

HARYANA POWER GENERATION CORPORATION LIMITED



BIDDING DOCUMENTS

FOR

**FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE
FOR
DCRTPP YAMUNA NAGAR (2X300 MW))**

**SECTION - II
INSTRUCTION TO BIDDERS**

BIDDING DOCUMENT NO. : 32/CE/PLG/DCRTPP/FGD-251

(This document is meant for the exclusive purpose of bidding against this Bid Document No. / Specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued).

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Clause No.	INSTRUCTIONS TO BIDDERS (ITB)	
	<p style="text-align: center;">INSTRUCTIONS TO BIDDERS</p> <p style="text-align: center;">A. Introduction</p> <p>1.0 General</p> <p>1.1 Mode & Type of Bidding</p> <p>The bidding shall be done online through e-tender portal named in the Bid Data Sheet (BDS) as per the mode (i.e. Domestic Competitive Bidding (DCB) and type (i.e. Single Stage Two Envelope) stipulated in BDS. Bidders are advised to go through the guidelines provided at e-tender portal for online bidding.</p> <p>1.2 Eligible Plant, Equipment and Services</p> <p>All countries and areas are the eligible source countries for goods and services to be supplied under this contract and accordingly goods and services to be supplied under this contract may have their origin in any country and area. For purposes of this clause, "origin" means the place where the plant and equipment or component parts thereof are mined, grown, or produced. Plant and equipment are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognised product results that is substantially different in basic characteristics or in purpose or utility from its components. The origin of the plant, equipment, and services is distinct from the nationality of the Bidder.</p> <p>2.0 For the purposes of these bidding documents, the word "facilities" means the plant and equipment to be supplied and installed, together with the services to be carried out by the contractor under the contract. The words "plant and equipment", "installation services" etc., shall be construed in accordance with the respective definitions given to them in the General Conditions of Contract.</p> <p>3.0 Cost of Bidding</p> <p>The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Employer will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.</p> <p style="text-align: center;">B. The Bidding Documents</p> <p>4.0 Content of Bidding Documents</p> <p>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:</p> <p>Section I – Invitation for Bids (IFB)</p> <p>Section II – Instructions to Bidders (ITB)</p> <p>Section III – Bid Data Sheet (BDS)</p> <p>Section IV – General Conditions of Contract (GCC)</p>	
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	<p>Section V – Special Conditions of Contract (SCC)</p> <p>Section VI – Technical Specifications (TS)</p> <p>Section VII – Forms and Procedures (FP)</p> <p style="text-align: center;"><u>Section-VII-Part 1 of 3</u></p> <p>1a Bid Form & Attachments (Techno-Commercial Bid)</p> <p style="text-align: center;"><u>Section-VII-Part 2 of 3</u></p> <p>1b Bid Form & Attachments along with Price Schedules (Price Bid)</p> <p style="text-align: center;"><u>Section-VII-Part 3 of 3</u></p> <p>1. Bid Security Form - Bank Guarantee</p> <p>2a. Bid Security Form - Bank Guarantee in case of Bid from Joint Venture</p> <p>2b. Bid Security Form - Letter of Credit-</p> <p>3a. Form of Notification by the Employer to the Bidder</p> <p>3b. Form of Sight Draft</p> <p>4. Forms of Notification of Award</p> <p>5. Form of Contract Agreement</p> <p>6. Performance Security Form</p> <p>6a. Performance Security Form in case of Contract awarded to Joint Venture</p> <p>7.(i) Bank Guarantee Form for Advance Payment (For Supply-FOB/Ex-works)</p> <p>7.(ii) Bank Guarantee for Advance Payment (For Installation/Civil Works)</p> <p>7.(iii) Bank Guarantee Form for Advance Payment in case of Contract awarded to Joint Venture</p> <p>8. Form of Completion Certificate</p>	
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	<p data-bbox="651 279 1390 978"> 9. Form of Operational Acceptance Certificate 10. Form of Trust Receipt 11. Forms of Indemnity-cum-Undertaking Agreement 12. Form of Authorisation Letter 13. Forms of Joint Deed of Undertaking 14. Form of Bank Guarantee by Associate/ Collaborator 15. Form of Joint Venture/Consortium Agreement 16. Form of Bank Guarantee Verification Check Lists 17. Form of Extension of Bank Guarantee 18. Form of Indemnity-cum-Undertaking Agreement for removal/disposal of Scrap/disposal of surplus material </p> <p data-bbox="188 1010 1433 1157">4.2 The Bidder is expected to examine all instructions, forms, terms, conditions, specifications and other information in the bidding documents. Failure to furnish all information required as per 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.</p> <p data-bbox="188 1192 831 1220">5.0 Clarification on Bidding Documents</p> <p data-bbox="188 1255 1433 1493">5.1 A prospective Bidder requiring any clarification to the bidding documents may notify EMPLOYER through e-mail or in writing by post at the address indicated in Bid Data Sheet. EMPLOYER will respond to any request for clarification or modification of the bidding documents that it receives no later than the last date of receipt of queries as specified in Invitation for Bids (IFB). EMPLOYER will post the Clarifications at e-tender portal and Bidders can view these clarifications once they are posted at the portal. Bidders shall be notified through e-mail regarding posting of clarification at the e-tender portal. Bidders are also advised to regularly check e-tender portal regarding posting of clarification, if any.</p> <p data-bbox="188 1560 1433 1682">5.2 The Bidder is advised to visit and examine the site where the facilities are to be installed and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for supply and installation of the facilities. The costs of visiting the site shall be borne by the bidder fully.</p> <p data-bbox="380 1713 1433 1860">Visit to Project Site(s) under Flue Gas Desulphurisation (FGD) System Package by Bidder is mandatory for the Bidder. The Bidder after prior permission from Employer may visit Project Site during Office hours prior to last date of Techno-commercial Bid submission indicated in IFB. Employer's representatives shall be available at Site. The Bidder shall submit with his Envelope-I (Techno-Commercial) Bid, a duly</p>	
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<p>5.3</p> <p>6.0</p> <p>7.0</p> <p>8.0</p> <p>8.1</p>	<p>signed confirmation, that they have visited Project Site (indicating Name of Project Site) and have appraised themselves regarding Site conditions etc.</p> <p>The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such inspection, but only upon the express condition that the Bidder, its personnel and agents will release and indemnify the Employer and its personnel and agents 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.</p> <p>Amendment to Bidding Documents</p> <p>At any time prior to the deadline for submission of bids, EMPLOYER may, for any reason, whether at its own initiative, or in response to a clarification requested by a prospective Bidder, amend the bidding documents. The amendments will be posted at e-tender portal for viewing by the Bidder. Bidders shall be notified through e-mail regarding posting of amendments at the portal. The amendments will be binding on Bidders and it will be assumed that the information contained therein will have been taken into account by the Bidder in its bid. Bidders are also advised to regularly check e-tender portal regarding posting of Amendment, if any.</p> <p>In order to afford prospective Bidders reasonable time in which to take the amendment into account in preparing their bid, EMPLOYER may, at its discretion, extend the deadline for the submission of bids.</p> <p style="text-align: center;">C. Preparation of Bids</p> <p>Language of Bid</p> <p>The bid prepared by the Bidder and all correspondence and documents related to the bid exchanged between the Bidder and EMPLOYER shall be written in English language, provided that any printed literature furnished by the Bidder may be written in another language, as long as such literature is accompanied by a translation of its pertinent passages in English language in which case, for purposes of interpretation of the bid, the translation shall govern.</p> <p>The English Translation of the documents shall be carried out by professional translators and the translator shall certify that he is proficient in both languages in order to translate the document and that the translation is complete and accurate. Further, translation shall be authenticated by the Indian Consulate located in the Country where the documents have been issued or the Embassy of that Country in India.</p> <p>Documents Comprising the Bid</p> <p>The Bid shall comprise of following components:</p> <p>Techno-Commercial Bid</p> <p>The Techno-Commercial Bid shall comprise of the following:</p>	
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8.1.1	<p>Documents to be submitted in physical form in separate sealed envelope (s) duly marked in accordance with ITB clause titled ‘Sealing and Marking of Physical Documents’:</p> <p>(a) Attachment 1 : Bid Security</p> <p>Bid security shall be furnished in accordance with ITB clause titled Bid Security.</p> <p>(b) Attachment 2: Power of Attorney</p> <p>A power of attorney, duly notarized by a Notary Public, indicating that the person signing the bid has the authority to sign the bid and that the bid is binding upon the Bidder during the full period of its validity in accordance with ITB Clause titled ‘Period of Validity of Bids’.</p> <p>(The Authority of the person issuing the Power of Attorney shall also be submitted).</p> <p>(A copy of all these documents are also to be uploaded in the e-tender portal).</p> <p>(c) Attachment-2A- Compliance to Qualification Requirement</p> <p>(d) Deed of Joint Undertaking (If applicable) as per relevant attachment</p> <p>(e) Joint Venture/Consortium Agreement (If applicable) as per relevant attachment</p> <p>(f) Attachment 19 : Integrity Pact – Not Applicable</p> <p>The "Integrity Pact" (if applicable) shall be furnished duly signed in accordance with the provision of Integrity Pact specified in BDS.</p> <p>(g) Attachment 22: Confirmation Regarding Ongoing Collaboration and Licensing Agreement (if applicable).</p>	
8.1.2	<p>The Bid Form (Techno-Commercial Bid) as per Section-VII, Part 1 of 3, duly completed together with the following Attachments shall be uploaded at the e-tender portal:</p> <p>(a) Attachment 3 : Bidder’s Qualifications</p> <p>In the absence of pre-qualification, documentary evidence that the Bidder is eligible to bid and is qualified to perform the contract, if its bid is accepted, shall be furnished in Attachment-3 to Bid.</p> <p>The documentary evidence of the Bidder’s qualifications to perform the contract, if its bid is accepted, shall establish to EMPLOYER’S satisfaction that the Bidder has the financial, technical, production, procurement, shipping, installation and other capacities and capabilities necessary to perform the contract and meets the experience and other criteria outlined below :</p>	
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	<p>The Bidder shall provide satisfactory evidence that he and/or, where applicable, his collaborator/associate:</p> <ul style="list-style-type: none"> (i) is a manufacturer/supplier, from an eligible source country. (i)(a) is a manufacturer/supplier, who regularly manufactures equipment of the type specified and/or undertakes the type of work specified and has adequate technical knowledge and relevant experience. (ii) does not anticipate a change in ownership during the proposed period of execution of work (If such a change is anticipated, a scope and effect thereof shall be defined). (iii) has adequate financial stability and status to meet the financial obligations pursuant to the works covered in the Bidding Documents. (The Bidders should submit five (5) copies of their profit & loss account and balance sheet for the last five (5) years). (iv) has adequate design, manufacturing and/or fabrication capability and capacity to perform the work properly and expeditiously within the time period specified. The evidence shall specifically cover, with written details, the installed manufacturing and/or fabrication capacities and present commitments (excluding those anticipated under this Specification) of the Bidder. If the present commitments are such that the installed capacity results in an inadequacy of manufacturing and/or fabrication capacities to meet the requirements appropriate to the works covered in his bid, then the details of alternative arrangements to be organised by the Bidder and/or his Collaborator/Associate for this purpose and which shall meet EMPLOYER's approval, shall be furnished. (v) has an adequate Project management organization covering the areas related to engineering of equipment/systems, interface engineering, procurement of equipment and the necessary field & management services required for successful construction, erection, testing and commissioning the equipment/system as required by the Bidding Documents. (vi) has established quality assurance systems and organisation designed to achieve high levels of equipment/system reliability, both during his manufacturing and/or fabrication and field installation activities. (vii) a company formed by the merger of two or more companies or divisions of such companies engaged in supply and installation of subject Package/systems can also participate provided the constituent companies or divisions before merger individually or jointly meet the stipulated qualification requirements fully. <p>In addition to the requirements stipulated above, the Bidder should also meet the qualifying requirements stipulated in Bid Data Sheet (BDS) Item titled 'Qualification Requirements for Bidders'.</p>	
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	<p>Notwithstanding anything stated above, the Employer reserves the right to undertake a physical assessment of the capacity and capabilities including financial capacity and capability of the Bidder / his Collaborator(s) / Associate(s) / Subsidiary(ies) / Group Company(ies) to perform the Contract, should the circumstances warrant such assessment in the overall interest of the Employer.</p> <p>The physical assessment shall include but not be limited to the assessment of the office/facilities/banker's/reference works by the Employer. A negative determination of such assessment of capacity and capabilities may result in the rejection of the Bid.</p> <p>The above right to undertake the physical assessment shall be applicable for the qualifying requirements stipulated in both Section - ITB and in Section - BDS.</p> <p>Bids submitted by a Joint Venture of two or more firms as partners, if so permitted in the Bid Data Sheet, shall comply with the following requirements:</p> <ul style="list-style-type: none"> (i) The bid shall include all the information required for Attachment 3 as described above for each Joint Venture partner. (ii) The bid shall be signed so as to be legally binding on all partners. (iii) One of the partners shall be designated as leader, this authorisation shall be evidenced by submitting with the bid a power of attorney signed by legally authorised signatories of joint venture partners. (iv) The leader shall be authorised to receive instructions for and on behalf of any and all partners of the Joint Venture and the entire execution of the contract, including payment, shall be done exclusively with the leader. (v) All partners of the Joint Venture shall be liable jointly and severally for the execution of the Contract in accordance with the contract terms. (vi) Copy of the agreement entered into by the joint venture partners as per the format provided in the Bidding Documents shall be submitted with the bid. <p>For joint venture to qualify, each of its partners must meet the minimum criteria listed for an individual Bidder for the component of the contract they are designated to perform. Failure to comply with this requirement will result in rejection of the Joint Venture's Bid.</p> <p>A firm can be a partner in only one joint venture; bids submitted by joint ventures including the same firm as partner will be rejected.</p> <p>In case Bidder is permitted in the Bid Data Sheets to offer to supply and/or install plant and equipment under the contract that the Bidder did not manufacture or otherwise produce and/or install, the Bidder shall (i) have the financial and other capabilities necessary to perform the contract; (ii) have been duly authorised by the manufacturer or producer of the related plant and equipment or component to</p>	
