection and surrounding properties of the owner etc.
Risks of Human	Such as carelessness, Negligence (excluding willful negligence), Faults in Element Erection, RSMD (Riots, Strike, Malicious Damage), SRCC (Strike, riots, civil commotion etc.
Act of God	Such as Storm, Flood, Tempest, Hurricane, Inundation, Subsidence, Landslide, Rockslide, Earthquake.



- 36.1.2 Imported Cargo Insurance: For imported supplies, the policy shall cover all goods from FOB supply point, i.e., from the point of loading on ships at a foreign port till completion of erection and commissioning.
- 36.1.2.1 The policy shall cover the imported goods on replacement basis, i.e., inclusive of escalations, if any, payable to the foreign suppliers of the Contractor and / or exchange rate fluctuations and / or fluctuations in Ocean Freight, Customs Duty, clearing and forwarding charges, inland freight, etc.
- 36.1.3 Indigenous Cargo Insurance: For indigenous supplies, the policy shall insure the goods originating in India from the Contractor's / Supplier's warehouse to Plant's warehouse and up to completion of erection and commissioning. This will be inclusive of supplies to and from warehouse / factory of intermediate processors / suppliers. This policy will also cover the replacement items, if any.
- 36.1.4 Third Party Liability Insurance: The policy shall cover third party liability. The third-party liability shall cover the loss / disablement of human life (persons not belonging to the Contractor) and also cover the risk of damages to others' materials / equipment / properties during construction, erection and commissioning at site. The value of third-party liability for compensation for loss of human life or partial / full disablement shall be of required statutory value but not less than Rs. 2 lakh per death, Rs. 1.5 lakh per full disablement and Rs. 1 lakh per partial disablement and shall nevertheless cover such compensation as may be awarded by a Court of Law in India or abroad and cover for damage to others' equipment / property.
- 36.1.5 Automobile Liability Insurance: Covering use of vehicles / mobile equipment used by the Contractor or its Sub-Contractors (whether or not owned by them) in connection with the execution of the Contract.
- 36.1.6 Contractor shall ensure that where applicable, its Sub-Contractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Sub-Contractors are covered by the policies taken out by the Contractor.
- 36.1.7 The Employer shall be the principal holder of the policy along with the Contractor. Sub-Contractors of the Contractor shall not be holders or beneficiaries in the policy, nor shall they be named in the policy. Employer reserves the exclusive right to assign the policy.
- 36.1.8 While the payment of premium may be phased in agreement with the insurance company, at no time shall goods and services required to be provided by the Contractor shall remain uninsured.



- 36.1.9 A copy of the Insurance policy shall be made available to the Employer before start of site activities or first dispatch, whichever is earlier, and policy shall be kept alive and valid at all times up to date of commissioning.
- 36.1.10 The Employer reserves the right to take out whatever policy that is deemed necessary by him if the Contractor fails to keep the said policy alive and valid at all times and / or causes lapses in payment of premium thereby jeopardizing the said policy. The cost of such policy(s) shall be recovered / deducted from the amount payable to the Contractor.
- 36.1.11 In cases where the erection, modification etc., are to be carried out in the existing shop of the Employer the 'surrounding value' shall be intimated by the Employer to the Contractor, who shall ensure that this value is included in the policy.
- 36.1.12 Marine & Transit Insurance policies shall also cover:
- Institute Cargo Clause 'A'
 - Institute War Clauses
 - Institute Strikes Clauses
 - Warehouse to Ware House
 - Institute Replacement clause, Special Replacement clause (Air duty) and deferred un-packing clause.
 - Insurers right of subrogation against Insured parties (excluding carriers) waived.
 - RSMD (Riots, Strike, Malicious Damage)
 - SRCC (Strike, riots, civil commotion)
- 36.1.13 In case project gets delayed due to reasons not attributable to Contractor, the actual expenditure incurred by Contractor for additional Insurance Premium towards extension of insurance policies shall be reimbursed by the Employer.
- 36.2 The Contractor shall submit the evidence of insurance policies within 28 days from the effective date of contract.
- 36.3 Upon arrival of plant and Equipment / materials at site the Contractor shall assume custody thereof and remain responsible thereafter for safe custody until the whole plant is successfully commissioned.
- 36.4 In order to adequately cover the works under such composite and comprehensive insurance, the Contractor shall fulfill the necessary requirements / obligations.



- 36.5 The Contractor shall arrange Accident Insurance Policy for all his personnel including foreign Experts / Specialists / Personnel deputed to site and Contractor's / his sub-contractors' manufacturing works as well as for his Indian engineers & supervisory staff. The Contractor shall also take out for his Indian workmen a separate policy as per Workmen's Compensation Act.
- 36.6 The details of consignment along with its value and vessel's name and other shipping particulars shall be intimated by the Contractor to the Employer, Underwriter in India and clearing agent immediately after shipment of the consignment.
- 36.7 In all cases, the Contractor shall lodge the claims with the Underwriters and also settle the claims. All claims shall be settled in India. However, the Contractor shall proceed with the repairs and / or replacement of the equipment / components without waiting for the settlement of the claims. In case of seizure of materials by concerned authorities, the Contractor shall arrange prompt release against bond, security or cash as required. Employer will extend all assistance to the Contractor in such a case.
- 36.8 All the insurance claims shall be processed by the Contractor and the items which are missing / damaged in transit or during handling, storage, erection and commissioning, shall be replaced / repaired by them without any extra cost to the Employer.
- 36.9 The Employer at its discretion may arrange for the insurance cover at its own expense. In such an event, the amount quoted towards 'Comprehensive/ Transit, Storage cum erection insurance' in 'Summary Price Schedule', shall not be payable to the contractor. However, processing of all the insurance claims shall be the responsibility of the contractor. Also, the Contractor shall perform all the obligations as mentioned in sub-clauses above.

37. Negligence

- 37.1 If the Contractor does not execute the Facilities in accordance with the time schedule stipulated in the Appendix-2 of the Contract Agreement and shall neglect to execute the Facilities with due diligence or expedition or shall contravene the provisions of Contract, the Employer may give notice in writing to the Contractor to make good the failure, neglect or contravention complained of within such time as may be deemed reasonable by the Employer and in default of compliance with the said notice, the Employer without prejudice to its rights under Clause 37.2 hereof, may rescind or cancel the Contract holding the Contractor fully liable for the damages that the Employer may sustain.
- 37.2 Should the Contractor fail to comply with such notice, the Employer shall have at its option the right to take the affected Facilities wholly or in part out of the Contractor's hands and may complete the Facilities, as envisaged in the Contract either



departmentally or by awarding fresh Contract(s) to execute the same, at the risk and cost of the Contractor.

- 37.3 In such event the Employer shall be entitled to use all materials, construction equipment, tools, tackles and other things of the Contractor and the Employer shall also be entitled to retain and apply any sum which may otherwise be then due as per the Contract or any other Contract from the Employer to the Contractor as may be necessary for the payment of the cost of execution of such Facilities as aforesaid.

If the cost of executing the Facilities as aforesaid shall exceed the sum due to the Contractor, the Contractor shall make payment for the same within the specified period

38. Change in Laws and Regulations

- 38.1 If, after Effective Date of Contract Agreement, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Contractor, the Contract Price and time of completion shall be correspondingly increased or decreased.

39. Force Majeure

- 39.1 "Force Majeure" shall mean any event beyond the control of the Employer or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected, and shall include, without limitation, the following:
- a) war, hostilities, or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy and civil war.
 - b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, effect of Naxal activities (if established) and terrorist acts.
 - c) strike, sabotage, unlawful lockout, epidemics, quarantine, and plague.
 - d) earthquake, fire, flood or cyclone, or other natural or physical disaster.
- 39.2 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 14 days after the occurrence of such event.
- 39.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented,



hindered or delayed. The Time for Completion shall be extended in accordance with Clause 42 (Extension of Time for Completion) hereof.

- 39.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under Sub-Clauses 39.6 and 40.5 hereof.
- 39.5 Any delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not
- a) constitute a default or breach of the Contract
 - b) (subject to Sub-Clauses 34.2, 40.3 and 40.4 hereof) give rise to any claim for damages or additional cost or expense occasioned thereby
- if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.
- 39.6 If the performance of the Contract is substantially prevented, hindered or delayed for a period of more than ninety (90) days on account of Force Majeure during the currency of the Contract, the parties will develop a mutually satisfactory solution.

40. War Risks

- 40.1 "War Risks" shall mean any event specified in paragraphs (a) and (b) of Sub-Clause 39.1 hereof.
- 40.2 Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to
- a) destruction of or damage to property of the Employer or any third party
 - b) injury or loss of life
- if such destruction, damage, injury or loss of life is caused by any **War Risks**, and the Employer shall indemnify and hold the Contractor harmless from and against any and all claims, liabilities, actions, lawsuits, damages, costs, charges or expenses arising in consequence of or in connection with the same.
- 40.3 If the Facilities or any Plant & Equipment, Structures and Refractories shall sustain destruction or damage by reason of any War Risks, the Employer shall pay the Contractor for
- a) any part of the Facilities or the Plant & Equipment, Structures and Refractories so destroyed or damaged (to the extent not already paid for by the Employer) so far



as may be required by the Employer, and as may be necessary for completion of the Facilities.

- b) replacing or making good any such destruction or damage to the Facilities or the Plant and Equipment or any part thereof.

If the Employer does not require the Contractor to replace or make good any such destruction or damage to the Facilities, the Employer shall either request a change in accordance with Clause 41 (Change in the Facilities) hereof, excluding the performance of that part of the Facilities thereby destroyed or damaged or, where the loss, destruction or damage affects a substantial part of the Facilities, shall terminate the Contract, pursuant to Sub-Clause 45.1 (Termination for Employer's Convenience) hereof.