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	<p>supply and/or install that item in the Employer's country; (iii) be responsible for ensuring that the manufacturer or producer of the related item meets the minimum criteria listed for that item.</p> <p>(b) Attachment 4 : Eligibility and Conformity of the Facilities:</p> <p>Documentary evidence established in accordance with ITB Clause titled 'Eligible Plant, Equipment and Services' that the facilities offered by the Bidder in its bid or in any alternative bid (if permitted) are eligible and conform to the bidding documents.</p> <p>The documentary evidence of the eligibility of the facilities shall consist of a statement on the country of origin of the plant and equipment offered, which shall be confirmed by a certificate of origin issued at the time of shipment.</p> <p>The documentary evidence of the conformity of the facilities to the bidding documents may be in the form of literature, drawings and data, and shall include:</p> <ul style="list-style-type: none"> (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 following completion of facilities in accordance with provisions of contract; and (iii) a commentary on the Employer's Technical Specifications and adequate evidence demonstrating the substantial responsiveness of the facilities to those specifications. Bidder shall note that standards for workmanship, materials and equipment designated by EMPLOYER in the bidding documents are intended to be descriptive (establishing standards of quality and performance) only and not restrictive. The bidder may substitute alternative standards, brand names and/or catalogue numbers in its bid, provided that it demonstrates to EMPLOYER's satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Technical Specifications. <p>Attachment 4A : Special Tools and Tackles</p> <p>The bidder shall provide the details regarding Special Maintenance Tools and Tackles. The cost of these Tools and Tackles shall be included in the Bid Price.</p> <p>(c) Attachment 5 : Subcontractors Proposed by the Bidder</p> <p>The Bidder shall include in its bid details of all major items of supply or services that it proposes to purchase or sublet and shall give details of the name and nationality of the proposed Subcontractor, including vendor, for each of those items. Bidders are free to list more than one Subcontractor/Vendor against each item of the facilities. Quoted rates and prices will be deemed to apply to whichever</p>	
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	<p>Subcontractor/Vendor is appointed, and no adjustment of the rates and prices will be permitted.</p> <p>The Bidder shall be responsible for ensuring that any plant, equipment or services to be provided by the Sub-Contractor/Vendor comply with the requirements of ITB sub-clause 8.1.2 (a).</p> <p>Employer reserves the right to delete any proposed Subcontractor/Vendor from the list prior to award of contract. After discussion between Employer and the Contractor, relevant appendix to Contract Agreement (List of Sub-Contractors) shall be completed, listing the approved Sub-Contractor(s)/Vendor(s) for each item.</p> <p>(d) Attachment 6: Alternative Bids - NOT APPLICABLE -</p> <p>Bidders wishing to offer technical alternatives to the requirements of the bidding documents must first price the Employer's design of the facilities as described in the bidding documents, and shall further provide all information necessary for a complete evaluation of the alternatives by EMPLOYER, including drawings, design calculations, technical specifications, proposed installation methodology, requirement of spares and other relevant details without any price component. However, the prices along with their break-ups of Alternative bids shall be furnished in relevant attachment of the Price Bid.</p> <p>(e) Attachment 7 : Erection Tools and Plant and Safety equipment & Safety Personal Protective Equipment: Online submission as 'Scan copies of all the supporting documents for Envelope2 (Techno-commercial Bid)'. List of Erection Tools and Plant and Safety equipment & Safety Personal Protective equipment which the bidder proposes to bring to site in case the contract is awarded to him.</p> <p>Attachment-7A: Commissioning/ Start-up Spares (To be submitted alongwith Techno-Commercial Bid: Stage-I): Online submission as 'Scan copies of all the supporting documents for Envelope-2 (Techno-commercial Bid)'. List of Commissioning/Startup Spares</p> <p>(f) Attachment 8 : Guarantee Declaration</p> <p>Guarantee Declaration enclosed with the bidding documents.</p> <p>(g) Attachment 9 : Bought Out Items</p> <p>Details of bought out items to be directly despatched by sub-vendor(s) to site without any price component.</p> <p>(h) Attachment 10 : Quality Assurance Programme</p> <p>Details regarding the overall quality management & procedures which the bidder proposes to follow during various phases of execution of the contract.</p> <p>(i) Attachment 11 : Additional Information</p>	
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	<p>Additional Information which the bidder wishes to provide in his bid.</p> <p>(j) Attachment 12 : Technical Data Sheets Technical Data Sheets duly filled in as per EMPLOYER'S format, enclosed with the bidding documents.</p> <p>(k) Attachment 13 : Price Adjustment Data Details regarding Price Adjustment as per EMPLOYER's format.-</p> <p>(l) Attachment 14 : Milestone Schedule Details regarding the timing & sequence of all key activities/facilities and giving the necessary for successful completion of the contract, as per EMPLOYER's format enclosed.</p> <p>(m) Attachment 15 : Equipment and Mandatory Spares to be imported from Associate/Collaborator Details of Equipment (including type test) and Mandatory Spares to be imported from Associate/Collaborator by the Manufacturer or the bidder, as per EMPLOYER's format enclosed (without indicating any price).</p> <p>(n) Attachment 16 : EFT Form Electronic Fund Transfer Form duly filled in as per EMPLOYER's format.</p> <p>(o) Attachment 17 : Fraud Prevention Policy Form of acceptance of Fraud Prevention Policy, duly filled in as per EMPLOYER's Format.</p> <p>(p) Attachment 18: Declaration on Policy for withholding and Banning of Business Dealings Declaration on Policy for withholding and Banning of Business Dealings duly filled in as per Employer's format.</p> <p>(q) Attachment 19 : Integrity Pact The "Integrity Pact" (if applicable) shall be furnished duly signed in accordance with the provision of Integrity Pact specified in BDS.</p> <p>(r) Attachment 20: Information regarding Safety Management Bidder shall furnish the Safety Plan, duly filled in as per Employer's Format. Based on the Safety Plan proposed by the Bidder, various issues including schedule of approval of above "Safety Plan" etc. shall be discussed and finalized in the form</p>	
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	<p>of "Safety Co-ordination Procedure" during post bid discussions of Techno-Commercial Bids. This "Safety Co-ordination Procedure" shall form part of the Contract Agreement.</p> <p>The above proposed "Safety Plan" shall be further discussed/ finalized at Site, in line with the agreements made in "Safety Co-ordination Procedure", and shall be approved by Project Manager/ Head of Project before start of work at Site.</p> <p>(s) Attachment 21: No Deviation Certificate</p> <p>(t) Attachment 23: Non Blacklisting Certificate A certificate to the effect that the bidder has not been blacklisted by any organisation presently as per the attachment has to be submitted. (Ref Cl. 38 of ITB).</p> <p>(u) Attachment 24: Certificate regarding price of Mandatory spares: A certificate to the effect that the cost of mandatory spares quoted by the bidder is not more than five percent (5%) of the supply portion of the total quoted prices in the schedule 1&2 excluding the cost of mandatory spares & type test charges.</p> <p>8.1.3 The Techno-Commercial Bid should not contain any price content entry. In case, the Techno-Commercial Bid is found to contain any price content, such bid shall be liable for rejection.</p> <p>8.2 Price Bid</p> <p>The Price Bid submitted by the Bidder shall comprise of the following:</p> <p>8.2.1 The Bidder shall fill up the prices online at e-tender portal. The Bid Form (Price Bid) as per Section-VII, Part 2 of 3, duly completed together with Price Schedules and the following Attachments shall be uploaded at e-tender portal:</p> <p>(i) Attachment 1P: Alternative bids- Not applicable</p> <p>Bidder shall furnish prices along with their break-ups of Alternative bids (if any) in this attachment.</p> <p>(ii) Attachment 2P: Local Representation</p> <p>If a foreign bidder has engaged an Indian agent, it will be required to give the following details in its bid as per the format enclosed in the Bidding Documents.</p> <p>(a) The name and address of the local agent;</p> <p>(b) What Service the agent renders; and</p> <p>(c) The fixed amount of remuneration for the agent included in the offer;</p> <p>The agency commission shall be indicated in the space provided for in the Price Schedule and will be paid to the bidder's agent in India in Indian Rupees using the Telegraphic Transfer Buying Market rate of exchange ruling on the date of Notification of Award and shall not be subject to any escalation or any further</p>	
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8.2.2	<p>exchange variation, whatsoever and will be payable pro-rata along with the base contract price payment.</p> <p>(iii) Attachment 3P : Declaration regarding Import Content</p> <p>Bidder may note that CIF value of import content in the Ex-works (India) price quoted in Schedule-2 of the bid, if any, shall be necessarily declared by the bidders in Attachment-3P. Bidder may further note that the relevant certificate for claiming the concessional custom duty benefits, if any shall be issued on the aforesaid declaration basis only. In case no such import content is envisaged in the bid or the CIF value of import content to be declared is zero, the bidder shall indicate “NIL” against the CIF value of import content.</p> <p>In cases where no value is indicated by the bidder against the CIF value of import content in Attachment-3P or statement/ any declaration like ‘later’, ‘to be furnished later’, ‘NA’ etc. are indicated by the bidder, in such cases the CIF value of import content in the bid shall be considered as “NIL” for the purpose of issuance of relevant certificate for claiming the concessional custom duty benefits, if any. No further claim in this regard shall be entertained by the Employer.</p> <p>(iv) Attachment 3PA : Custom Duty Benefits for Import for Construction Equipment</p> <p>Declaration regarding the Custom Duty Benefits for Import of Construction Equipment considered in the bid.</p> <p>(v) Attachment 4P : Functional Guarantees</p> <p>The declaration on the guaranteed values of parameters as per Employer’s format. NOT APPLICABLE</p> <p>(vi) Attachment 4PA : Functional Guarantees for Alternative Bid-Not Applicable</p> <p>The declaration on the guaranteed values of parameters as per Employer’s format.</p> <p>(vii) Attachment 5P : Bought Out Items - Not applicable</p> <p>(viii) Attachment 6P : CIF Value of Equipment and Mandatory Spares to be imported from Associate/Collaborator</p> <p>Details of Equipment (including type test) and Mandatory Spares to be imported from Associate/Collaborator by the Manufacturer or the bidder, as per EMPLOYER’s format.</p> <p>(ix) Attachment 7P: Classification of Bids – Not applicable</p>	<p>Price Bid should not contain any matter in respect of Technical and / or Commercial aspects other than the details specifically sought in the Price Bid. If the Technical/commercial matters indicated in Price Bid are found to be in contradiction with the details furnished in Techno-Commercial Bid, the details furnished in Techno-Commercial Bid shall prevail.</p>
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9.0	<p>Bid Form (Price Bid) and Price Schedules</p> <p>The Bidder shall complete the Bid Form (Price Bid) and the appropriate Price Schedules furnished in the bidding documents as indicated therein, following the requirements of ITB Clauses 10 and 11.</p>	
10.0	<p>Bid Prices</p>	
10.1	<p>Unless otherwise specified in the Technical Specifications, 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 subcontracting (if any), delivery, construction, installation, commissioning, Completion of the facilities and conductance of Performance Guarantee Tests for the facilities including supply of mandatory spares (if any). This includes all requirements under the Contractor’s responsibilities for testing, pre-commissioning and commissioning of the facilities, conducting Performance Guarantee Tests 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, all in accordance with the requirements of the General Conditions of Contract and Technical Specifications.</p>	
10.2	<p>Bidders are required to quote the price for the commercial, contractual and technical obligations outlined in the bidding documents.</p>	
10.3	<p>Bidders shall give a breakdown of the prices in the manner and detail called for in the Price Schedules. The Bidders shall present their prices in the following manner:</p> <p>Separate numbered Schedules shall be used for each of the following elements and all the price schedules shall be uploaded at e-tender portal. The total amount of each of the Schedule shall be filled up at e-tender portal. The total bid price(s) is automatically computed which can be viewed by the Bidder online.</p> <p>Schedule No. 1 Plant and Equipment including Type Tests charges and Mandatory Spares to be supplied from Abroad --Not Applicable</p> <p>Schedule No. 2 Plant and Equipment including Type Tests charges and Mandatory Spares to be supplied from within the Employer’s Country</p> <p>Schedule No. 3 Local Transportation including Port handling, Port clearance, Port charges, Inland insurance and other local costs incidental to delivery of Plant & Equipment and Mandatory Spares</p> <p>Schedule No. 4 Installation Services including Erection and Civil/Structural Works (as applicable), Insurance covers other than inland transit insurance and other services as specified in the bidding documents.</p> <p>Schedule No. 5 NOT USED</p> <p>Schedule No. 6 Recommended Spare Parts</p>	
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10.4	<p>Schedule No. 7 Goods and Services Tax (GST), applicable on Schedules - 2, 3 & 4, not included in bid price.</p> <p>Schedule No.7A Custom Duty, Import Duty & GST applicable on Schedules 1, not included in the bid price.</p> <p>Schedule No. 8A Break up of Type Tests charges quoted in Schedule-1</p> <p>Schedule No. 8B Break up of Type Tests charges quoted in Schedule-2</p> <p>Bidders shall note that the plant and equipment included in Schedule No.1 and 2 above shall exclude all materials used in civil, building and other construction works, if any. All such materials shall be included and priced under Schedule No.4 (Installation Services).</p> <p>In the Schedules, Bidders shall give the required details and a breakdown of their prices as follows:</p> <p>(a) Plant and Equipment (including Type Test Charges) and Mandatory Spares to be supplied from abroad (Schedule No. 1) shall be quoted on CIF (Indian Port-of-Entry) basis. In addition, the FOB Price and the Type Test Charges shall also be indicated.</p> <p>(b) Plant and Equipment (including Type Test Charges) and Mandatory Spares to be supplied from within the Employer's country (Schedule No. 2) shall be quoted on EXW (Ex-Factory, Ex-Works, Ex-Warehouse or Off-the-Shelf, as applicable) basis and shall be inclusive of all costs as well as taxes, duties and levies paid or payable on components and raw materials incorporated or to be incorporated in the facilities.</p> <p>(c) Local Transportation, Inland Transit Insurance, Port Clearance, Port Handling and Port Charges, Custom reconciliation and other local costs incidental to delivery of the Plant and Equipment including Mandatory Spares shall be quoted in Schedule-3.</p> <p>(d) Installation Services including Erection and Civil & Allied Works (as applicable) shall be quoted separately (Schedule No. 4) and shall include rates or prices for all labour, contractor's equipment, temporary works, materials, consumables and all matters and things of whatsoever nature, charges for insurance covers other than inland transit Insurance including operations and maintenance services, the provision of operations and maintenance manuals, training of employer's personnel, etc., and other services, as identified in the Bidding Documents, as necessary for the proper execution of the Installation Services.</p> <p>(i) Bidders are advised to price their bids in such a manner that Installation Price Component of the bid price (excluding Civil/Structural works price) for DCRTTP YAMUNA NAGAR should not be less than 15% and should not be more than 20% of the cumulative total of FOB Price of Main Equipment indicated in Schedule No.1 and Ex-works Price of Main Equipment indicated in Schedule No.2 for the respective plant.</p>	
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	<p>In case the Installation Price is below the minimum percentage specified above, the amount by which it is lower shall be retained proportionately from the FOB & Ex-Works component of Contract price while releasing payments due on receipt of equipment, and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid on pro-rata basis upon completion of installation of the respective equipment and its certification by the Project Manager.</p> <p>In case the Installation Price is above the maximum percentage specified above, the amount by which it is higher shall be retained while releasing progressive payments due on installation of equipment, and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid along with payment due on completion of Trial Operation / Completion of Facilities.</p> <p>(If Prices are quoted in foreign currency then SBI Bills Selling exchange rate as on the deadline set for submission of Price bids shall be considered for the purpose of computing installation percentage /retention amount).</p> <p>(ii) Bidders are advised to price their bids in such a manner that the Civil Works Price Component of the bid price (including Site Fabricated Structural works price) for DCRTPP YAMUNA NAGAR should not be less than 32% and should not be more than 42% of the cumulative total of FOB Price of Main Equipment indicated in Schedule No.1 and Ex-works Price of Main Equipment indicated in Schedule No.2 for the respective plant.</p> <p>In case the Civil Works Price (including Site Fabricated Structural works price) is below the minimum percentage specified above, the amount by which it is lower shall be retained proportionately from the FOB & Ex-Works component of Contract price while releasing payments due on dispatch of equipment, and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid on pro-rata basis upon completion of Civil Works including Structural works (if any) corresponding to the respective equipment and its certification by the Project Manager.</p> <p>In case the Civil Works Price (including Site Fabricated Structural Works Price) is above the maximum percentage specified above, the amount by which it is higher shall be retained while releasing progressive payments due on completion of civil works (including Site Fabricated Structural works), and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid along with payment due on completion of Trial Operation / Completion of Facilities.</p> <p>(If Prices are quoted in foreign currency then SBI Bills Selling exchange rate as on the deadline set for submission of Price bids shall be considered for the purpose of computing Civil Works percentage /retention amount).</p> <p>(e) Recommended Spare parts shall be quoted separately in Schedule 6 on CIF/EXW basis in accordance with in subparagraph (a) or (b) above. Local Transportation Charges including Inland Transit Insurance and Port Charges etc., for</p>	
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	<p>recommended spares shall also be quoted in Schedule-6 and shall not be included in Schedule No. 3 by the bidder.</p> <p>(f) The prices quoted in Schedule Nos. 2, 3 & 4 shall be inclusive of all Taxes, Duties, Levies & charges, except Goods and Services Tax (GST), payable in the Employer's country as of seven (7) days prior to the deadline for submission of price bids. Further, all Taxes, Duties, Levies & Charges on the Materials incorporated in Erection and Civil & Allied Works (as applicable) shall also be included in the prices quoted in Schedule No. 4 & no Separate payment on this account, whatsoever, shall be made by Employer.</p> <p>Goods and Services Tax (GST) applicable on goods and services specified in Schedule Nos. 2, 3 & 4 shall not be included in respective schedules, but shall be quoted separately in Schedule No. 7. The Goods & Services Tax (GST) quoted by the bidder in Schedule No. 7 shall be as applicable in the Employer's country as on seven (7) days prior to the deadline for submission of Price Bids.</p> <p>The Employer shall be responsible and be liable for payment of Customs Duty /Import Duty on CIF (Indian Port of Entry) component of the Plant and Equipment including Mandatory Spares to be supplied from abroad and quoted in Schedule No. 1. Further, the Employer, as a consignee shall furnish promptly necessary clarifications and documents as may be required to be furnished by the consignee for the purpose of customs clearance.</p> <p>The Employer shall be responsible and be liable for payment of Customs Duty /Import Duty & GST on CIF (Indian Port of Entry) component of the Plant and Equipment including Mandatory Spares to be supplied from abroad and quoted in Schedule No. 1 AND TO THE EXTENT OF CUSTOM DUTY & GST QUOTED IN SCHEDULE NO 7A by the Bidder, if the quoted Custom Duty, Import Duty & GST is less than the actual Custom Duty, Import Duty & GST, the excess duty/GST will be recovered from the Bidder's regular Bills. Further, the Employer, as a consignee shall furnish promptly necessary clarifications and documents as may be required to be furnished by the consignee for the purpose of customs clearance.</p> <p>Due Input Tax credits under GST as per the relevant Govt. Policy, wherever applicable, shall be taken into account by the Bidder while quoting his price.</p> <p>All the price schedules, as above, duly filled in shall be uploaded in the e-tender portal, failing which; the bid shall be liable to be rejected.</p> <p>(g) The cost of mandatory spares quoted by the bidder should not exceed five percent (5%) of the supply portion of the total quoted prices in the schedule 1& 2 excluding the cost of mandatory spares & type test charges. The bidder shall submit a certificate in this regard as Attachment 24.</p> <p>10.5 The terms EXW, FOB, CIF, 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.</p> <p>10.6 Benefits / Exemptions / Concessional Custom Duty for Power Projects</p>	
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10.6.1	Bidder may ascertain the availability of Custom Duty benefits available under Chapter 98.01 of the Customs Tariff Act for import of goods, which are required for incorporation in the facilities under the Contract. The Employer shall issue the required Certificate, as per relevant policies of the Govt. of India, to facilitate the bidders to avail any such benefit under the Contract. For issuance of such Certificate by the Employer, the bidders shall be required to indicate the import content included in their bid price, in relevant attachment of Price Bid. The relevant Certificate will be issued on this basis only.	
10.6.2	In addition, Bidder may also like to ascertain the availability of Custom Duty Benefits available for import of construction Equipment, if any, as per the extant Customs Acts & Notification of Govt. of India. Where the Bidder has quoted taking into account the Custom Duty benefits available for import of Construction Equipment, he must give all information required for issue of relevant Certificate by Employer in relevant attachment. The relevant Certificate will be issued on this basis only and no subsequent change will be permitted.	
10.6.3	However, if the above certificates are required to be issued by any department/ministry of Government of India or State Government where the Project is located other than Employer, the bidder shall itself be responsible for obtaining such certificate from the concerned department/ministry. In such a case, the Employer may issue a letter of recommendation.	
10.6.4	Further, the bidders shall themselves be solely responsible for availing the above benefits, which they have considered in their bid. In case of failure of the bidders to receive the benefits partly or fully from the Govt. of India and/or in case of any delay in receipt of such benefits and/or withdrawal of such benefits by the Govt. of India, the Employer shall neither be liable nor responsible in any manner whatsoever.	
10.7	<p>Price Basis</p> <p>Prices quoted by the Bidder shall be on price firm basis. The contract price shall remain firm during the currency of the contract.</p>	
11.0	<p>Bid Currencies</p> <p>Prices of all components of the bid shall be quoted in Indian Rupees (INR) only.</p>	
12.0	<p>Bid Security</p>	
12.1	The Bidder shall furnish, as part of its Bid, a Bid Security in a separate envelope in the amount and currency as stipulated in the Bid Data Sheet.	
12.2	<p>Format & Validity of Bid Security/ EMD</p> <p>The Bid Security shall, at the Bidder's option, be in the form of a Banker's Cheque, or a bank guarantee from any of the banks specified in Bid Data Sheets.. In case of Foreign Bidders, the Bid Security can be from any other bank also in addition to the banks specified in the Bid Data Sheets and if the Bank Guarantee is from a Bank not specified in the Bid Data Sheets, then the Bank Guarantee shall be confirmed by any of the Banks specified in the Bid Data Sheets.</p>	
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12.3	<p>The format of the Bank Guarantee shall be in accordance with the form of bid security included in the Bidding Documents. Bid Security shall remain valid for a period of Ninety (90) days beyond the original Bid Validity period and beyond any extension of bid validity subsequently requested under ITB Sub-Clause titled 'Extension of Bid Validity Period'.</p>		
12.3	<p>Wherever Bids under Joint Venture route are permitted as per the Qualifying Requirements in the Bidding Documents, the Bid Security by the Joint Venture must be on behalf of all the partners of the Joint Venture.</p>		
12.4	<p>The Bid Security in Original shall be submitted in a separate sealed envelope before the stipulated bid submission closing date and time. In case acceptable Bid Security in a separate sealed envelope is not received then online Bid shall be rejected by EMPLOYER as being non-responsive and shall not be opened.</p>		
12.4.1	<p>Confirmation of BG through Structured Financial Messaging System (SFMS)/SWIFT</p> <p>While issuing the physical BGs, the Bidder's Bank shall also send electronic message through secure SFMS (in case of BGs issued from within India) or SWIFT (in case of BGs issued from outside India) to Employer's Beneficiary Bank whose details are provided herein below:</p> <p>SFMS (in case of BGs issued from within India)</p> <p style="text-align: center;">or</p> <p>SWIFT (in case of BGs issued from outside India)</p>		
12.5	<p>The Bid Security of the Bidder whose Technical Bid has not been found acceptable, shall be returned along with letter communicating rejection of Technical Bid. The Bid Security of the bidders who are unsuccessful after opening of Price Bids shall be returned immediately after placement of award on the successful bidder.</p>		
12.6	<p>The Bid Security of the successful Bidder to whom the contract is awarded will be returned when the said Bidder has signed the Contract Agreement pursuant to ITB Clause titled 'Signing the Contract Agreement' and has furnished the required Performance Securities pursuant to ITB Clause titled 'Performance Security'.</p>		
12.7	<p>Forfeiture of Bid Security/ EMD</p> <p>The EMD shall be forfeited in part or in full under following circumstances:-</p> <ol style="list-style-type: none"> i. In case the successful bidder fails to submit/respond their acceptance to the LOA or refuses to comply with it, the earnest money deposited by him shall be forfeited in full, irrespective of whether HPGCL sustains any loss on account of his default or not. This forfeiture shall be without prejudice to the right of HPGCL to claim any other damages as admissible under the law as well as to take such administrative action against the firm such as blacklisting, etc. ii. If the bidder withdraws his tender at any stage during the currency of his validity period or denies the execution of work at any stage during the currency of contract period, his earnest money/ security deposit shall stand forfeited in full. 		
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	<p>iii. In the event of breach of contract in any manner, the security deposit shall be forfeited and adjusted against the claim of HPGCL on the firm for any damages or for any loss sustained by HPGCL on account of such breach.</p> <p>iv. The EMD is liable to be forfeited in case of evidence of cartel formation by bidder(s). Further in cases where cartel formation amongst the bidder(s) is apparent, the HPGCL will file complaint with the Competition Commission of India and/ or other appropriate forum.</p> <p>13.0 Period of Validity of Bids</p> <p>13.1 The validity of bids, both Envelope-I and Envelope-II shall remain valid upto 180 days form date of opening of Techno-Commercial bid (Envelope-I). The bid valid for shorter period shall be rejected by the Employer as being non-responsive.</p> <p>13.2 The bidder is required to keep the prices of recommended spares covered under Price Schedule No.6 valid for a period of Five (5) years after Notification of Award for main equipment and mandatory spares.</p> <p>13.3 Extension of Bid Validity Period</p> <p>In exceptional circumstances, 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 by post or by telefax followed by post confirmation. If a Bidder accepts to extend the period of bid validity, the validity of bid security shall also be suitably extended. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request will not be required nor permitted to modify its bid.</p> <p>14.0 Format and Signing of Bid</p> <p>The Bids shall be digitally certified (using the appropriate class of digital signature prescribed at e-tender portal) by a duly authorised representative of the Bidder to bind him to the contract. The authorization shall be indicated by written power of attorney, duly notarized by a Notary Public, indicating that the person signing the bid has the authority to sign the bid and that the bid is binding upon the Bidder during the full period of its validity in accordance with ITB Clause titled 'Period of Validity of Bids' and shall be submitted in hard copy prior to the deadline for submission of bid.</p> <p style="text-align: center;">D. Submission of Bids</p> <p>15.0 Submission of Bids</p> <p>The Techno-Commercial Bid (comprising the Bid Form (Techno-Commercial Bid) as per Section-VII, Part 1 of 3, together with its Attachments) and Price Bid (comprising the Bid Form (Price Bid) as per Section-VII, Part 2 of 3, together with its Attachments and Price Schedules) shall be submitted simultaneously at the e-tender portal and no manual/ hard copy of these documents shall be acceptable. The documents comprising Bid Security, Power of Attorney etc in accordance with ITB sub-clause 8.1.1 shall be submitted in</p>	
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Clause No.	INSTRUCTIONS TO BIDDERS (ITB)	
<p>15.1</p> <p>15.1.1</p> <p>15.1.2</p>	<p>physical form after being sealed and marked in the manner specified in ITB clause 15.1 below.</p> <p>Sealing and Marking of Physical Documents</p> <p>The physical documents shall be sealed and marked in the following manner:</p> <ul style="list-style-type: none"> (i) The details of bid security deposited shall be sealed in a separate envelope duly marking the envelope as "BID SECURITY". (ii) The power of attorney shall be sealed in a separate envelope duly marking the envelope as "POWER OF ATTORNEY". (iii) The deed of joint undertaking (if applicable) as per relevant attachment shall be sealed in a separate envelope duly marking the envelope as "DEED OF JOINT UNDERTAKING". (iv) The joint venture/consortium agreement (if applicable) as per relevant attachment shall be sealed in a separate envelope duly marking the envelope as "JOINT VENTURE/CONSORTIUM AGREEMENT". (v) The 'Integrity Pact" (if applicable) as per relevant attachment duly signed by the signatory authorized to sign the bid, shall be sealed in a separate envelope entitled " INTEGRITY PACT".- NOT APPLICABLE (vi) No deviation certificate as per Attachment-19 Duly filled in and signed by the signatory authorised to sign the bid, shall also sealed in a separate envelope entitled " ATTACHMENT-19- NO DEVIATION CERTIFICATE". (vii) The "CONFIRMATION REGARDING ONGOING COLLABORATION AND LICENSING AGREEMENT" (if applicable) as per relevant attachment duly signed by the signatory authorized to sign the bid, shall be sealed in a separate envelope entitled " CONFIRMATION REGARDING ONGOING COLLABORATION AND LICENSING AGREEMENT". <p>The envelopes shall then be sealed in an outer envelope.</p> <p>The inner and outer envelopes shall:</p> <ul style="list-style-type: none"> (a) be addressed to the Employer at the address given in the Bid Data Sheet, and (b) bear the Package name indicated in the Bid Data Sheet, the Invitation for Bids number indicated in the Bid Data Sheet, and the statement "DO NOT OPEN BEFORE [date]," to be completed with the time and date specified in the Bid Data Sheet, pursuant to ITB clause titled 'Deadline for Submission of Bids'. <p>The inner envelopes shall also indicate the name and address of the Bidder. If the outer envelope is not sealed and marked in the manner specified above, the Employer will assume no responsibility for its misplacement.</p>	