- 40.4 Notwithstanding anything contained in the Contract, the Employer shall pay the Contractor for any increased costs or incidentals to the execution of the Contract that are in any way attributable to, consequent on, resulting from, or in any way connected with any War Risks, provided that the Contractor shall as soon as practicable notify the Employer in writing of any such increased cost.
- 40.5 If during the performance of the Contract any War Risks shall occur that financially or otherwise materially affect the execution of the Contract by the Contractor, the Contractor shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its Subcontractors' personnel engaged in the work on the Facilities, provided, however, that if the execution of the work on the Facilities becomes impossible or is substantially prevented for a period of more than ninety (90) days on account of any War Risks, the parties will develop a mutually satisfactory solution.

H. CHANGE IN CONTRACT ELEMENT

41. Change in the Facilities

- 41.1 The Employer shall have the right to propose/ consider contractor's proposal, and subsequently 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 Change envisaged with the nature of the Facilities as specified in the Contract.



- 41.2 Notwithstanding Sub-Clauses 41.1 hereof, 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.
- 41.3 If the Employer proposes/ considers Contractor's proposal for a Change pursuant to Sub-Clause 41.1 hereof, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Engineer 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 Functional Guarantees (if any)
 - (e) effect on any other provisions of the Contract.
- 41.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the parties thereto shall agree on specific rates for the valuation of the Change.
- 41.5 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained. 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 with the approval of competent authority.
- 41.5.1 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.
- If the parties cannot reach agreement within one hundred & twenty (120) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred for Settlement of Disputes as per Clause 6 hereof.
- 41.5.2 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.



42. Extension of Time for Completion

- 42.1 The Time(s) for Completion specified in the **Appendix-2** of the Contract Agreement shall be extended if the Contractor has delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:
- a) any Change in the Facilities as provided in **Clause 41** (Change in the Facilities) hereof
 - b) any occurrence of Force Majeure as provided in **Clause 39** (Force Majeure) hereof, or other occurrence of any of the matters specified or referred to in paragraphs (a) and (b) of **Sub-Clause 34.2** hereof
 - c) any suspension order given by the Employer under **Clause 44** (Suspension) hereof
 - d) The default by the Employer under **Clause 10** hereof, if proved to be cause for delay in completion of the Facilities by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.
 - e) any Change in Laws and Regulations as provided in **Clause 38** hereof, if proved to be cause for delay in completion of the Facilities by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.
- 42.2 The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.
- 42.3 The Contractor shall ensure that all supporting documents are attached along with the detailed claim for ease in assessment and determination of the Engineer. Documents for consideration of Extension of Time may include the following but not limited to:

- 1. Contractor's detailed claim for Extension of Time.
- 2. Joint recordings in "Hindrance Register" and "Weekly Review Register".

The following documents has to be submitted, if requested by Employer;

- 3. Updated Works Programme (with and without delay impact) of the project.
- 4. Records of Technical Coordination Meetings and Contract Review Meetings.
- 5. Written notices issued by the Employer or his authorized representative to the Contractor and the responses of the Employer in the relevant period.
- 6. Measures undertaken/ proposed by the Contractor to minimize the impact of delay events on the project timeline.



7. Any other document sought by the Employer/ Engineer during the evaluation of the claim.

42.4 Extension of Time shall be evaluated in two stages:

42.4.1 Interim Evaluation: Interim Review shall be performed for all Extension of Time claims contemporaneously during the course of execution of the Contract Agreement in which the Employer may reject or approve extension of time with or without reserving the right to levy Liquidated Damages based on the assessment of delay analysis including delay events attributable either parties, concurrent delays, status of work progress, balance works and the best efforts being taken/ proposed by the Contractor to minimize the impact of the delay.

42.4.2 Final Evaluation: Final review shall be performed for those extension of time claims which were considered to have an impact on the critical path of the Works Programme post issuance of Commissioning Certificate. This final review shall be based on the comprehensive delay analysis report and supporting documents submitted by the Contractor.

42.5 **Process of Delay Analysis during Interim Evaluation:**

42.5.1 The Contractor shall prepare a prospective delay analysis using Time Impact Analysis for approval by the Engineer/ Employer based on guidelines such as AACE 52R-06 or SCL Delay Protocol 2017 or any other similar documents. The Contractor shall utilize a copy of the latest approved and updated Works Programme prior to the first day of the impact or delay for the time impact analysis. If the Engineer/ Employer determines the time frame between the last approved Works Programme and the first day of impact is too great, the Contractor shall prepare an interim updated Works Programme to perform the time impact analysis. Unless approved by the Engineer/ Employer, no changes will be incorporated in the Works Programme being used to justify the time impact.

42.5.2 The contractor shall prepare a fragnet for its time impact analysis. The fragnet shall consist of sequence of new activities with duration and interdependencies that are proposed to be added to Works Programme to demonstrate the influence of the delay or impact to the project timeline. The Contractor shall clearly show how the proposed fragnet is to be tied into the Works Programme including all predecessors and successors to the fragnet activities. The fragnet shall be approved by the Employer prior to the incorporation into the Works Programme.

42.6 **Process of Final Extension of Time Evaluation:**

42.6.1 The Contractor and the Employer shall jointly agree upon the methodology that shall be adopted for final evaluation of extension of time within 14 days from the



date of issuance of commissioning certificate. Following are some of the widely used retrospective methods for evaluating extension of time:

- a. Time Slice Window Analysis
- b. As-Planned versus As-Built Windows Analysis
- c. Collapsed As-Built Analysis

42.6.2 The contractor shall prepare and submit a detailed analysis as per the mutually agreed methodology based on the guidelines such as SCL Delay Protocol 2017 or any other similar document for the review and approval of the Engineer/ Employer. All interim evaluation documents related to the respective extension of time claim shall be submitted along with the detailed analysis. The Contractor shall assist the Employer in evaluating the actual impact of the delay events on completion time of the facilities.

42.6.3 The Engineer/ Employer shall review and approve the Final Extension of Time within 90 days from the date of receipt of such reports.

43. Contractor's Claims

43.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep all records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer may, after receiving any notice under this Clause 43.1, monitor the record-keeping and/or instruct the Contractor to keep further records.

The Contractor shall permit the Engineer to inspect all these records, and shall (if instructed) submit copies to the Engineer.

43.2 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to



the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

- a. a fully detailed claim shall be considered as interim;
- b. the Contractor shall, no later than 10 (ten) days after the close of each month, send further interim claims specifying the accumulated delay, the extension of time claimed, and such further particulars as the Engineer may reasonably require; and
- c. the Contractor shall send a final claim within 28 (twenty eight) days after the effect of the event or the circumstance ceases

- 43.3 Unless otherwise stated in the Contract Agreement, the Engineer shall respond with approval, or with disapproval and detailed comments within 42 days after receiving a detailed claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Engineer and approved by the Contractor. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.

The Engineer shall make a fair assessment in accordance with the Contract taking due regard of all relevant circumstances to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Clause 42 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

- 43.4 Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
- 43.5 If the Employer considers himself to be entitled to claim payment from the Contractor, under any Clause of these Conditions or otherwise in connection with the Contract, the Employer shall give notice to the Contractor, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Employer became aware, or should have become aware, of the event or circumstance. The Contractor shall pay such payments to the Employer.
- 43.6 In the event that the Contractor does not accept the Employer's estimate of Contractor's claim (as per clause no.43.1) / Employer's claim (as per clause under 43.5) to be fair and reasonable, the Contractor shall be entitled to refer to the Settlement of Disputes in accordance with Clause 6.



44. Suspension

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

If, by virtue of a suspension order given by the Engineer, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may give a notice to the Engineer requiring that the Employer shall, within thirty (30) days of receipt of the notice, order the resumption of such performance.

If the Employer fails to do so within such period, the Contractor may, by a further notice to the Engineer, elect to treat the suspension as termination of the Contract under Sub-Clause 45.1 (Termination for Employer's Convenience).

44.2 If the Contractor's performance of its obligations is suspended pursuant to this Clause 44 hereof, then the Time for Completion shall be extended in accordance with Sub-Clause 42.1 hereof, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension shall be paid by the Employer to the Contractor in addition to Contract Price on mutually agreed basis.

44.3 During the period of suspension, the Contractor shall not remove from Site any plant & equipment, any part of the Facilities or any Contractor's equipment, without the prior written consent of the Employer.

45. Termination

45.1 Termination for Employer's Convenience

45.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to Clause 45.1 hereof.

45.1.2 Upon receipt of the notice of termination under Sub-Clause 45.1.1 hereof, 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 Sub-Clause 45.1.3 hereof, 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 drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

45.1.3 In the event of the termination of the Contract under Sub-Clause 45.1.1 hereof, the Employer shall pay to the Contractor the Price, the properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination. However, no consequential damages shall be payable by the Employer to the Contractor in the event of termination.

45.2 Termination for Contractor's Default

- 45.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefor to the Contractor, referring to this Sub-Clause 45.2 hereof:
- 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 Clause 46 (Assignment) hereof.

45.2.2 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 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 (adequate resources) to execute and complete the Facilities in the manner specified in the program furnished under Clause 18 (Program of Performance) hereof, 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 per Sub-Clause 8.2 hereof.

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 **Sub-Clause 45.2** hereof.

45.2.3 Upon receipt of the notice of termination under Sub-Clauses 45.2.1 or 45.2.2 hereof, 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 & safe condition
- b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below



- c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
- d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as 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.

45.2.4 The Employer may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third party at the risk and cost of the Contractor. The Employer may, to the exclusion of any right of the Contractor over the same, take over and use any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the Employer considers expedient for the supply and installation of the Facilities.