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16.0	<p>Deadline for Submission of Bids</p> <p>Bids must be submitted at e-tender portal no later than the time and date stated in the Bid Data Sheet. The physical documents shall be submitted before stipulated bid submission time at the address specified in BDS and Employer shall not be liable for loss/non-receipt/late receipt of above documents in postal transit.</p> <p>EMPLOYER may, at its discretion, extend this deadline for submission of bids by amending the bidding documents in accordance with ITB Clause titled 'Amendment to Bidding Documents', in which case all rights and obligations of Employer and Bidders will thereafter be subject to the deadline as extended.</p>				
17.0	<p>Late Bid: Not Applicable</p>				
18.0	<p>Modification and Withdrawal of Bids- Not Applicable</p>				
<p>E. Bid Opening and Evaluation</p>					
19.0	<p>Opening of Bids</p>				
19.1	<p><u>Techno-Commercial Bid Opening</u></p>				
19.1.1	<p>The Employer will first open Techno-Commercial Bid in the presence of bidders' representatives who choose to attend the opening at the time, on the date and at the place specified in the Bid Data Sheet. In the event of the specified date for the opening of bids being declared a holiday for EMPLOYER, the bids will be opened at the appointed time on the next working day. All important information and other such details as EMPLOYER, at its discretion, may consider appropriate, will be announced at the opening.</p>				
19.1.2	<p>In case requisite bid security pursuant to ITB Clause titled 'Bid Security', and/or Integrity Pact (IP) as per provision of Integrity Pact specified in BDS and / or Deed of Joint Undertaking and / or No Deviation Certificate are not submitted before the stipulated bid submission closing date and time then Bid shall be rejected by EMPLOYER as being non-responsive and shall not be opened.</p>				
19.2	<p><u>Price Bid Opening</u></p>				
19.2.1	<p>After the evaluation process of Techno-Commercial bid is completed, Employer will inform in writing the eligible Bidders regarding date, time and venue set for the opening of Price Bid. Bidders, whose Techno-Commercial Bid is not substantially responsive, shall also be informed in writing and their Price bid will be rejected and shall not be opened and their bid security shall be returned prior to opening of Price Bid.</p>				
19.2.2	<p>The Employer will open Price Bids in the presence of bidders' representatives who choose to attend the opening at the time, on the date and at the place specified by the Employer. In the event of the specified date for the opening of bids being declared a holiday for the Employer, the bids will be opened at the appointed time on the next working day. All important information and other such details as the Employer, at its discretion, may consider appropriate, will be announced at the opening.</p>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; padding: 5px;"> DCRTPP YAMUNA NAGAR (2X300 MW)FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251 </td> <td style="width: 30%; text-align: center; padding: 5px;"> SECTION-II (ITB) </td> <td style="width: 30%; text-align: right; padding: 5px;"> Page 21 of 33 </td> </tr> </table>			DCRTPP YAMUNA NAGAR (2X300 MW)FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251	SECTION-II (ITB)	Page 21 of 33
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Clause No.	INSTRUCTIONS TO BIDDERS (ITB)				
19.2.3	Price bids of those Bidders, who have been considered qualified and whose Techno-Commercial Bid found to be responsive, will be opened online in presence of the Bidder's authorised representatives who choose to attend.				
19.2.4	The participating bidders will be able to view the bid prices of all the bidders after online opening of Price Bids by Employer.				
20.0	<p>Clarification on Bids</p> <p>During bid evaluation, EMPLOYER may, at its discretion, ask the Bidder for a clarification of its bid including documentary evidence pertaining to the reference plants declared in the bid for the purpose of meeting Qualifying Requirement specified in Bid Data Sheet. The request for clarification and the response shall be in writing, and no change in the price or substance of the bid including substitution of reference plants in the bid by new/additional plant for conforming to Qualifying Requirement shall be sought, offered or permitted.</p>				
21.0	PRELIMINARY EXAMINATION OF TECHNO-COMMERCIAL BIDS				
21.1	EMPLOYER will examine the bids to determine whether they are complete, whether required securities have been furnished, whether the documents have been properly signed and whether the bids are generally in order.				
21.2	<p>Prior to the detailed evaluation, EMPLOYER will initially determine whether each Techno-Commercial bid is of acceptable quality, is generally 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.</p>				
21.3	<p>Compliance with the Provisions of Bidding Documents</p> <p>No deviation, whatsoever, is permitted by EMPLOYER to any provisions of Bidding Documents. The Bidders are advised that while making their Bid proposals and quoting prices, all conditions may appropriately be taken into consideration. Bidders shall certify their compliance to the complete Bidding Documents by accepting the declaration as per attachment-19.</p> <p>Acceptance of above shall be considered as Bidder's confirmation that any deviation to the any Provisions found anywhere in their Bid Proposal, implicit or explicit, shall stand unconditionally withdrawn, without any cost implication whatsoever to the Employer, failing which the bid security shall be forfeited.</p> <p>Bids of the bidders not accepting the above will be rejected.</p>				
21.4	EMPLOYER's determination of a bid's responsiveness is to be based on the contents of the bid itself without recourse to extrinsic evidence. If a bid is not substantially responsive,				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; padding: 5px;">DCRTPP YAMUNA NAGAR (2X300 MW)FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</td> <td style="width: 40%; text-align: center; padding: 5px;">SECTION-II (ITB)</td> <td style="width: 20%; text-align: right; padding: 5px;">Page 22 of 33</td> </tr> </table>			DCRTPP YAMUNA NAGAR (2X300 MW)FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251	SECTION-II (ITB)	Page 22 of 33
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<p>22.0</p> <p>22.1</p> <p>22.2</p> <p>22.3</p> <p>22.4</p>	<p>it will be rejected by EMPLOYER, and may not subsequently be made responsive by the Bidder by correction of the nonconformity.</p> <p>QUALIFICATION</p> <p>Bidders shall certify their compliance on "Qualifying Requirements" of Employer by accepting the attachment 2A.</p> <p>Acceptance of above shall be considered as bidder's confirmation to the following conditions:</p> <ul style="list-style-type: none"> (a) The number of reference Plants/Orders quoted by Bidder in Attachment- 3A of the bid, for establishing compliance to the specified Qualifying Requirement (QR), are in accordance with the provision specified in Bid Data Sheet. (b) The reference Plants/Orders / declared, shall only be considered for evaluation/establishing compliance to Qualifying Requirement (QR). Any reference Orders declared more than as specified in Bid Data Sheet shall not be considered for evaluation/establishing compliance to Qualifying requirements. (c) No change or substitution in respect of reference Plants/Orders for meeting the specified Qualifying Requirement (QR) shall be offered by the bidder. <p>EMPLOYER, by the examination of Techno-Commercial Bid, will determine to its satisfaction whether the participating bidders are qualified to satisfactorily perform the contract in terms of the qualifying requirements stipulated in the Bid Data Sheet. The determination will take into account the bidder's financial and technical capabilities, in particular its contracts, works in hand, future commitments and current litigation. It will be based upon an examination of documentary evidence of bidder's qualification submitted by the bidder in relevant attachment to the Bid Form of Techno-Commercial Bid as well as such other information as EMPLOYER deems necessary and appropriate. Notwithstanding anything stated anywhere else in the bidding documents, EMPLOYER reserves the right to seek in writing information relating to qualifying requirements in addition to details contained in the bid. The bidder shall furnish required information promptly to EMPLOYER. EMPLOYER will shortlist the Bidders meeting the stipulated Qualifying Requirements.</p> <p>An affirmative determination of meeting the qualifying requirements will be a prerequisite for further evaluation of Techno-Commercial bid and holding clarification meeting, if any, with the Bidder. A negative determination will result in rejection of the Bidder's Techno-Commercial Bid in which event EMPLOYER will not open the Price Bid of the concerned bidder and his bid security shall be returned.</p> <p>The capabilities of the vendors and subcontractors, proposed in relevant attachment, will also be evaluated for acceptability. Their participation should be confirmed with a letter of intent between the parties, as needed. Should a vendor or sub-contractor be determined to be unacceptable, the bid will not be rejected, but the Bidder will be required to substitute an acceptable vendor or sub-contractor without any change in the bid price quoted in Price Proposal, prior to award.</p>	
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Clause No.	INSTRUCTIONS TO BIDDERS (ITB)	
<p>23.0</p> <p>23.1</p> <p>23.2</p> <p>24.0</p>	<p>EVALUATION OF TECHNO-COMMERCIAL BIDS</p> <p>EMPLOYER will carry out a detailed evaluation of the Techno-Commercial bids (of the qualified bidders shortlisted as above) previously determined to be substantially responsive in order to determine whether the technical aspects are in accordance with the requirements set forth in the bidding documents. In order to reach such a determination, EMPLOYER will examine and compare the technical aspects of the bids on the basis of the information supplied by the bidders, taking into account the following factors:</p> <ul style="list-style-type: none"> (a) overall completeness and compliance with the Technical Specifications and Drawings; suitability of the facilities offered in relation to the environmental and climatic conditions prevailing at the site; and quality, function and operation of any process control concept included in the bid. The bid that does not meet minimum acceptable standards of completeness, consistency and detail will be rejected for non-responsiveness. (b) achievement of specified performance criteria by the facilities (c) type, quantity and long-term availability of mandatory and recommended spare parts and maintenance services (d) Any other relevant factors listed in the Bid Data Sheet, General Conditions of Contract, Special Conditions of Contract and Instruction to Bidders, or that EMPLOYER deems necessary or prudent to take into consideration. (e) Compliance with the time schedule called for in relevant appendix to the form of Contract Agreement (Time Schedule) and evidenced, as needed, in a milestone schedule provided in the bid. <p>The plant and equipment covered by this bidding document are required to be shipped and installed and the facilities are to be completed within the period named in the Bid Data Sheet after the effective date specified in the Contract Agreement. Bidders are required to base their prices on the time schedule given in relevant appendix to the form of Contract Agreement (Time Schedule) or, where no time schedule is given, on the completion date(s) given in the Bid Data Sheet. No credit will be given for earlier completion.</p> <p>Bidder may note that deviations, variations and additional conditions etc. found elsewhere in the bid, shall not be given effect to in evaluation and it will be assumed that the Bidder complies to all the conditions of Bidding Documents. In case the Bidder refuses to withdraw deviations implicit or explicit found anywhere in the bid, without any financial implication whatsoever to the Employer, the bid security shall be forfeited.</p> <p>CLARIFICATION MEETING</p> <p>EMPLOYER, if required, shall hold discussions or clarification meetings with only those Bidders who have been considered qualified and whose Techno-Commercial Bid have been found to be responsive.</p> <p>PRELIMINARY EXAMINATION OF PRICE BID</p>	
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Clause No.	INSTRUCTIONS TO BIDDERS (ITB)	
24.1	The Employer will examine the Price bids to determine whether they are complete, whether any computational errors have been made, and whether the bids are generally in order.	
24.2	<p>Arithmetical Correction</p> <p>Arithmetical errors will be rectified on the following basis. In Price Schedules, if there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity, or between subtotals and the total price, the unit or subtotal price shall prevail and the total price shall be corrected accordingly. If there is a discrepancy between words and figures, the amount in words will prevail. All errors in totalling in the amount column of Price Schedules and in carrying forward totals shall be corrected. The discount (if any) mentioned in Conditions field of General Data/Item Data in Main Screen of Bid Invitation shall be applied on such corrected price. The bid sum so altered shall, for the purpose of bid, be substituted for the sum originally bid and considered for evaluation and comparison of the bids and also for acceptance of the bid, instead of the original sum quoted by the Bidder. If the Bidder does not accept such correction of errors, its bid will be rejected and the bid security will be forfeited in accordance with ITB Sub-Clause titled 'Forfeiture of Bid Security'.</p>	
24.3	<p>Conversion to Single Currency</p> <p>To facilitate evaluation and comparison, EMPLOYER will convert all bid prices, expressed in the amounts in various currencies in which the bid price is payable, to a single currency. The currency selected for converting bid prices to a common base for the purpose of evaluation, along with the type of transaction, source and date of the exchange rate to be used, is specified in the Bid Data Sheet.</p>	
25.0	EVALUATION OF PRICE BID	
25.1	<p>The comparison shall be of the EXW Price of Plant and Equipment including Type Test Charges and Mandatory Spares offered from within the Employer's country, such price to include all costs as well as duties and taxes paid or payable on components and raw materials incorporated or to be incorporated in the Plant and Equipment including Mandatory Spares plus the price of the CIF named port of destination (or CIP Border point or CIP named place of destination) of the Plant and Equipment including Type Test Charges and Mandatory Spares offered from outside the Employer's country, plus the cost of Local Transportation, Insurance Covers, all Installation Services required under the Contract, plus the Goods and Services Tax (GST) specified by the Bidder in its Bid (applicable on goods and services quoted in Schedules-2, 3 & 4) and Import Duties applicable on CIF Price quoted in Schedule-1 .</p> <p>The Employer's comparison will also include the costs resulting from application of the evaluation procedures described in ITB Sub Clauses 25.3 to 25.5. However, the Price of recommended spare parts quoted in Price Schedule No. 6 shall not be considered for evaluation of Bids.</p>	
25.2	The Employer's evaluation of a bid will take into account, in addition to the bid prices indicated in Price Schedules Nos. 1 through 4 and Price Schedule No. 7, and the corrections pursuant to ITB sub-clause titled 'Arithmetical Correction', the following costs and factors that will be added to each Bidder's bid price in the evaluation using pricing	
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25.3	<p>information available to the Employer, in the manner and to the extent indicated in ITB Sub Clause 25.3 and in the Technical Specifications:</p> <ul style="list-style-type: none"> (a) the functional guarantees of the facilities offered (b) the extra cost of work, services, facilities etc., required to be provided by the Employer or third parties. (c) Applicable Import Duties on CIF Price. <p>Pursuant to ITB Sub Clause 25.2, the following evaluation methods will be followed:</p> <ul style="list-style-type: none"> (a) Functional Guarantees of the Facilities <ul style="list-style-type: none"> (i) Bidders shall state the functional guarantees (e.g. performance, efficiency, power consumption) of the proposed facilities in response to the Technical Specifications. In case a minimum (or a maximum, as the case may be) level of functional guarantee is specified in the Technical Specifications for the bids to be considered responsive, bids offering plant and equipment with such functional guarantees less (or more) than the minimum (or maximum) specified may be rejected. (ii) For the purposes of evaluation, the adjustment (if any) specified in the Bid Data Sheets will be added to the bid price for each drop (or excess) in the responsive functional 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 Sheets. <p style="margin-left: 40px;">The adjustment factors shall be converted to such currencies as specified in Bid Data Sheets.</p> (b) Work, Services, Facilities etc., to be provided by the Employer <p>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.</p> (c) Specific Additional Criteria <p>The relevant evaluation method, if any, shall be detailed in the Bid Data Sheets.</p> 	
25.4	<p>Any adjustments in price that result from the above procedures shall be added, for purposes of comparative evaluation only, to arrive at an "Evaluated Bid Price". Bid prices quoted by Bidders shall remain unaltered.</p>	
25.5	<p>An illustrative method of evaluation is explained below:</p>	
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Clause No.	INSTRUCTIONS TO BIDDERS (ITB)	
	<p style="text-align: center;">Illustrative Method of Evaluation</p> <p>1. Quoted Bid Price (after considering arithmetical corrections)</p> <p>(i) CIF price including type test charges for equipment and mandatory spares</p> <p>(ii) Ex-works price including type test charges for equipment and mandatory spares</p> <p>(iii) Price for inland transportation including inland transit insurance for equipment and mandatory spares</p> <p>(iv) Price for Installation Services</p> <p>(iv) Total Price</p> <p>2. Taxes & Duties (not included in 1 above)</p> <p>(i) Import Duty, Sustoms duty & GST on CIF Price on (Schedule-1) (quoted in schedule-7a)</p> <p>(ii) GST</p> <p>(iv) Total</p> <p>3 Adjustments for Functional Guarantees</p> <p>4 Evaluated Bid Price</p>	<p style="text-align: right;">Any Bidder ----- (INR) -----</p> <p>N1</p> <p>N2</p> <p>N3</p> <p>N4</p> <p>N (N1+N2+N3+N4)</p> <p>P1</p> <p>P2</p> <p>P (P1+P2)</p> <p>X- if applicable</p> <p>FEP (N+P+X)</p>
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	<p>Note: 1. Aforesaid method of evaluation shall be equally applicable for all bidders.</p> <p>2. Pursuant to ITB clause 10.4(a) & 10.4(b), the price for mandatory spares shall be quoted in compliance with the requirements as per the list of mandatory spares specified in the Technical Specification (if any) and in Price Schedule- 1, Schedule-2 & Schedule-3 of the Bidding Documents. In case, any deviations, variations and additional conditions are found in the Price Schedule-1, Schedule-2 & Schedule-3 of the Stage-II (Price) Bid in respect of mandatory spares, which are contrary to the requirements of the Bidding Documents, the same shall not be given effect to in the evaluation and it will be considered that the bids are in compliance with the requirements of the Bidding Documents. In such cases, it is binding on Bidders to supply such mandatory spares, as per detailed engineering without any extra cost implication to the Employer.</p> <p>25.6 PRICE NEGOTIATION: The price discovery for cases related to procurement of goods and stores (both fixed purchase & rate contract), turnkey and services be determined based on the rate quoted by the L-1 bidder if the quoted rates are found to be reasonable by the indenting Department/Organization and negotiations, if any, held with the lowest bidder.</p> <p>A. However, negotiation could be held upto four number of such bidder(s), in addition to L-1 bidder in cases where there are bidders falling within 5% of the L-I bidder. In cases where the L-I bidder refuses to further reduce his offered price and any of the four bidders come forward to offer a price which is better than the price offered by L1 bidder, the bidder whose price is accepted becomes the L1 bidder. However, in such a situation, the original L1 bidder may be given one more opportunity to improve upon the discovered price. In case, the original L1 bidder further improve upon the price discovered during the negotiations, he would be treated as the L1 bidder.</p> <p>B. In cases where there is no bidder within 5% of the L1 bidder:-</p> <p>I. L2 bidder will be invariably called for negotiation in addition to the L1 bidder</p> <p>II. L3 bidder will also be called, if it is so decided by the minister-in-charge, addition to L1, L2 bidders.</p> <p>25.7 HPGCL is not under any obligation to accept the lowest Tender / Tenders and reserves the right to reject any or all the Tenders without assigning any reasons, whatsoever.</p> <p>25.8 HPGCL also reserves the right not to place the order to the bidder whose rates are found to be not viable and/or not workable as per the scope, terms and conditions of the tender and as per the prevailing market conditions.</p> <p>25.9 It shall not be obligatory on the part of HPGCL to furnish any information or explanation for the cause of rejection of tender or part of the tender.</p> <p>25.10 In case any bidder after having submitted his tender does not furnish the details/ clarification/information required by the Tender Committee, within the given time and does not show the required interest and/or try to delay the process of finalization of the tender, his tender shall be rejected and Earnest Money forfeited.</p> <p>25.11 Submission of tender by the bidder implies that he has read the tender documents and has made himself aware of the scope of work, tender specifications and terms and conditions.</p> <p>26.0 Contacting the Employer</p> <p>Subject to ITB Clause titled 'Clarification on Bids' and ITB Sub-Clause titled 'Clarification Meeting', no Bidder shall contact Employer on any matter relating to its bid, from the time of the opening of bids to the time the contract is awarded.</p> <p>Any effort by a Bidder to influence Employer in EMPLOYER's bid evaluation, bid comparison or contract award decisions may result in rejection of the Bidder's bid.</p>	
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27.0	<p style="text-align: center;">F. Award of Contract</p> <p>Award Criteria</p> <p>Subject to ITB Clause titled 'Employer's Right to Accept Any Bid and to Reject Any or All Bids', 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, further provided that the Bidder is determined to be qualified to perform the contract satisfactorily. The Bidder will be required to comply with all requirements of the Bidding Documents without any extra cost to the Employer, failing which his bid security will be forfeited. Employer reserves the right to vary the quantity of any of the Spares and/or delete any item of Spares altogether at the time of Award of Contract.</p> <p>The mode of contracting with the successful bidder will be as per stipulation outlined in GCC Clause titled 'Construction of the Contract' and briefly indicated below:</p> <p>In the case of successful Domestic Bidder, the award shall be made as follows:</p> <ul style="list-style-type: none"> (i) First Contract : For CIF (Indian port of entry) supply of plant and equipment including type test charges and mandatory spares to be supplied from abroad. (ii) Second Contract : For Ex-works (India) supply of plant and equipment including type test charges and mandatory spares. (iii) Third Contract : For providing all services i.e. port handling, port clearance and port charges for the imported goods, further loading, inland transportation for delivery at site, inland transit insurance, unloading, storage, handling at site, installation, insurance covers other than inland transit insurance, testing, commissioning and conducting Performance Guarantee Tests in respect of all the equipments supplied under the 'First Contract' & the 'Second Contract' and all other services as specified in the Contract Documents. <p>All the above Contracts will contain a cross-fall breach clause specifying that breach of one Contract will constitute breach of the other Contracts which will confer a right on the Employer to terminate the other Contracts also at the risk and the cost of the Contractor.</p> <p>In the case of successful Foreign Bidder, the award shall be made as follows:</p> <ul style="list-style-type: none"> (i) First Contract : For CIF (Indian port-of-entry) supply of plant and equipment including type test charges and mandatory spares to be supplied from abroad. (ii) Second Contract : For Ex-works (India) supply of domestically manufactured plant and equipment including type test charges and mandatory spares. (iii) Third Contract : For providing all services i.e. port handling, port clearance and port charges for the imported goods, further loading, inland transportation for delivery at site, inland transit insurance, unloading, storage, handling at site, installation, insurance covers other than inland transit insurance, testing, commissioning and conducting Performance Guarantee Tests in respect of all the 	
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	<p>equipment supplied under the First Contract & the Second Contract and all other services as specified in the Contract Documents.</p> <p>All the above Contracts will contain a cross-fall breach clause specifying that breach of one Contract will constitute breach of the other Contracts which will confer a right on the Employer to terminate the other Contracts also at the risk and the cost of the Contractor.</p> <p>The foreign bidder, however, has the option, to be exercised as a part of its bid proposal, to propose an Assignee in its bid to execute the Second Contract and/or the Third Contract. For the scope of work envisaged by the foreign bidder, in its bid, to be executed by Assignee, the Assignee should have relevant/required capacity and experience of executing similar job. The bidder shall substantiate with relevant/required documents in the bid to establish capacity and experience of the Assignee.</p> <p>If the foreign bidder has proposed an Assignee in its bid to execute the Second Contract and/or the Third Contract and has also furnished written unequivocal consent of the proposed Assignee to work as an independent Contractor on the terms and conditions offered by the bidder and if the Employer is satisfied with the capacity and experience of the Assignee proposed in the bid, the Employer will enter into the 'Second Contract' and/or the 'Third Contract' with the Assignee. However, if the Employer in its judgement does not find acceptance of the Assignee proposed in the bid as its Contractor, then on the request of the Employer, the bidder shall have option to propose an alternate Assignee on the same terms and conditions and cost as offered in its bid. It is expressly understood and agreed that in case the option is not exercised by the Bidder or if the Assignee fails to enter into Contract(s) with the Employer or if the Employer in its judgement does not find acceptance of the Assignee as its Contractor, then the foreign bidder shall be obliged to enter into and execute all the three Contracts with the Employer covering the entire scope of work envisaged in the bidding documents on the same terms and conditions and cost as offered in its bid.</p> <p>However, for the above purpose, only one Assignee shall be permitted for both Second Contract and/or Third Contract.</p> <p>Employer will award separate contracts for each of the two plants to the respective successful bidder.</p>	
27.1	The Employer shall place separate Contract for O&M on Bidder for two years as per scope of work and terms and conditions specified in Technical Specifications.	
28.0	<p>Employer's Right to Accept Any Bid and to Reject Any or All Bids</p> <p>Employer reserves the right to accept or reject any 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 the grounds for Employer's action.</p>	
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29.0	<p>Notification of Award</p> <p>Prior to the expiration of the period of bid validity, the Employer will notify the successful Bidder in writing by registered letter or by telefax to be confirmed in writing by registered letter, that its bid has been accepted. The notification of award will constitute the formation of the contract.</p>		
30.0	<p>Signing the Contract Agreement</p> <p>At the same time as the Employer notifies the successful Bidder that its bid has been accepted, the Employer will send to the Bidder the Contract Agreement provided in the bidding documents, incorporating all agreements between the parties.</p> <p>Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder / Assignee of foreign bidder (if applicable) shall sign and date the Contract Agreement and return it to the Employer.</p>		
31.0	<p>Performance Security</p>		
31.1	<p>Within twenty-eight (28) days after receipt of the Notification of Award, the successful Bidder shall furnish performance securities, in the form of bank guarantee, for ten percent (10%) of Contract Price for all the contracts and in the form provided in the section "Forms and Procedures" of the bidding documents..</p> <p>In case Deed(s) of Joint Undertaking by the Contractor along with his associate(s)/collaborator(s) form part of the Contract, then, unconditional Bank Guarantee(s) from such associate(s) / collaborator(s) towards faithful performance of the Deed(s) of Joint Undertaking for amount(s) specified in the Bid Data Sheets shall be furnished within twenty eight (28) days after Notification of Award. These Bank Guarantees shall be furnished in the form provided in the section "Forms and Procedures" of the bidding documents and shall be valid till such period as specified in the corresponding format for Deed of Joint Undertaking.</p> <p>In case of a successful foreign bidder, if the Employer accepts to enter into the Second Contract and / or Third Contract with the Assignee, then, within twenty-eight (28) days of Notification of Award, the Assignee shall furnish additional performance security(ies) in the form of bank guarantee for ten percent (10%) of the value of the Contract(s) entered into with the Assignee and in the form provided in the Section "Forms and Procedures" of the bidding documents.</p>		
31.2	<p>The Bank Guarantees submitted towards Performance Security shall be essentially from any of the Banks listed in Annexure-I to SCC. The Bank guarantee submitted from within India towards Performance Security shall be issued on Non-Judicial Stamp Paper of appropriate value as per Stamp Act prevailing in the State(s) where the BG is submitted or is to be acted upon or the rate prevailing in the State where the BG is executed whichever is higher.</p> <p>In case of guarantees issued by branches outside India for foreign banks, the bank guarantees shall be routed through the correspondent Bank in India for due verification of signatures of the executant. The BG issued by a Bank outside India also needs to bear Stamp Duty of appropriate value applicable to the place in HPGCL where BG is to be</p>		
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31.3	submitted, the BG will be adjudicated from Collector of Stamps, within 3 months of arrival of BG in India and the expenses incurred in this regard shall be recovered from the Contractor.		
31.3	While issuing the physical BG(s), the Bidder's Bank shall also send electronic message to Employer's Beneficiary Bank, pursuant to ITB sub-clause titled 'Confirmation of BG through Structured Financial Messaging System (SFMS)/SWIFT'.		
32.0	<p>Annulment of award</p> <p>Failure of the successful Bidder to comply with the requirements of ITB Clause titled 'Signing the Contract Agreement' or ITB Clause titled 'Performance Security' shall constitute sufficient grounds for the annulment of the award and forfeiture of his bid security.</p>		
33.0	<p>Ineligibility for participation in re-tender</p> <p>Notwithstanding the provisions specified in ITB Sub-Clause titled 'Forfeiture of Bid Security' and ITB Clause titled 'Annulment of award', if a bidder after having been issued the Notification of Award, either does not sign the Contract Agreement pursuant to ITB Clause titled 'Signing the Contract Agreement' or does not submit an acceptable Performance Security pursuant to ITB Clause titled 'Performance Security', and which result in tender being annulled then such bidder shall be treated ineligible for participation in re-tendering of this particular package.</p>		
34.0	<p>Time Schedule (programme of performance)</p> <p>The plant and equipment covered by this bidding document are required to be shipped and installed, and the facilities are to be completed within the period named in the Bid Data Sheet after the effective date specified in the Contract Agreement. Bidders are required to base their prices on the time schedule given in relevant appendix to the form of Contract Agreement (Time Schedule) or, where no time schedule is given, on the completion date(s) given in the Bid Data Sheet. No credit will be given for earlier completion.</p>		
35.0	<p>Corrupt or Fraudulent Practices</p> <p>Employer requires that Bidders, Contractors and Suppliers observe the highest standard of ethics during the procurement and execution of the contracts. In pursuance of this policy, Employer:</p> <p>(a) defines, for the purposes of this provision, the terms set forth below as follows :</p> <p>(i) "corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and</p> <p>(ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes</p>		
DCRTPP YAMUNA NAGAR (2X300 MW)FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251		SECTION-II (ITB)	Page 32 of 33