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

Further, as per notification no: F.1/1/2021-PPD, dated 20.10.2021 by Department of Expenditure, Ministry of Finance, GOI, if the work is abandoned by the Contractor in the mid-way for the reasons attributable to the Contractor and if at least 20% of the work has been billed, then the Employer shall devise methods (including limited/ single tenders) to deal with the balance part of the work at the risk and cost of the Contractor.

45.2.5 Subject to Sub-Clause 45.2.6 hereof, the Contractor shall be entitled to be paid the Price attributable to the Part of the Facilities executed as at the date of termination, 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 Sub-Clause 45.2.3 hereof and rent of the Contractor's equipment, if any, used by the Employer pursuant to Clause 45.2.4 hereof. 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.

45.2.6 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 Sub-Clause 45.2.5 hereof, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price, the Contractor shall be liable for such excess.

If such excess is greater than the sums due to the Contractor under Sub-Clause 45.2.5 hereof, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due the Contractor under Sub-Clause 45.2.5 hereof, the Employer shall pay the balance to the Contractor.

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

- 45.3 In this Clause 45 hereof, the expression “Facilities executed” shall include all work executed, Installation Services provided, and all Plant & Equipment, Structures and Refractories, 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.
- 45.4 In this Clause 45 hereof, in calculating any money 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 Clause 12 (Terms of Payment) hereof.

46. Assignment

- 46.1 The Contractor shall not, without the express prior written consent of the Employer assign to any third party the Contract or any part thereof, or any right, benefit, obligation, or interest therein or there under, except that the Contractor shall be entitled to assign under the Contract.
- 46.2 Should loan / financial agreement(s) require the Contractor to assign, by way of charge, any money due or to become due to it, to a bank / credit agency for the benefit of receiving payment by the Contractor under this Contract from such bank / credit agency, or if any partial assignment is necessary to be made to any insurer in terms of Insurance Policy approved by the Employer; the Employer may give consent in such cases.

47. Surplus Materials

- 47.1 For the purpose of removing surplus materials in its original form only, the Contractor shall submit the documents / records evidencing the entry of materials inside the Plant by producing the Gate Entry Permits and RRs or LRs and consumption statements based on approved drawings after allowing for wastages, maximum 8% cutting allowance, and irrecoverable / unaccountable losses (wastages including loss factors



being minimum 2% on Steel and reinforcement rods, minimum 5% on cement and minimum 3% on cables, pipes etc.) to establish the surplus quantity of the materials belonging to the Contractor. The Employer shall allow the Contractor to remove such materials from the Employer's premises after being satisfied regarding the evidence produced for such removal. Such removal may be permitted even before completion of the entire work.

Such removal shall also include Contractor's own construction materials brought inside the plant premises pursuant to fulfilment of their obligations under Clauses 22.2.1.1 and 22.7.1.

- 47.2 The Employer may, on written request from the Contractor, allow him to take back imported surplus materials not covered under the contract. However, if Employer has incurred expenses for surplus items towards customs, freight or any other account etc., the same shall be reimbursed by the Contractor in case of taking back of such items.
- 47.3 Scrap in any form whatsoever shall not be removed from Plant premises and shall be the property of the Employer. No credit will be given for scrap.

48. GENERAL

The Employer shall allow the Contractor to take out construction equipment, tools & tackles and instruments brought by the Contractor on draw back basis provided the contractor has carried out necessary documentation at the time of taking such items inside the Plant.

49. GUIDELINES FOR SETTLEMENT OF CLAIMS FOR COMPENSATION ON ACCIDENTS:

1. **Title:** These guidelines would be called as guidelines for settlement of claims for compensation.
2. **Effective date:** The guidelines would be effective from 08.08.2018.
3. **Applicability:** These guidelines would govern the settlement of compensation claims arising out of accident due to negligence and/or unforeseen causes resulting into loss of life or permanent disability of a person, who has authorized entry to the premises of the company, and who is not covered under any provisions/rules/guidelines for any compensation on account of his/her not being employee or a contract worker who are covered under Employee compensation Act/ESI Act..

The compensation under these guidelines shall be in addition to the existing provision/compensation under various legislations or as per their eligibility for compensation from their respective Employer.



4. Definitions:

- a. **Accident:** Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious occurrence caused during the maintenance, operation and provisioning of any public services undertaken by NMDC limited.
- b. **Competent Authority:** Competent Authority means Head of the Project/Office/ Feasibility/ Unit of NMDC.
- c. **Dependent:** As defined in the Employees' Compensation Act, 1923.
- d. **Designated Officer:** An Officer designated by the Competent Authority of the Grade of minimum Asst. General Manager for the purposes of receiving and processing claims of compensation under the present guidelines.
- e. **Victim:** Any person who suffers permanent disablement or dies in an accident as defined in these guidelines as per '**Applicability of Clause at 3**'.
- f. **Permanent Disablement:** A disablement that is classified as permanent total disablement under the provision to Section 2 (I) of the Employee Compensation Act, 1923.

- 5. Detailed Accident Report:** The report prepared by the Police within a period of 30 days from the date of incident as per Schedule I of this guidelines.

Explanation: for the purpose of the purpose of preparation of the detailed accident report, the word "injury" as referred in Schedule I refers to "Permanent disability" as mentioned in Clause 4 (i) of Guidelines.

- 6. Extent of Liability:** On the occurrence of any "accident" as defined under these Guidelines, NMDC Limited shall whether or not there has been anything contained in any other law, be liable to pay compensation to such extent as prescribed below:

- a. In the event of death or permanent disability resulting from loss of limbs: Rs. 10,00,000.00/- (Rupees Ten Lakhs)
- b. In the event of other permanent disability: Rs. 7, 00, 000/- (Rupees Seven Lakhs).

7. Procedure for settlement of claims in respect of compensation

- a. The victim or his/her dependents would make an application within a period of 90 days of the accident to the Designated officer under whose jurisdiction the accident had occurred. The application should be accompanied by the following documents:



- i. Proof of age of the victim.
- ii. Death Certificate of the victim or permanent disability certificate issued by the Medical board authorized by the Government.
- iii. Certified copy of FIR lodged in respect of the accident
- iv. Proof of applicant's relation with the victim/Dependency Certificate.

The Designated Officer may seek any further documents for settlement of claim to satisfaction.

Provided that where there are more than one dependent, the Applicant must mention their name, addresses and relations with the victim and the Designated Officer may at its own discretion issue notices to all before releasing the compensation.

- b. The Designated Officer on receipt of above application shall take into consideration the detailed Accident Report Submitted by the Police Authority would process the claim of compensation on priority basis but would not take more than 30 days for disposing off the same in any case.
- c. The Designated Officer, in case where no application is received from the victim/dependents of victims may on receipt of the detailed accident report proceed suo-moto to initiate the process for consideration for grant the compensation to the victim/dependents of victim.
- d. Any compensation paid under these guidelines shall be recoverable from/paid by the contractor.
- e. In no case a claim for appointment of any of the dependents on the compassionate grounds would be entertained by the NMDC limited as provided by settlements already in vogue. In that case no compensation under this rules will be payable. Any compensation payable under any other Act/Stature/Settlement will be adjusted out of the above compensation for net payment.

8. Method of Disbursement of compensation:

- a. The amount of compensation so awarded shall be deposited in a Nationalized Bank or if the branch of a Nationalized Bank is not in existence, it shall be deposited in the branch of scheduled commercial bank, in the joint or single name of the victim/dependent (s). Out of the amount so deposited, 75% of the same shall be put in a fixed deposit for a minimum period of one year and the remaining 25% shall be available for utilization and initial expenses by the victim/dependent(s) as the case may be.



- b. In the case of a minor, 75% of the amount of compensation so awarded shall be deposited in the fixed deposit account shall be drawn only on attainment of the age of majority, but not before one year of the deposit. Provided that in exceptional cases, amount may be withdrawn for educational or medical needs of the beneficiary at the discretion of the Department.
 - c. The interest on the sum shall be credited directly by the bank in the savings account of the victim dependent(s) on monthly basis.
9. **Appeal:** An appeal against the decision of the Designated Officer in respect in respect of the amount of compensation or rejection of such claim shall be made to Competent Authority within a period of 30 days of such decision. The Competent Authority within a period of 30 days of such decision would decide the same within 30 days of receipt of such appeal.