Clause No.	INSTRUCTIONS TO BIDDERS (ITB)	
	<p>collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition;</p> <p>(b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;</p> <p>(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing a contract of the Employer.</p> <p>Furthermore, Bidders shall be aware of the provision stated in GCC Sub-Clause titled 'Termination for Contractor's Default'.</p> <p>36.0 Non Blacklisting Certificate</p> <p>36.1 The bidder should certify that it has not been blacklisted by any organization presently. However in case such certification is found wrong at a later stage, then it will be construed as misrepresentation of facts and the bidder shall be liable for blacklisting and other penal actions.</p> <p>36.2 Not used</p> <p>36.3 If the firm fails or neglect to observe or perform any of its obligation under the contract, it will be lawful for HPGCL to forfeit either in whole or part at its absolute discretion, the security deposit/ performance security furnished by the firm.</p> <p>37.0 The terms & conditions not specified in the tender, shall be governed by "HPGCL Works & Purchase Regulations 2015" which are available on the HPGCL website i.e. www.hpgcl.org.in.</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW)FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>	<p>SECTION-II (ITB)</p>	<p>Page 33 of 33</p>

HARYANA POWER GENERATION CORPORATION LIMITED



BIDDING DOCUMENTS

FOR

**FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE
FOR
DCRTPP YAMUNA NAGAR (2X300 MW)**

**SECTION – III
BID DATA SHEET (BDS)**

BIDDING DOCUMENT NO.: 32/CE/PLG/DCRTPP/FGD-251

(This document is meant for the exclusive purpose of bidding against this Bid Document No./ Specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued).