Schedule –I

PARTICULARS OF THE ACCIDENT		
PART-I		
1.	Fir No. , Date and Under Section	
2.	Name of Police Station	
3.	Date, Time, Place of the Accident	
4.	Who reported the accident to the Police	
5.	Name of the person who took the victim to the hospital and Name of the Hospital	
6.	Whether any hospital denied treatment to the Victim ?	
7.	Name of the accident:- (i) Whether resulted in death or injury or both? (ii) Number of persons injured/died	
8.	Name and Contract No. of the Investigating Officer	
9.	Name of the Witness of the accident	
10	Description of the accident	

IMPACT OF THE ACCIDENT ON THE VICTIMS PART – II		
1.	Death Cases: a) Name and address of the deceased b) Age c) Gender d) Education e) Occupation f) Income (monthly)	



IMPACT OF THE ACCIDENT ON THE VICTIMS PART – II	
g) Legal Heirs/Guardian i. Name ii. Relationship iii. Age iv. Address v. Contact No.	
2. Injury Cases (Permanent disablement) a) Name and address of the injured b) Age c) Gender d) Education e) Occupation f) Income (monthly) g) Details of family dependent of the victim MLC No. h) Nature of injuries i) Name of the Hospital where the injured treated j) Whether victim refused medical treatment k) Period of Hospitalization l) Period of treatment m) Whether treatment continuing n) Name, address and contact number of the Doctor(s) who treated the injured o) Whether the injured underwent any surgery? If yes, then give particulars. p) Whether suffered any permanent disability q) Expenditure incurred on treatment, conveyance, special diet, attendant etc. give details if available	



IMPACT OF THE ACCIDENT ON THE VICTIMS PART – II		
	r) Whether the injured got reimbursement of medical expenses from his Employer or under a Mediclaim policy, give details if available. s) Whether the injured was provided cashless treatment by the Insurance Company? Give details, if available	
3.	Any other relevant Information	

RELEVANT DOCUMENTS TO BE ATTACHED PART – III		
1.	First Information Report	
2.	Photographs of the scene of the accident from all angles	
3.	Statement of the witnesses recorded by the Police	
4.	Scientific Report, If the Victim was under the influence of any liquor/drugs.	
5.	In case of death a) Post Mortem Report b) Death Certificate c) Photograph and Proof of the identity of the Dead d) Proof of legal representatives of the deceased e) Photograph, specimen, signatures attested by the bank and identity proof of the legal representatives of the deceased f) Treatment of the deceased with the name and address of the hospital g) Bank account No. of legal representatives of the deceased	
6.	In case of Injury a) MLC b) Multi angled photographs of the injured	



RELEVANT DOCUMENTS TO BE ATTACHED

PART – III

	c) Photograph, specimen signatures attested by the bank and identify proof of the injured. d) Disability certificate	
7.	Any other relevant information	

Verification

Verified at On this of that the contents of the above report are true and correct and the documents mentioned in Part III have been verified.

Station House officer

(Name and Stamp)



ANNEXURE - A

(Subject to Modifications by the Employer)

PROFORMA BANK GUARANTEE FOR CONTRACT PERFORMANCE

(on non – judicial stamp paper of value not less than Rs 100/-)

The non-judicial stamp paper should be in the name of issuing bank

Ref.

Bank Guarantee No.

Date

NMDC Ltd.,
Khanij Bhavan,
10-3-311/A, Castle Hills,
Masab Tank,
Hyderabad - 500 173.

Dear Sirs,

In consideration of the NMDC Ltd, (herein after referred to as the 'Employer' which expression shall unless repugnant to the Context or meaning thereof include its successors, administrators and assigns) having awarded to M/s. _____ with its Registered/Head office at _____ (hereinafter referred to as the 'Contractor' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), a contract by issue of Employer's Letter of Award of Contract no. _____ dated _____ for "_____ valued at Rs. _____ (Rupees _____ only) and the same having been unequivocally accepted by the Contractor resulting in a "Contract" and Contractor having agreed to provide a contract performance guarantee for the faithful performance of the entire contract equivalent to 10 % (ten percent) of the said value of the contract to the owner i.e. Rs. _____ (Rupees _____ only).

We _____ having (Name and Address) its Head Office at _____ (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, on demand any and all monies payable by the Contractor to the extent of _____ as aforesaid at any time up to _____ (days/month/year) without any demur, reservation, recourse or protest and/or without any reference to the Contractor. Any such demand made by the owner on the Bank shall be conclusive and binding notwithstanding any difference between the Employer and Contractor or any dispute pending before any court, tribunal or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Employer and further agrees that the guarantee herein contained shall continue to be enforceable till the Employer discharges this guarantee.



The Employer shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee from time to time to extend the time for performance of the contract by the Contractor. The owner shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any Employers, vested in them or of any right which they might have against the Contractor, and to exercise the same any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the contract between the Employer or any other course of or remedy or security available to the Employer. The Bank shall not be released of its obligations under these presents by any exercise by the owner of its liberty with reference to the matters aforesaid or any of them or by reason of any other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matters or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

The Bank also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the owner may have in relation the Contractor's liabilities.

Notwithstanding anything contained herein above our liability under this guarantee is restricted to _____ and it shall remain in force up to and including _____ ** and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s. _____ whose behalf this guarantee has been given.

Dated this _____ day of _____ 20 at _____.

WITNESS

Signature

(Name)

Official address

Signature _____

(Bank's Rubber Stamp)

(Name) _____

Designation with Bank stamp

Attorney as per Employer of Attorney

No. _____

Dated _____

NOTE :

* This sum shall be ten percent (10%) of the contract fee

** The date will be as specified in the contract.

(Subject to Modifications by the Employer)



ANNEXURE - B

**BANK GUARANTEE FOR RELEASE OF PAYMENT AGAINST COMMISSIONING CERTIFICATE/
PERFORMANCE GUARANTEE CERTIFICATE/ FINAL ACCEPTANCE CERTIFICATE**

(To be executed on Non-Judicial Stamp Paper of appropriate value)

..... **(Name of the Bank)**

Address

Guarantee No.

A/c Messrs **(Name of Contractor)**

Date of Expiry

Limit to liability (**currency & amount**)

Contract No.

For **(Name of Facilities)**

**Sub: Release of Payment against Commissioning Certificate/ Performance Guarantee
Certificate/ Final Acceptance Certificate.**

Date 200..

To

.....
.....
.....

[Name and Address of Employer]

Dear Sir,

We refer to the Contract Agreement (hereinafter called the "Contract") Reference No. Dated between you and M/s. **(Name of the Contractor)** (hereinafter called the "Contractor") for the design, civil, manufacture, supply of plant & equipment, refractories and structures,



storage, insurance & handling, erection, testing, commissioning and performance guarantee tests of .
(**Name of the Facilities**).

Whereas, the Contractor has undertaken to produce additional Bank guarantee under the provisions of the Contract to secure Contractor's obligations to you for conducting the Commissioning/ Performance Guarantee Tests/ Final Acceptance Certificate (FAC) [**strikeout whichever is not applicable**] as per the provision of the Contract.

1. We (**Name of the Bank**) do hereby expressly irrevocably and unreservedly undertake to unconditionally pay to you merely on your written demand, without referring it to the contractor and without protest and demur an amount not exceeding (**currency and amount**). Any such demand made on us shall be conclusive as regards the amount due and payable by us under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding
2. Notwithstanding anything to the contrary we agree that your decision as to whether the Contractor has committed a breach of any terms and conditions of the contract shall be final and binding on us and we shall not be entitled to ask you to establish your claim or claims under this Guarantee but shall pay the same forthwith without any objection or excuse.
3. We undertake to pay to you any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) / supplier(s) in any suit or proceeding pending before any court or Tribunal or arbitration relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder.

4. This guarantee shall come into force from the date of issue of this guarantee and shall remain irrevocably valid and in force upto the issue of the Commissioning/ Performance Guarantee Tests/ Final Acceptance Certificate (FAC) [**strikeout whichever is not applicable**] provided always that unless extended this guarantee shall remain in force till _____ .
5. This guarantee shall not in any way be affected by you taking any securities from the Contractor or by the winding up, dissolution, insolvency or death as the case may be of the Contractor. We shall not be entitled to proceed against the assets of the Contractor at your site
6. In order to give full effect to the Guarantee herein contained, you shall be entitled to act as if we were your principal debtors in respect of all your claims against the Contractor, hereby guaranteed by us as aforesaid and we hereby expressly waive all our suretyship and other rights, if any, which are in any way inconsistent with the above or any other provisions of this Guarantee.



7. This guarantee is in addition to any other guarantee or guarantees given to you by us
8. This guarantee shall not be discharged by any change in the constitution of the Contractor or us, nor shall it be affected by any change in your constitution or by any amalgamation or absorption thereof or therewith but will ensure for and be available to and effaceable by the absorbing or amalgamated company or concern.
9. Notwithstanding anything contained herein before our liability under this guarantee is restricted up to a sum (**currency and amount**) and shall expire on unless a claim or demand is made on us in writing within three months of the expiry date all your rights shall be forfeited, and we shall stand relieved and discharged from our liabilities hereunder.
10. We have full power to sign this guarantee under the delegations of powers and notification made under general regulation and resolutions in this regard.

Your faithfully

Dated day of 200..

For

(Name of the Bank)



ANNEXURE – C

PROFORMA FOR CUSTODY CUM INDEMNITY BOND

(To be used for materials to be issued free/ or good/materials ownership of which passed on the Employer before construction/ erection/testing/commissioning)
(on Non-Judicial Stamp paper of appropriate value)

Proforma for custody-cum-Indemnity Bond for the work of -----

[Name and Address of Employer]

In consideration of the NMDC Limited ----- (hereinafter called this Company) which expression shall unless repugnant to the subject or content include his successors and assigns having agreed under the terms and conditions of the Contract no ----- dated ----- made between ----- and the Company in connection with ----- to permit the Contractor to receive goods/materials (specify the quantity and name of the materials) of the contract rate of item for supply the value of Rs. ----- inter alia on production of Indemnity-cum-custody bond. We do hereby undertake and agree to indemnify and keep indemnified the company from time to time to the extent of Rs. ----- (Rupees. ----- only) against any loss or damage, costs, charges and expenses caused to or suffered by the company by reason of the ----- failing to take proper care and custody of the goods/ materials and/ or failing to properly used in the job as per Contract and hand over the completed job in terms of the agreement aforesaid or not complying the instructions which may be given from time to time during the continuance of the agreement and we further undertake to unconditionally pay the amount claimed by the company on demand and without demur to the extent aforesaid.

We ----- hereby further undertake to use the said goods/ materials in terms of the Contract aforesaid and further keep safely, preserve and maintain or caused to be kept safely preserved or maintained all plant machinery equipment and all materials for erection till the date of the preliminary acceptance thereof in terms of the agreement and any damage, breakage, loss during this period will be solely to our Account and we would make necessary arrangement proper replacement/repair as desired by the Company.

We ----- further agree that the company shall be sole judge of and as to whether there has been any breach of the terms and conditions of this bond and as to the extent of the loss, damage, costs, charges and expenses caused to or suffered by the Company.



We----- further agree that our liability under this bond shall not be discharged because of the change in the constitution of the Company/or the extension of the time or for any indulgence by the Company granted to us.



ANNEXURE – D

FORM OF PRELIMINARY ACCEPTANCE CERTIFICATE

Ref No. : _____
Date : _____

To :

.....
.....
.....

[Name and address of Contractor]

Contract Agreement No : _____
[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 24** (Preliminary Acceptance) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ ***[date]***, relating to the _____ ***[brief description of the facilities]***, we hereby notify you that the erection, testing & trial runs of the individual unit of the following part(s) of the Facilities was completed successfully on the date specified below. The Facilities are fit for start-up and commissioning. However, you shall liquidate all the outstanding defects and / or deficiencies and complete the balance items listed in the attachment hereto, as soon as possible, so that the Facilities are fully in accordance with the requirements of the Contract and commissioning activities of the Facilities can be started. Further, you shall be fully responsible for care and custody of the Facilities and the risk of loss thereof till the issue of commissioning certificate in terms of the Contract.

1. Description of the Facilities or part thereof : _____ ***[description]***
2. Date of Completion of Trial runs: _____ ***[date]***

This letter does not relieve you of your obligation to complete the execution, commissioning, establishment of performance guarantee parameters of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title
(Project Manager)



ANNEXURE – E

FORM OF COMMISSIONING CERTIFICATE

Ref No. : _____

Date : _____

To :

.....
.....
.....

[Name and address of Contractor]

Contract Agreement No : _____
[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 25** (Commissioning of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ **[date]**, relating to the _____ **[brief description of the facilities]**, we hereby notify you that the following part(s) of the Facilities was (were) commissioned on the date specified below, and that, in accordance with the terms of the Contract, the Employer hereby takes over the said part(s) of the Facilities, together with the responsibility for care and custody and the risk of loss thereof but without prejudice to any of the rights of the Employer, on the date mentioned below.

1. Description of the Facilities or part thereof : _____ **[description]**
2. Date of Completion : _____ **[date]**

However, you are required to complete the outstanding items listed in the attachment hereto as soon as possible.

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title
(Project Manager)



ANNEXURE – F

FORM OF PERFORMANCE GUARANTEE CERTIFICATE

Ref No. : _____

Date : _____

To :

.....
.....
.....

[Name and address of Contractor]

Contract Agreement No : _____
[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 27** (Performance Guarantee Tests of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ ***[date]***, relating to the _____ ***[brief description of the facilities]***, we hereby notify you that the Performance Guarantee Tests of the following part(s) of the Facilities was (were) carried out and Performance Guarantee Parameters were satisfactorily attained on the date specified below, and that, in accordance with the terms of the Contract.

1. Description of the Facilities or part thereof : _____ ***[description]***

2. Date of Completion : _____ ***[date]***

3. Performance Guarantee Parameters :

Description

Guaranteed

Achieved

a)

b)

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title
(Project Manager)



ANNEXURE – G

FORM OF FINAL ACCEPTANCE CERTIFICATE

Ref No. : _____

Date : _____

To :

.....
.....
.....

[Name and address of Contractor]

Contract Agreement No : _____

[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 28** (Final Acceptance of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ **[date]**, relating to the _____ **[brief description of the facilities]**, we hereby notify you that the following part(s) of the Facilities was (were) completed satisfactorily including completion of Defects Liability Period of twelve months after commissioning, on the date specified below, and that, in accordance with the terms of the Contract.

1. Description of the Facilities or part thereof : _____ **[description]**
2. Date of Completion : _____ **[date]**

Yours faithfully,

Title
(Project Manager)



ANNEXURE – H

FORM OF CHANGE ORDER (Employer's Letterhead)

Ref No. : _____
Date : _____
To: _____

.....
.....
.....

[Contractor's Name and Address]

Contract Agreement No : _____
[Name of the Facilities]

Dear Sirs,

We approve the Change Order for the work specified in the Change Proposal (No. *[number]*), and agree to adjust the Contract Price, Time for Completion and / or other conditions of the Contract in accordance with GCC Clause 41 of the General Conditions of Contract.

1. Title of Change: *[name]*
2. Change Request No. / Rev.: *[Request number/revision]*
3. Change Order No. / Rev. : *[Order number/revision]*
4. Originator of Change : Employer / Contractor: *[name]*
5. Authorised Price :

Ref. No. : *[number]*

Date : *[date]*

Foreign currency portion *[amount]* plus Local currency portion *[amount]*

6. Adjustment of Time for Completion
None Increase *[number]* days Decrease *[number]* days
7. Other effects, if any

Authorised by: _____ Date: _____
(Employer)

Accepted by : _____ Date : _____
(Contractor)

Title

Title



ANNEXURE – I

**DECLARATION OF INDEPENDENCE AND IMPARTIALITY BY
CONCILIATORY COMMITTEE MEMBER**

To:

1. NMDC:
2. Contractor:

Subject: Declaration of independence and impartiality by Conciliatory Committee Member in the dispute between NMDCAnd.....under Contract No.....

I, the undersigned, hereby accept to act as Member of the Expert Committee and conciliate in the disputes under reference between the parties above named.

I confirm that I am aware of the requirements of law particularly of the Arbitration and Conciliation Act, 1996, to act as a conciliator. I am able to act as conciliator and I am available to act as Member of the Expert Committee.

I hereby declare that I am independent of each of the parties and have no ownership interest in any part of the contract under reference or any financial interest in the said contract. I have no interest in the outcome of the dispute or its settlement.

I hereby affirm that I shall act with honesty, integrity, diligence, and will remain independent and impartial while discharging my duties as conciliator/Conciliatory Committee Member. I will disclose any interest or relationship with the parties or the subject matter which might compromise in any manner my ability or capacity to remain impartial and independent in the matter.

The fees and other facilities offered to me and the terms and conditions contained in the appoint letter and guidelines issued by MRPL are acceptable to me. I will not demand for enhancement of the same.

(Signature)

Name:

Address:

Phone:

Email:

Da



FORMAT OF HINDRANCE REGISTER

NMDC Limited Plant/Unit: Package Name: Contractor/Consortium Name: Consultant:										
Contact details of Engineer from NMDC Name Designation /Dept Phone No						Contact details of Contractor Name Designation /Dept Phone No				
S No.	Nature of Hindrance	Items of work that could not be executed due to this hindrance	Date of start of hindrance	Date of removal of hindrance	Overlapping period if any	Net hindrance in days	Employer's sign	Consultant's Sign (if applicable)	Contractor's Sign	Remarks



SAFETY IN CONTRACT WORKS IN MINES	IPSS: 1-11-010-14 (First Revision)
Corresponding IS does not exist	1-11-010-01

FOREWORD

This Inter Plant Standard formulated by the Standards Committee on Personnel Safety Appliances & Procedures, IPSS 1:11, with the active participation of the representatives of steel plants and associated organizations in the field, was adopted in May 2001 and revised in October 2014.

This is one of the series of Inter Plant Standards in the area of safety in mines involved in raw material supply to the steel plants and providing guidance to all concerned in accident prevention.

1. SCOPE

- 1.1 Safety is the responsibility of the Contractor and his staff/employees/workmen engaged/deployed for execution of work under the Contract, individually and collectively. For this purpose, the Contractor staff means and includes all its Associates/Sub-contractors/Vendors/Sub-vendors and their staff/employees/ workmen deployed for execution of the work covered under the Contract. The Contractor shall ensure that his workmen participate in the safety awareness, health care and safety training programs whenever such programs are organized by the Employer or the Contractor.
- 1.2 The Contractor's scope of work shall include, but not be limited to execution of work/contract, adequate safety arrangement for men, machines and materials etc. engaged during the execution of contract.
- 1.3 While executing the contract, the contractor/his supervisor has to ensure safety of surroundings with regard to Employer's workplace/site and other contractor's men/machine/materials/system etc.

2. PROCEDURE

- 2.1 Contractor shall prepare Job Safety Analysis (JSA)/ Hazard Identification Risk assessment (HIRA) in consultation with executing authority before start of the job. Proper protocol to be prepared for undertaking hazardous jobs at the discretion of Executing Authority. JSA/ HIRA shall be elaborate and shall have mention of responsibility also.

2.2 SUPERVISOR

- 2.2.1 The contractor shall engage qualified and competent supervisors for executing the



contract. The supervisor must be able to (i) Read drawing (ii) Understand the safety aspect of the job (iii) Take necessary precautionary measures (iv) Ensure leadership for the safe execution of the job.

2.3 SAFETY SUPERVISION

- 2.3.1 The contractor shall provide at least one competent full time safety supervisor for each contract. For job involving deployment of large no. of workers, more safety Supervisors shall be deployed in the ratio of 1:50 for ensuring effective supervision.

2.4 GATE PASS

- 2.4.1 The contractor shall, in accordance with prescribed procedure, obtain Gate Passes (PHOTO PASSES) from Employer's Security Department who shall make it available to the contractor, to enable the contractor and its staff/employees/workmen to enter the work area inside the plant as well as unenclosed (open) work area like township. The contractor shall make arrangements for instant photography for those contract workers who may be required to go to work in emergency and do not have photo passes.