BDS Item No.	ITB Clause Ref., if any	DATA	
1.	ITB 1.1	<p style="text-align: center;">SECTION - III</p> <p style="text-align: center;">BID DATA SHEET (BDS)</p> <p>NAME OF PACKAGE :</p> <p>The following bid specific data for the Plant & Equipment to be procured shall amend and/or supplement the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in the ITB.</p> <p>Invitation for Bids (IFB) No. :</p> <p style="text-align: center;">A. INTRODUCTION</p> <p>Mode of Bidding: International Competitive Bidding (ICB)</p> <p>Type of Bidding: Single Stage Two Envelope</p> <p>E-Tender Portal: https://haryanaeprocurement.gov.in</p> <p style="text-align: center;">(please refer Annexure-I to this section for Instruction to Bidders on Electronic Tendering System)</p>	
1.1	ITB 2.0	<p>Name of the Employer: Haryana Power Generation Corporation Limited (HPGCL)</p> <p>Name of the Package: Installation of Flue Gas Desulphurisation (FGD) System Package at:</p> <p>DCRTPP Yamuna Nagar (Unit 1 & 2) (2x300 MW)</p>	
DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251		SECTION –III (BDS)	Page 1 of 16

BDS Item No.	ITB Clause Ref., if any	DATA	
2.0	ITB 5.1	<p style="text-align: center;">B. THE BIDDING DOCUMENTS</p> <p>Address of Employer: Chief Engineer/Planning, HPGCL, Shakti Bhawan, Sector- 6, Panchkula, Haryana</p> <p>Pre-Bid Conference – The pre-bid conference shall be arranged at address mentioned below on the date & time specified in IFB.</p> <p>Chief Engineer/Planning, HPGCL, Shakti Bhawan, Sector- 6, Panchkula, Haryana Email-ceplg@hpgcl.org.in, xenplgp2.pkl@hpgcl.org.in</p>	
2.1		<p>Pre Bid Conference</p> <p>The Bidder or his authorised representative is invited to attend pre-bid conference which will take place as per details stipulated in IFB.</p> <p>The purpose of the conference will be to clarify any issue regarding the Bidding Documents.</p> <p>The Bidder is requested to submit questions in writing by email to reach the Employer at the address indicated above, not later than the date as specified in IFB.</p> <p>Any amendments/ clarifications to the Bidding Documents, which may become necessary, as a result of the pre-bid conference shall be made by the Employer exclusively through an amendment to the bidding documents and uploaded in the portal.</p>	
3.0	ITB 8.1.2 (a)	<p style="text-align: center;">C. PREPARATION OF BIDS</p> <p>Qualification Requirements for Bidders</p> <p>In addition to the requirements stipulated in Section ITB (Instructions to Bidder), the following shall also apply:</p>	
3.1.0.0		<p>Technical Criteria</p> <p>The Bidder should meet the qualifying requirements stipulated in any one of the qualifying routes i.e Route-1 (clause 3.1.1.0) or Route-2 (clause 3.1.2.0) or Route-3 (clause 3.1.3.0) or Route-4 (clause 3.1.4.0) including requirements stipulated in sub clauses of respective Route. In addition, the Bidder should also meet the requirements</p>	
DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251		SECTION –III (BDS)	Page 2 of 16

BDS Item No.	ITB Clause Ref., if any	DATA	
3.1.1.0		<p>stipulated under clause 3.2.0.0 together with the requirements stipulated under section ITB.</p> <p>Route-1: Qualified Wet Limestone based Flue Gas Desulphurisation (FGD) System Manufacturer (QFGDM)</p>	
3.1.1.1		<p>The Bidder should have designed, engineered, supplied, erected/supervised erection and commissioned/supervised commissioning of at least one(1) no. of wet limestone based Flue Gas Desulphurisation System, having flue gas treatment capacity of not less than 20,00,000 Nm³/hr, with desulphurisation efficiency of at least 90%, operating in a pulverised coal fired power plant. The above wet limestone based Flue Gas Desulphurisation System should have been in successful operation for a period not less than one (1) year prior to the date of Techno-Commercial bid opening.</p>	
3.1.2.0		<p>Route-2: Wet Limestone based Flue Gas Desulphurisation System Manufacturer with Collaboration and Technology Transfer Agreement with QFGDM</p>	
3.1.2.1		<p>The Bidder should have designed, engineered, supplied, erected/supervised erection and commissioned/supervised commissioning of at least one(1) no. of wet limestone based Flue Gas Desulphurisation system having flue gas treatment capacity of not less than 6,00,000 Nm³/hr, with desulphurisation efficiency of at least 85%, operating in a pulverised coal fired power plant. The above wet limestone based Flue Gas Desulphurisation System should have been in successful operation for a period not less than one (1) year prior to the date of Techno-Commercial bid opening.</p>	
3.1.2.2		<p>Bidder should also have a valid ongoing collaboration and technology transfer agreement with a QFGDM meeting requirements of clause 3.1.1.1 on its own, valid minimum up to the end of the defect liability period of the contract. In such a case Bidder can either source the FGD System from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM.</p>	
3.1.2.3		<p>The Bidder shall furnish a Deed of Joint Undertaking (DJU) executed by it and the QFGDM, in which the executants of DJU shall be jointly and severally liable to the Employer for successful performance of the FGD System as per format enclosed with the bidding documents. The DJU shall be submitted along with techno-commercial bid, failing which the Bidder shall be disqualified and its bid shall be rejected.</p>	
3.1.2.4		<p>In case of award of a project, the QFGDM will be required to furnish an on demand bank guarantee for an amount of 2% of the total contract price of the Flue Gas Desulphurisation System Package for the awarded project in addition to the contract performance security to be furnished by the Bidder.</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 3 of 16</p>

BDS Item No.	ITB Clause Ref., if any	DATA	
3.1.3.0 3.1.3.1		<p>Route-3: Steam Generator Manufacturer / Indian JV company of Steam Generator manufacturer or QFGDM/ Indian Subsidiary company of Steam Generator manufacturer or QFGDM with Collaboration and Technology Transfer Agreement with QFGDM</p> <p>(a) Bidder should have designed, engineered, manufactured/got manufactured, erected/ supervised erection and commissioned/supervised commissioning of atleast one (1) no. of pulverised coal fired steam generator for 200 MW or higher capacity unit or having minimum 600T/hr steaming capacity. Further, such Steam Generator should have been in successful operation for a period not less than one (1) year prior to the date of Techno-Commercial bid opening.</p> <p style="text-align: center;">Alternatively</p> <p>(b) The Bidder shall be a Joint Venture (JV) Company incorporated in India under the Companies Act of India, as on the date of techno-commercial bid opening, promoted by (i) an Indian Company registered in India under the Companies Act of India and (ii) a Steam Generator Manufacturer meeting requirements of clause 3.1.3.1(a) or a QFGDM meeting requirements of clause 3.1.1.1, created for the purpose of manufacturing/supplying in India steam generator sets/Flue Gas Desulphurisation System. The Steam Generator Manufacturer/QFGDM shall maintain a minimum equity participation of 26% in the JV Company for a lock-in period of 7 years from the date of incorporation of JV Company and one of the promoters shall be a majority stakeholder who shall maintain a minimum equity participation of 51% in the JV Company for a lock in period of 7 years from the date of incorporation of JV Company or up to the end of defect liability period of the contract whichever is later. Further, Bidder should have executed order(s), during the last 5 years, with the total value of such project(s) being INR 5,000 million or more as on the date of Techno-commercial bid opening.</p> <p style="text-align: center;">Alternatively</p> <p>(c) The Bidder shall be an Indian Subsidiary Company of a Steam Generator Manufacturer meeting requirements of clause 3.1.3.1(a) or an Indian Subsidiary Company of a QFGDM meeting requirements of clause 3.1.1.1, registered in India under the Companies Act of India, as on the date of techno-commercial bid opening, for manufacturing/supply of Steam Generator sets/Flue Gas Desulphurisation System. The subsidiary Company shall remain a subsidiary company of the Steam Generator Manufacturer/QFGDM for a minimum period of 7 years from the date of incorporation of such Subsidiary Company or up to the end of defect liability period of the contract whichever is later. Further, Bidder should have executed order(s), during the last 5 years, with the total value of such project(s) being INR 5,000 million or more as on the date of Techno-commercial bid opening.</p>	
DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251		SECTION –III (BDS)	Page 4 of 16

BDS Item No.	ITB Clause Ref., if any	DATA	
3.1.3.2		<p>Bidder should also have a valid ongoing collaboration and technology transfer agreement with a QFGDM meeting requirements of clause 3.1.1.1, valid minimum up to the end of the defect liability period of the contract. In such a case Bidder can either source the FGD System from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM.</p>	
3.1.3.3		<p>The Bidder shall furnish a Deed of Joint Undertaking (DJU) executed by it, the promoter(s) having 25% or higher equity participation in the Subsidiary Company / JV Company (as the case may be) and the QFGDM, in which the executants of DJU shall be jointly and severally liable to the Employer for successful performance of the FGD System as per format enclosed with the bidding documents. The DJU shall be submitted along with techno-commercial bid, failing which the Bidder shall be disqualified and its bid shall be rejected.</p>	
3.1.3.4		<p>In case of award of a project, the QFGDM will be required to furnish an on demand bank guarantee for an amount of 2% of the total contract price of the Flue Gas Desulphurisation System Package for the awarded project in addition to the contract performance security to be furnished by the Bidder.</p>	
3.1.4.0		<p>Route-4: EPC Organization with Collaboration and Technology Transfer Agreement with QFGDM</p>	
3.1.4.1		<p>The Bidder should be an Engineering, Procurement and Construction (EPC) organization and should have executed, in the last 10 years, large industrial projects on EPC basis (with or without civil works) in the area of power, steel, oil & gas, petrochemical, fertilizer, Flue Gas Desulphurisation and / or any other process industry with the total value of such projects being INR 5,000 million or more. At least one of such project (in single or multiple contract) should have a total contract value of INR 2,000 million or more. These projects shall be in successful operation for a period of not less than one (1) year prior to the date of Techno-Commercial bid opening.</p>	
3.1.4.2		<p>Bidder should also have a valid ongoing collaboration and technology transfer agreement with a QFGDM meeting requirements of clause 3.1.1.1, valid minimum up to the end of the defect liability period of the contract. In such a case Bidder can either source the FGD System from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings released by such QFGDM.</p>	
3.1.4.3		<p>The Bidder shall furnish a Deed of Joint Undertaking (DJU) executed by it and the QFGDM, in which the executants of DJU shall be jointly and severally liable to the Employer for successful performance of the FGD System as per format enclosed with the bidding documents. The DJU shall be submitted along with techno-</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 5 of 16</p>

BDS Item No.	ITB Clause Ref., if any	DATA	
3.1.4.4		<p>commercial bid, failing which the Bidder shall be disqualified and its bid shall be rejected.</p> <p>In case of award of a project, the QFGDM will be required to furnish an on demand bank guarantee for an amount of 2% of the total contract price of the Flue Gas Desulphurisation System Package for the awarded project in addition to the contract performance security to be furnished by the Bidder.</p> <p>Notes for clause 3.1.0.0</p> <p>(1) Definitions</p> <p>(i) "QFGDM" (Qualified Wet Limestone based Flue Gas Desulphurisation System Manufacturer) means a manufacturer meeting requirements stipulated at 3.1.1.1.</p> <p>(ii) Whenever the term 'coal fired' is appearing above, "Coal" shall be deemed to also include bituminous coal/brown coal/anthracite coal/lignite.</p> <p>(iii) "Flue Gas Desulphurisation System" or "FGD System" wherever appearing above shall mean consisting of at least Absorber System.</p> <p>(iv) The word "executed" in Clause 3.1.3.1 (b)/ Clause 3.1.3.1 (c) means the Bidder should have commissioned the project(s) specified in the Clause 3.1.3.1 (b)/ Clause 3.1.3.1 (c) even if the contract has been started earlier and / or is not completed / closed.</p> <p>(2) Erection/Commissioning</p> <p>Where erection / supervision of erection and commissioning / supervision of commissioning has not been in the scope of the Bidder as mentioned in clause 3.1.1.1, 3.1.2.1 & 3.1.3.1 (a), the Bidder should have acted as an advisor for erection and commissioning. Necessary documents / certificates from the client, in support of above shall be furnished along with the Techno-Commercial bid.</p> <p>(3) Direct / Indirect order</p> <p>The Bidder/ QFGDM shall also be considered qualified, in case the award for executing the reference works has been received by the Bidder/ QFGDM either directly from owner of plant or any other intermediary organization. However, a</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 6 of 16</p>