2.5 SAFETY INDUCTION

- 2.5.1 In order to provide basic industrial safety training to the workers of contractor, Employer will provide on request, the general safety induction to the workmen/supervisor at Safety Engineering Department. The contractor shall submit the list of persons with full detail for the job of safety induction to the engineer for arranging the same. The contractor shall not engage untrained personnel for executing any contract in the works. Job safety induction will be compulsory for every job to start with.
- 2.5.2 If at any point of time, contractor feels or needs any special safety training for carrying out a particular job, the same shall be arranged by the concerned engineer of the Employer. For this, the contractor shall inform the concerned engineer of the Employer well in advance of commencement of such job.
- 2.5.3 The contractor shall motivate and encourage its employees/workmen to make personal contribution towards enhancing safety on the basis of their knowledge and experience.
- 2.5.4 The contractor shall have adequate number of Pocket Sized Safety Cards containing safety instructions, prepared on the basis of Employer's model safety book for contractor's Workers in Hindi or regional languages as may be required and shall issue them to all his employees/workmen and ensure that they read it before commencing the work. The safety instructions from the Safety Card shall be read and explained by the Contractor or his representative to those employees/workmen who are illiterate and cannot read and ensure that they have been understood. If the employees are signing in the attendance register, the Contractor shall arrange to write 'Safety Sentence' on the top of each page below which each employee will either sign or put his thumb impression as a token of his/her attendance



and also for having read/understood the safety instructions.

The 'Safety Sentence' shall be *"I have read/understood the safety instructions and I shall work according to these instructions"*.

- 2.5.5 The work areas where a different system of keeping attendance exists, the Contractor or its representative shall furnish the list of employees/workmen deployed on the job on any particular day and on top of which the following sentence shall be recorded by the representative of the Contractor:

"I have explained the safety instructions to my workers mentioned below and assure that they have understood the instructions and shall work according to these instructions".

The contractor shall provide Safety Induction/ Tool Box Talk/ PEP Talk everyday before start of the job i.e. briefing the nature of work to be carried out and the necessary precautions to be taken while executing the job/contract during the particular day and to be documented.

- 2.5.6 Contractors shall follow all special safety precautions issued by the Executing Authority or his site Engineer from time to time.

2.6 LIABILITY

- 2.6.1 The Contractor shall abide by the provisions of all statutory acts and rules as applicable and maintain Register & Documents, submit periodic Reports & Returns, furnish information/report relating to accidents occurring in the area of work to competent authority in time .
- 2.6.2 The Contractor shall be liable for prosecution and penalty in accordance with and as prescribed under law of the land, terms & conditions of Contract as well as rules of the Company relating to safety, for not observing those provisions by the Contractor or its employees/workmen.
- 2.6.3 The Contractor shall keep the Company indemnified against all losses/claims due to accidents/injuries/damages caused at the Contractor's works site. He shall be fully responsible for accidents caused due to the Contractor or his agents' or workmen's negligence or carelessness in regard to the observance of the safety requirements and shall be liable to pay compensation for injuries.
- 2.6.4 The Engineer or the Head of the Safety Department or their authorized nominees, upon their satisfaction that the Contractor is not conforming to the Safety requirements, may direct stoppage of work and direct the Contractor to remedy the defects or supply the Facility /equipment as the case may be. The Contractor shall not proceed with the work until he has complied with such directions to the satisfaction of the Engineer/Safety Department.



- 2.6.5 If a driver or any staff of the Contractor is caught in theft case or in any unauthorized movement of materials or in the activity which is punishable under the law or not authorized by the Plant, the Contractor shall bear the full responsibility for the loss and other consequences which may result to the Plant due to such illegal/unauthorized acts besides the action to terminate the contract by the Plant.
- 2.6.6 The Contractor shall be responsible to ensure that vehicles belonging to him are not driven in reckless or rash manner so as to become a potential threat to the safety of the traffic in the plant or township area. The drivers of the vehicles shall be made to adhere to the speed limits wherever applicable. Failure to comply with the above, may result in the termination of the contract.
- In case of accident or injury or damages caused by the Contractor's vehicle or staff to any person or property, the financial responsibility to compensate be borne solely by the Contractor and this amount may, at the discretion of the competent authority of the Plant, be recovered from the bills or security or other deposits of the Contractor.
- 2.6.7 The Contractor shall ensure that all his employees/workmen are covered under 'ESIC Act' and shall pay compensation to his workmen as and when the eventuality for the same arises.
- 2.6.8 To ensure effective enforcement of the rules and regulations relating to safety precautions, the arrangements made by the Contractor shall be open to inspection by the Engineer or his representatives, Safety Engineer & Labour Officer.
- 2.6.9 The Contractor shall enclose along with his first bill a true copy of the Safety Induction Form (**ANNEXURE-1A**) duly certified by the Executing Authority regarding use of safety appliances, following of safety instructions and observance of all safety laws, failing which the bill will not be processed for payment.
- 2.6.10 Monetary Penalty will be imposed on the contractor on account of Safety Violation including fatal accident as per extent penal provision made for the purpose.

2.7 PPE & SAFETY APPLIANCES

- 2.7.1 The Contractor shall provide all the PPE (Personal Protective Equipment) and safety appliances required to carry out the job to all the workmen deployed by the Contractor and also ensure that his workmen use those PPE and safety appliances while on the job. The contractor shall not pay any cash amount in lieu of PPE to the workers.
- 2.7.2 The PPE and safety appliances provided by the Contractor shall be of the standard as prescribed by Inter Plant Standardization in Steel Industry (IPSS) or by Bureau of Indian Standards (BIS) / other equivalent international Standard.
- 2.7.3 If the Contractor fails to ensure provision of safety appliances required to carry out the job safely to the workmen and that its workmen do not use the PPE and safety appliances as



needed for safe working. The Safety Engineering Department/ executive on finding that the Contractor is not conforming to the Safety requirements may direct the Contractor for stoppage of work and require the Contractor to remedy the defects.

The Contractor shall not proceed with the work until he has complied with each direction to the satisfaction of Engineer and Safety Engineering Department.

2.8 SITE CLEARANCE

2.8.1 Prior to commencement of work, the Contractor shall obtain a clearance from the Safety Engineering Department of the Employer and concerned department/section of the Employer where the job is to be carried out. The Employer/Engineer shall not permit the Contractor to commence the work unless Contractor or its representative produces such clearance certificate. The department concerned shall grant such clearance after ensuring that:

- a) The Contractor himself has undergone Safety Induction Training organized by the Employer's Safety Engineering Department in the preceding twelve months.
- b) The Contractor's workers, identified for particular work/department, have undergone Safety Induction Training in the preceding twelve months.
- c) The Contractor has arranged PPE and safety appliances for himself and all his workmen, as required.
- d) The Contractor possesses safety clearance certificate by the Employer or Employer's representative for which the —Work Clearance Formll (**ANNEXURE-1B**) shall be filled in in triplicate by the Contractor.
- e) The Contractor is not permitted to start the job without clearance from Employer's Safety Engineering Department.
- f) The Contractor shall possess handling equipment, tools and tackles of adequate capacity and tested quality as per statutory requirement.

2.8.2 Contractor shall obtain specific permission in accordance with IPSS:1-11-007-14 —Procedure for Permit to Workll and IPSS:1-11-005-14 —Procedure for Working at Height by Contractor's Workers from the Engineer or the Company's Safety Department before commencing the following:

- a) Working in an operating plant/equipment
- b) Working at height
- c) Working in areas expected to have toxic/poisonous gases
- d) Major site activity irrespective of the clearance already obtained
- e) Wherever there are hazards of electricity, moving machinery etc.
- f) Any other job as per instruction of Executing Authority.



The contractor shall obtain the copies of the above IPSS procedures from the Engineer/ the Safety Engineering Department/ from IPSS Website.

- 2.8.3 The executing department shall take necessary shutdown of operating plant before commencement of job in that area. The Contractor shall ensure that the shut-down/clearance is taken before sending workers to such locations where there is possibility of hazards of gases, electricity, moving machinery etc.

2.9 SKILL & COMPETENCE OF WORKMEN

- 2.9.1 The Contractor shall be responsible to engage competent and skilled workers.
- 2.9.2 Before starting the day's job, the Contractor shall ensure that safety briefing has been done to his workers by himself or his supervisors who have been imparted Safety Induction earlier and also maintain records to this effect.

2.10 PHYSICAL FITNESS OF WORKMEN

- 2.10.1 The Contractor shall ensure that his employees/workmen subject themselves to such medical examination as required under the law or under the Company's rules and keep a record of the same.
- 2.10.2 The Contractor shall not permit any employee/workman to enter the work area under the influence of alcohol.

2.11 DEALING WITH ACCIDENT

- 2.11.1 The Contractor shall maintain a safety register, keep records of all minor or major accidents, serious or averted (near miss) accidents, with or without injuries to human beings and shall submit a report about the accidents to the Engineer promptly, on the form prescribed by the Employer.
- 2.11.2 The Contractor's supervisor/officer in charge shall arrange to take the injured person first to Plant Medical Unit with IOW (Injury on Work) form given as per **ANNEXURE-1C** and under no circumstances, take the injured person directly to his own doctors. The information of fatal accident shall be given as per **ANNEXURE-1D**.
- 2.11.3 The Contractor shall not interfere with the site of accident, unless inspected and/or permitted by the competent authorities.
- 2.11.4 The Contractor shall arrange to avoid any sort of commotion at site in the event of an accident.

2.12 MISCELLANEOUS



2.12.1 Safety Records (Statutory Records)

The Contractor shall keep record of:

- i) Test certificates of all lifting M/c tools and tackles, Pressure Vessels, etc.
- ii) Periodical inspection report of Safety appliances.
- iii) Maintaining accident analysis report, in proper format in consultation with Employer's Engineer.
- iv) Safety record as per Factory Rules/Safety Codes or any other statutory provision shall also be maintained. However, necessary help in this regard can be taken from the concerned Safety Organization.

2.12.2 Gas Lines

To work in dangerous gas lines, Employer will provide job specific safety Training to the Contractor's personnel.

2.12.3 Electrician/Other Electrical Personnel

The Contractor shall engage qualified and competent electricians and other electrical personnel while working on electrical lines (which may be High Tension, Medium Tension and Low Tension electrical lines) for safe execution of contract. The electricians and other electrical personnel must possess requisite certificate issued from competent authority.

Electrical Equipment

- a) The Contractor shall ensure proper earthing of all electrical equipment/machinery prior to start of the machine. The Contractor shall also ensure daily examination of the earthing of equipment/machinery prior to start of the job in order to avoid electrical hazards.
- b) The Contractor shall ensure use of proper cable (may be welding cable or power cable or control cable). The joints of the cables shall be perfectly insulated. The Contractor shall also ensure the use of proper plugs, sockets and other electrical fittings while executing any contract.
- c) All portable electrical equipment including welding machine shall have provision of ELCB/ RCCB.

2.12.4 Scaffolding/ Lifting/ Lowering/ Dismantling of Equipment or Fabricated Structural or any other materials

- i) For safe execution of the contract, Contractor shall make a safety plan for the job, in sequence of steps involved in execution and the required safety measures to be taken during the execution of the job.



- ii) The Contractor shall ensure the use of proper and sufficiently strong scaffoldings, working platform, hand railings as per relevant BIS Standard during the execution of the job.

The Contractor shall ensure the use of scaffoldings. If the scaffolding as per the standard is not found at site, the Contractor shall make necessary modifications to strengthen the same.

For any Civil Engineering job, the Contractor will provide adequate support before casting or any superstructure and provide approach, scaffolding etc, in such a manner that it is safe, easy for movement of men, women and materials.

- iii) The Contractor shall make his own arrangement for the area lighting/spot lighting at Fabrication Yard. The Employer will provide power source at one point only near to the Fabrication Yard.
- iv) The Employer will provide area lighting at erection site only. The Contractor shall make his own arrangement for spot lighting. The source of power supply at the nearest possible point will be shown by Engineer at site.

2.12.5 House Keeping

- i) The Contractor shall ensure good housekeeping in his working area, fabrication yard as well as at erection site. The safe approach to the working place must be ensured. Place for keeping raw materials, finished materials, semi-finished materials should be clearly marked with proper identification. Machine component shall be kept properly under shed.
- ii) The Contractor shall keep the scrap materials at one place duly barricaded and shall remove the same regularly from the workplace.
- iii) The Contractor shall stack properly the fabricated or any other items and maintain safe stack height in stable condition in consultation with Executing Authority, The stacking shall be done in such a way that the materials do not cause congestion at site or create unsafe condition for free safe approach.
- iv) The Contractor should put up a board (4' x 3') indicating Contact / Mobile No., the name of the Contractor, details of the job, Order No., starting date and likely completion date of the job. On completion of the job, the Contractor shall clear the site (good materials and scrap). The board so displayed shall be taken out of the site. Any material left after the job is over will be picked up by the Employer and the Contractor will be charged back for the same.
- v) Removal of muck shall be done within 24 hours from road sides.



- vi) The Contractor shall be responsible for removing all unwanted materials/scaffolds from work site.
- vii) The Contractor shall issue written as well as oral instructions from time to time, in addition to the precautions, measures spelt out above so as to ensure that the workers adhere to safety norms specifically needed for the particular job during the execution of the work.

2.12.6 Barricade

- i) The Contractor shall ensure Barricade of the unsafe area, which can lead to accident to any person working in that area. In order to remove unsafe condition and prevent accident, The unsafe area such as trench/pit/foundation, any type of opening made or left in any floor of the building including staircase etc. must be barricaded.
- ii) The hand railings shall be immediately provided in all the floors, stairs, etc. before proceeding for further erection/dismantling.

The contractor shall ensure that compressed air is not used for removing dust from one's clothes. Compressed air shall not be blown against anyone as it may injure or even kill him/her.

- 2.12.7 The contractor shall provide, maintain, and arrange for periodical checking of adequate numbers of fire extinguishers of appropriate type and other facilities (e.g. sand buckets, asbestos covering etc.) in fire prone areas.
- 2.12.8 The contractor shall provide clearly demarcated access and exits at work site to take care in case of outbreak of fire or any other eventuality.
- 2.12.9 The contractor shall ensure that smoking or keeping of naked light near gas lines, valves and any other equipment connected with the gas distribution system and handling of all inflammable material is strictly prohibited.
- 2.12.10 The contractor shall ensure that no one takes rest/shelter below any dumped slag boulder or any other cut pit/excavation, near any stock of materials, electrical installations, and gas lines, etc.
- 2.12.11 The contractor shall ensure the availability of first aid box at the working sites.
- 2.12.12 Adequate no. of Safety Signage's/caution board indicating the hazards and their preventive measures to be prominently displayed at the place of work preferably in local languages.



- 2.12.13 In case shifting of contract workers from one place of work to other place, necessary safety inputs pertaining to the new jobs to be imparted.
- 2.12.14 The contractor shall ensure that all person deployed by him are confined to the designated place for the period of work.

3.0 MEMORANDUM OF UNDERSTANDING (MOU)/ AGGREMENT

- 3.1 A Memorandum of Understanding/ agreement shall be signed between the Contractor and the representative of the Contracts Department (on behalf of the Plant) before the award of the contract wherever deemed fit.
- 3.2 Points from **2.2** to **2.12** in the aforementioned procedure shall be part of any such MOU/ agreement.
- 3.3 Blue Print of such MOU/ agreement is placed as Annexure-2.



ANNEXURE-2

(Name of the Company/Plant)

Memorandum of Understanding between _____ and the Contractor for safe execution of contract work

This Memorandum of Understanding is made and executed by and between _____, a Company and/or Plant registered under the Companies Act 1956 and/or Factories Act 1948 and having its registered office at _____ or their authorized representative(s)], hereinafter referred to as —EMPLOYER (which expression shall wherever the context so requires or admits be deemed to mean and include its successors in business and assigns) of the one party

AND

M/s _____ having its registered office at _____ hereinafter referred to as the CONTRACTOR (which expression shall wherever the context so requires or admits be deemed to mean and include its successors in business and assigns) of the other party.

WITNESSETH THAT

WHEREAS the EMPLOYER gives highest importance to the safety in execution of work, seeks cooperation from the CONTRACTOR in this Endeavour.

Thus, this Memorandum of Understanding is for promoting the safety aspects required to be followed at workplace/site and will be applicable to any site job to be done by the CONTRACTOR.

AND

WHEREAS the CONTRACTOR has read all the terms and conditions of the EMPLOYER and whereas the CONTRACTOR has studied the following documents:

- a) Tender Documents, Enquiry/Order Specification including General Conditions.
- b) General Safety Rules, Safety Rule for Construction Work and Electrical Safety Guide.
- c) Indian Factory Rules , Indian Factories Act, Indian Electricity Rules 1956.

The amendments to any of the above rules and any other rules & regulations or procedures, Circulars, Notices & Advices laid down by the EMPLOYER from time to time whereas these documents are included as Annexure to this Memorandum of Understanding.

Now it is hereby AGREED AND DECLARED by and between the EMPLOYER and the CONTRACTOR as follows:

- | | |
|-----------|---|
| Clause-I | The CONTRACTOR shall abide by the terms and conditions stipulated in Annexure to Memorandum of Understanding between EMPLOYER and the CONTRACTOR for the safe execution of the contract work. |
| Clause-II | The CONTRACTOR shall undertake full responsibility for safe execution of job at workplace/site and safety of his personnel from the time he enters the gates of _____ till the time he leaves the Works gates after his duty. |



Clause-III Without giving any prior notice, the EMPLOYER shall from time to time be entitled to add/or amend any or all terms and conditions with a view to improving safety of personnel and safety of work, with immediate effect and the same shall be binding on the CONTRACTOR. The CONTRACTOR agrees to implement all such amendments which shall be laid out by the EMPLOYER.

Clause-IV Besides following the guidelines, safety rules and regulations, safety codes given in various safety procedures/documents mentioned above, the CONTRACTOR shall also prepare a job safety analysis wherever there are complicated and hazardous working involved. The CONTRACTOR shall consult executing agency, supervisors of Safety and Accident Prevention Services Department and officers from specialized agency of EMPLOYER in preparing such documents.

In witness thereof the Parties hereto by representatives duly authorized have executed this Memorandum of Understanding on _____ day of _____ 20_.

Signed by for and on behalf of the Contractor Signed by for and on behalf of the Employer

[Signature]

[Signature]

[Designation]

In the presence of ____

1)

[Signature]

[Designation]

2)

[Signature]

[Designation]

3)

[Signature]

[Designation]

[Designation]

In the presence of ____

1)

[Signature]

[Designation]

2)

[Signature]

[Designation]

3)

[Signature]

[Designation]



ANNEXURE:1A

(Name of the organization)

(Name of the unit)

SAFETY INDUCTION FORM

Safety Induction to the Contractor for starting a job

1. Name, address & contact no. of the Contractor :
2. Contract/Award Letter/Work Order No. :
3. Name of Department awarding Contract :
4. a) Probable date of starting job :
c) Duration :
5. Place & Nature of work :
6. Name & Designation of supervisors
 - i) Department (1) (2)
 - ii) Contractual (1) (2)
7. Necessary safety precautions explained :
8. Safety appliances advised for usage to the Workers :
9. Safety Engineering Department

I have gone through the Safety Rules Book for Contractors and received a copy of the same. I shall follow all safety precautions/instructions given to me and shall be responsible for safety of my staff/employees/workmen.

Signature of the Contractor

Certified that requisite Safety Appliances are available with workers and Contractor is permitted to start the work.



Signature of Engineer

Certified that the requisite Safety Appliances shall be used, and safety precautions/measures shall be adopted.

Safety Officers of Employer

Copy to:

1. Safety Department
2. Operation/Works Department
3. Contractor with one spare copy



ANNEXURE:1B

(Name of the organization) (Name of the unit)

WORK CLEARANCE FORM FOR CONTRACTORS

1. Name of Contractor's firm with address & contact no. :
2. Engaged by which Department :
3. Name of the Representative/Supervisor of the Contractor supervising the job:
4. Precise nature of work to be carried out / work order reference :
5. Precise location of work :
6. Proposed date & time of commencement :
7. Expected number of days required for the work :
8. Whether Contractor's workers are to be engaged in G/A/B/C shifts and No. of people engaged:

I accept responsibility for ensuring that all men under my control shall observe the statutory safety requirements and follow the safety instructions of the plant.

Date: Signature of the Contractor

Certified that the Contractor has been engaged by us for the work described above.

Date: Signature of the Engineer

Certificate to be given by the Deptt/Section where work is to be carried out

You are authorized to carry out the work described below.

Date: Signature of Safety Officer of the Employer



ANNEXURE-1B (CONTD) (WORK CLEARANCE FORM FOR CONTRACTORS)

Note:

1. The form shall be filled in TRIPLICATE by the Contractor for the record of (i) Safety Engg. Deptt. (ii) Deptt/Section granting clearance (iii) Contractor
2. These certificates are not a substitute for the Electrical Permits and do not give permission to use masked lights or work in gas hazardous areas or enter closed vessels or for explosives, which shall be taken separately wherever required.



ANNEXURE: 1C

(Name of the organization)

(Name of the unit)

**INJURY ON WORK
(Contractor's Employees)**

1. Name of the Firm :
2. Name of the Contractor & contact no. :
3. Name of Deptt (awarding contract) :
4. Name of injured person :
5. Designation, Gate Pass No./Token No., ESIC NO. :
6. Date & time of accident :
7. Deptt where accident happened :
8. Exact place of occurrence :
9. Eye witness (name & designation) (1)
(2)
10. Persons informed (1)
(2)
11. Brief account of the accident :

Signature of the Contractor/
Contractor's Supervisor

Date:

Name:



(PARTICULARS TO BE FILLED IN BY MEDICAL OFFICER)

1. Nature of injury :
2. The injured person is FIT/UNFIT to return to duty :
3. If unfit, period of rest recommended :
4. This employee has been notified that He is FIT/UNFIT as per Sl.No. 2 (strike out which is not applicable)

Signature of the Medical Officer

Date:

Name:



ANNEXURE-1C (CONTD) (INJURY ON WORK)

Note:

1. When an injury occurs to a Contractor's employee while inside the factory, the injured person should be sent to Plant Medical Unit immediately, with this form in triplicate.
2. The Medical Officer on duty at Plant Medical Unit will retain one copy and sent one copy to Safety Engineering Department. The third copy shall be returned to the Contractor concerned after duly filling up the forms.

In case the Contractor takes the injured person to his private doctor, he shall do so by giving a written undertaking to the doctor in Plant Medical Unit and to the Manager Safety Engineering Department.

If the private doctor declares the injured person unfit for duty for more than 2 days, this becomes reportable accident under the Factories Act and the Contractor shall immediately report this to the Manager, Safety Engg Deptt for sending the reports to concerned Govt agencies.

The Contractor shall also keep the Manager (Safety) informed about:

- a) The condition of the injured person
- b) The period of disability, and
- c) Any loss of earning capacity certified by the doctor

The Contractor shall produce the fitness certificate from the attending doctor after the injured person has been declared fit for duty.



ANNEXURE: 1D

(Name of the organization) (Name of the unit)

NOTICE OF FATAL ACCIDENT

(Contractor's Employees)

Date:

From: (Name, address& contact no. of the contractor)

To:

The Engineer (Superintendent/Manager)

Dear Sir,

We regret to inform you that Shri _____, an employee of
M/s _____ met with a fatal accident at
_____ AM/PM, dated _____ at _____. At the time of accident,
he was engaged in _____ (description of work) and

Contact No. _____

Name _____

Fathers Name _____



Appendix-A to Clause 2.6.10

Penalty Clauses in Project Contracts for Violation of Safety Norms

1. Introduction

The entire range of safety violations in the Projects area has been categorized as follows:

A. Minor safety violations:

- i. Basic safety violations covering non-usage of quality Personal Protective Equipment (PPE)
- ii. Others: as detailed in **Appendix-A1**.

B. Major safety violations: as detailed in **Appendix-A2**.

C. Serious/ lost time injury to Contractor's employees on job/road in the Projects area caused as a result of above violations and as reported by concerned Department/ HoD or Safety Engg. Dept.

D. Fatal accident/ permanent disability at the Projects area/road caused due to negligence of Contractor or their employees as reported by Department/HoD or Safety Engg. Dept in consultation with Operating Authority for the Contract.

E. Property damage cases

2. Penalty Clauses for Project Contracts (valued at Rs. 1 lakh and above):

Category of Violation	Penalty per Violation (Rs.)
A. <u>Minor safety violations</u> a) Basic safety violations covering non-usage of quality PPE b) Others	Rs.500/- per person for first violation & Rs.1000/- per person for each subsequent violation. Rs.5,000/- for first violation and Rs. 10,000/- for each subsequent violation.
B. Major safety violations	Rs.15,000/- for first violation and Rs. 20,000/- for each subsequent violation.
C. Serious/ lost time injury to Contractor's employees on job/ road in the Projects area caused as a result of safety violations	Fine of Rs. 25,000/- or 0.5% of the contract value, whichever is higher, for each incident, subject to a maximum of Rs.1 lakh.
D. Fatal accident/ permanent disability at the Projects area/road caused due to negligence of Contractor or their employees	Rs.3 lakh or 10% of the contract value, whichever is higher, per person, subject to a maximum of Rs.10 lakh. Enquiry Committee shall be formed by each Plant/ Unit and further actions like debarring/ banning/ black listing will be taken as per the recommendations of the Enquiry Committee.



Category of Violation	Penalty per Violation (Rs.)
E. Property damage cases	If the Contractor or their employees cause any damage to Company property(-ies), the <i>repair/ replacement/ cost</i> towards the property(-ies) shall be recovered from the Contractor.

3. Notes:

- a. **For contracts valued less than Rs. 1 lakh, decision regarding quantum of penalties may be taken by the concerned Plant/ Unit.**
- b. Subsequent violation means violation of similar type/ nature.
- c. The decision of Project Manager on the safety violation shall be final.
- d. The lists of items included in Minor' and Major' violations are only indicative and can be made more elaborate by the respective Safety Engg. Deptts. in consultation with operating authorities as per their requirement.

Minor Safety Violations (Others)

1. Engaging workers without proper safety induction training
2. Unauthorized entry to hazardous location
3. Blocking access of emergency equipment or exits
4. Using damaged electrical cables or faulty joints in cables
5. Connection taken from board without proper plug
6. Hand gloves not used during material handling
7. Gas cutting without goggle
8. Not using flashback arrestor in cutting sets
9. Rolling/ lifting of cylinder/ dragging on the ground (without cage)
10. Welding with non-standard holder
11. Taking electrical connection without using ELCB/RCCB
12. Gas hose pipe clamping done by wire, instead of clamp
13. Using expired gas cylinder
14. Wet bags not put on gas cylinder
15. Condition of oxygen/ fuel hose pipe in gas cylinders not good
16. Not putting red flags/ stopper in dangerous areas
17. Not having proper gate passes/ other area passes
18. Use of damaged slings/ tools/ ropes
19. Use of material handling equipment for lifting the persons
20. Use of hand grinders/ mixer machines which are without guard & proper earthing
21. Non-reporting of accident/ near miss cases
22. Persons working under suspended loads
23. Taking shelter behind electrical panels/ inside motor rooms



24. Traffic violations (over-speeding, wrong parking, negligent driving and driving of heavy vehicles on the main road during restricted hours)
25. Dumping excavated earth on the edge of excavation
26. Dropping/ spillage of material on the road
27. Inadequate road worthiness of mobile equipment/ vehicles
28. Not barricading area around breakdown vehicles

Major Safety Violations

1. Using bamboos or other non-standard material for scaffolding
2. Railing not given at working platforms
3. Working at height without height pass
4. Non-usage of Full Body Harness (FBH) for working at height (roof sheeting, painting, maintenance jobs, etc.)
5. Lifeline for anchorage of FBH not provided
6. Not anchoring the lanyards of FBH with lifelines
7. Floor opening left unguarded
8. Work permit not obtained for hazardous jobs
9. Not complying with written instruction on the work permit
10. Absence of supervisor at work in hazardous areas like confined space, height jobs etc.
11. Proper ladder/ approach not given for working at height
12. Walkways/ cross-over path not provided
13. Inadequate sloping/ shoring of excavated pits as per approved plan
14. No barricading of excavated pits
15. Dismantling of structure without authorized plan
16. Sleeping under transport vehicles
17. Driving vehicles/ working in intoxicated condition
18. Smoking in the non-smoking/ restricted areas
19. Fitness certificate of cranes/ heavy vehicles not available
20. Tampering with existing operational facility
21. Starting the job without approved Protocol for Working at Hazardous / Operational area

एनएमडीसी



NMDC

NMDC LIMITED
(A Government of India Enterprise)

10-3-311/A, Khanij Bhavan, Castle Hills,
Masab Tank, Hyderabad- 500028