BDS Item No.	ITB Clause Ref., if any	DATA	
		<p>certificate from such owner of plant or any other intermediary organisation shall be required to be furnished by the Bidder along with its Techno-Commercial bid in support of the Bidder's/ QFGDM claim of meeting the qualification requirement as per clause 3.1.1.1, 3.1.2.1, 3.1.3.1(a) & 3.1.4.1 above. Further, certificate from owner of the plant shall also be furnished by the Bidder along with the Techno-Commercial bid for the successful operation as specified at clause 3.1.1.1, 3.1.2.1, 3.1.3.1(a) & 3.1.4.1 above.</p> <p>(4) Holding Company as a Qualified Wet Limestone based Flue Gas Desulphurisation system Manufacturer</p> <p>(i) A Holding Company, singularly or collectively along with its Subsidiaries (held either directly or indirectly), meeting the requirements of clause 3.1.1.1 above shall also be considered as QFGDM.</p> <p>(ii) In such a case, if the Holding Company itself is not the Bidder as a QFGDM, the Holding Company and all such subsidiaries lending strength / experience to the Holding Company for meeting the requirements of clause 3.1.1.1 above should necessarily be part of the DJU being submitted by the Bidder for successful performance of the FGD System as per format enclosed with the bidding documents, failing which the bidder shall be disqualified and its bid rejected. Further, the Holding Company and all such entities lending strength / experience to the Holding Company for meeting the requirements of clause 3.1.1.1 above shall each be required to furnish separate on demand bank guarantees as per the format enclosed with the bidding documents for an amount aggregating 2% of the total contract price of the Flue Gas Desulphurisation System Package for the awarded project divided equally among them, in addition to the contract performance security to be furnished by the Bidder. This bank guarantee requirement shall supersede bank guarantee requirement stipulated at clause 3.1.2.4, 3.1.3.4 & 3.1.4.4 for the QFGDM.</p> <p>(iii) In case the Holding Company itself is the Bidder as a QFGDM as per clause 3.1.1.1, the Holding Company shall submit its board resolution stating that in case of any likely change of management control of any of these subsidiaries lending strength / experience to the Holding Company for meeting the requirements of clause 3.1.1.1 above, the Bidder shall arrange for separate on demand bank guarantees as per the format enclosed with the bidding documents from all such entities lending strength / experience to the Holding Company for fulfillment of requirement of clause 3.1.1.1, above for an amount aggregating 2% of the total contract price of the Flue</p>	
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BDS Item No.	ITB Clause Ref., if any	DATA	
<p>3.2.0.0</p> <p>3.2.1.0</p> <p>3.2.1.1</p> <p>3.2.1.2</p> <p>3.2.1.3</p>		<p>Gas Desulphurisation System Package for the awarded project divided equally among them, in addition to the contract performance security to be furnished by the Bidder before the change in management control actually occurs.</p> <p>(5) Technology Transfer Agreement (Applicable for Clause 3.1.2.0, 3.1.3.0 & 3.1.4.0)</p> <p>The bidder shall have a technology transfer agreement as on the date of Techno-commercial bid opening between the Bidder & QFGDM which shall necessarily cover transfer of technological knowhow for Wet Limestone based Flue Gas Desulphurisation System, in the form of complete transfer of design dossier, design softwares, drawings and documentation, quality system manuals and imparting relevant personnel training to the Bidder.</p> <p>(6) Equity Lock in period</p> <p>Wherever equity lock in period requirement or subsidiary status requirement is indicated, the Bidder would be required to furnish along with its techno-commercial bid, a Letter of Undertaking from the promoter(s), supported by Board Resolution as per the format enclosed in the bid documents, for maintaining the required minimum equity for the specified lock in period.</p> <p>Financial Criteria</p> <p>Financial Criteria of Bidder</p> <p>The average annual turnover of the Bidder, in the preceding three (3) financial years as on the date of Techno-Commercial bid opening, should not be less than INR 2490 Million (Indian Rupees Two Thousand Four Hundred Ninety Million only)</p> <p>In case a Bidder does not satisfy the average annual turnover criteria, stipulated above on its own, its Holding Company would be required to meet the stipulated turnover requirements as above. In such an event, the Bidder would be required to furnish along with its Techno-Commercial bid, a Letter of Undertaking from the Holding Company, supported by the Holding Company's Board Resolution, as per the format enclosed in the bid documents, pledging unconditional and irrevocable financial support for the execution of the Contract by the Bidder in case of award.</p> <p>NOT USED</p> <p>In case the Bidder is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the Bidder can be</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 8 of 16</p>

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<p>3.2.2.0</p> <p>3.2.2.1</p>		<p>considered acceptable provided the Bidder further furnishes the following documents for substantiation of its qualification:</p> <ul style="list-style-type: none"> (i) Copies of the unaudited unconsolidated financial statements of the Bidder along with copies of the audited consolidated financial statements of its Holding Company. (ii) A Certificate from the CEO/CFO of the Holding Company, as per the format enclosed with the bidding documents, stating that the unaudited unconsolidated financial statements form part of the consolidated financial statements of the Holding Company. <p>In cases where audited results for the last financial year as on the date of Techno Commercial bid opening are not available, the financial results certified by a practicing Chartered Accountant shall be considered acceptable. In case, Bidder is not able to submit the Certificate from a practicing Chartered Accountant certifying its financial parameters, the audited results of three consecutive financial years preceding the last financial year shall be considered for evaluating the financial parameters. Further, a Certificate would be required from the CEO/CFO as per the format enclosed in the bidding documents stating that the Financial results of the Company are under audit as on the date of Techno-commercial bid opening and the Certificate from the practicing Chartered Accountant certifying the financial parameters is not available.</p> <p>Financial Criteria of Collaborator/Associate (Applicable for clause 3.1.2.0, 3.1.3.0 & 3.1.4.0)</p> <p>The average annual turnover of the Collaborator/Associate, in the preceding three (3) financial years as on the date of Techno-Commercial bid opening, should not be less than INR 249 Million (Indian Rupees Two Hundred Forty Nine Million only).</p> <p>In case a Collaborator/Associate does not satisfy the average annual turnover criteria, stipulated above on its own, its Holding Company would be required to meet the stipulated turnover requirements as above. In such an event, the Collaborator/Associate would be required to furnish along with bidder's Techno-Commercial bid, a Letter of Undertaking from the Holding Company, supported by the Holding Company's Board Resolution, as per the format enclosed in the bid documents, pledging unconditional and irrevocable financial support to the Collaborator/Associate to honour the terms and conditions of the Deed of Joint Undertaking in case</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 9 of 16</p>

BDS Item No.	ITB Clause Ref., if any	DATA	
<p>3.2.2.2</p> <p>3.2.2.3</p>		<p>of award of the Contract to the Bidder with whom Collaborator/ Associate is associated.</p> <p>NOT USED</p> <p>In case the Collaborator/Associate is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the Collaborator/Associate can be considered acceptable provided the Collaborator/Associate further furnishes the following documents for substantiation of its qualification:</p> <p>(i) Copies of the unaudited unconsolidated financial statements of the Collaborator/Associate along with copies of the audited consolidated financial statements of its Holding Company.</p> <p>(ii) A Certificate from the CEO/CFO of the Holding Company, as per the format enclosed with the bidding documents, stating that the unaudited unconsolidated financial statements form part of the consolidated financial statements of the Holding Company.</p> <p>In cases where audited results for the last financial year as on the date of Techno Commercial bid opening are not available, the financial results certified by a practicing Chartered Accountant shall be considered acceptable. In case, Collaborator/Associate is not able to submit the Certificate from a practicing Chartered Accountant certifying its financial parameters, the audited results of three consecutive financial years preceding the last financial year shall be considered for evaluating the financial parameters. Further, a Certificate would be required from the CEO/CFO as per the format enclosed in the bidding documents stating that the Financial results of the Company are under audit as on the date of Techno-commercial bid opening and the Certificate from the practicing Chartered Accountant certifying the financial parameters is not available.</p> <p><u>Notes for Clause 3.2.1.0 & 3.2.2.0</u></p> <p>(i) Not used.</p> <p>(ii) Other income shall not be considered for arriving at annual turnover.</p> <p>(iii) “Holding Company” and “Subsidiary Company” shall have the meaning ascribed to them as per Companies Act of India.</p> <p>(iv) For annual Turnover indicated in foreign currency, the exchange rate as on seven (7) days prior to the date of Techno-Commercial bid opening shall be used.</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 10 of 16</p>

BDS Item No.	ITB Clause Ref., if any	DATA	
4.0		Bids not meeting the requirements as stated above shall be rejected.	
4.1		Bidders are required to furnish the details of the past experiences based on which selection is to be made as per format enclosed in the bidding documents for the same and enclose relevant documents like copies of authentic work order, completion certificate, agreements etc. supporting the details/data provided in the format. No claims without supporting documents shall be accepted in this regard. However if any of the reference work pertains to the Contract(s)/Works executed by Bidder for NTPC/ HPGCL in the past then in respect of such Contract(s)/Works Bidder shall not be required to enclose Client Certificate (s) along with its bid.	
4.2		The Employer also reserves the right to access the capacity and capability of the bidder/ collaborator/ proposed assignee to satisfactory execute the contract. Such assessment shall include but not limited to the evaluation of adequacy of facilities services, resources, design/engineering capacity & financial capability.	
4.3	8.1.2 (a)	Whether Joint Ventures are Permitted : Refer QR	
4.4		<p>The reference plants whose details have been declared as per the specified format in the relevant attachment [i.e Attachment No.- 3A-1 & 3A-2] shall only be considered to ascertain the bidder's compliance to the specified Qualifying Requirement (QR). Bidders wishing to provide additional reference plants are required to declare the same in similar format which shall be additionally attached. However, bidders are not permitted to quote more than three (03) times the numbers of plants as required in the QR for this purpose.</p> <p>The Employer at its discretion may seek any clarification and/or documentary evidence only for the reference plants as mentioned above. However, no change or substitution of the reference plants by new/additional plant for conforming to the specified Qualifying Requirement shall be sought, offered or permitted.</p>	
4.5	ITB 10.7	Price Basis: The contract shall be on firm price basis and no escalation, what so ever, shall be allowed during the currency of the contract.	
5.0	ITB 12.1	Amount of Bid Security : INR 100,000,000/- (Indian Rupees One Hundred Millions only)	
	ITB 12.2	Period of validity of Bid Security: 270 days from the date of bid opening (Techno-Commercial bid- Envelope –I)	
5.1	ITB 12.4.1, 31.3	<p>The Employer's Beneficiary Bank details are provided herein below:</p> <ul style="list-style-type: none"> • Bank Name: State Bank of India • Branch: Commercial Branch, Chandigarh 	
DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251		SECTION –III (BDS)	Page 11 of 16

BDS Item No.	ITB Clause Ref., if any	DATA	
5.2		<ul style="list-style-type: none"> Bank Address: SCO 103-106, Sector-17-B, Chandigarh IFSC Code: SBIN0009926 <p>Add the following para at the end of ITB sub-Clause of 12.2:</p> <p>D. SUBMISSION OF BIDS</p> <p>The documents to be furnished in physical form shall be submitted at the following address:</p> <p>Chief Engineer / Planning, Haryana Power Generation Corporation Limited C-7, Shakti Bhawan, Sector-6 Panchkula- 134102</p>	
6.0	ITB 16		
7.0	ITB 16	<p>Deadline for Bid Submission- 14:30 hrs. (IST) up to date as stated in the IFB/any subsequent communication from the Employer.</p>	
8.0	ITB 25.3(a)	<p>The bid evaluation factor-Not applicable:</p> <p>With regard to specified values of guarantees for Flue Gas Desulphurisation (FGD) System Package, following may be noted:</p> <ol style="list-style-type: none"> Bids guaranteeing/offering SO₂ Removal Efficiency lower than the minimum guaranteed requirement for the project under conditions stipulated in clause 4.01.00 (i) of Sub-Section-VI, Part A, Section-VI shall not be considered for evaluation and are liable to be rejected. Bids guaranteeing/offering Limestone Consumption more than the maximum guaranteed requirement for the project under conditions stipulated in clause 4.01.00 (ii) of Sub-Section-VI, Part A, Section-VI shall not be considered for evaluation and are liable to be rejected. Bids guaranteeing/offering Auxiliary Power Consumption more than the maximum guaranteed requirement for the 	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 12 of 16</p>

BDS Item No.	ITB Clause Ref., if any	DATA	
9.0	ITB 19.0	<p>project under conditions stipulated in clause 4.01.00 (iii) of Sub-Section-VI, Part A, Section-VI shall not be considered for evaluation and are liable to be rejected.</p> <p>4. Bids guaranteeing/offering Availability of FGD plant during O&M lower than the minimum guaranteed requirement for the project under conditions stipulated in clause 7.00.00 of Sub-Section-I-M8, Part B, Section-VI shall not be considered for evaluation and are liable to be rejected.</p> <p style="text-align: center;">E. BID OPENING AND EVALUATION</p> <p>Location of Bid Opening: Chief Engineer/Planning HPGCL C-7, Shakti Bhawan, Sector 6 Panchkula, Haryana - 134102 Telephone No.:</p>	
10.0	ITB 36.0	<p>Date and Time for Techno-Commercial Bid Opening :</p> <p>Please refer Section-I (IFB) /any subsequent communication from the employer.</p> <p>Date and Time of Opening of Price Bid: Shall be intimated separately by the employer.</p>	
10.1		<p>Time to complete the facilities from the date of Notification of Award "Completion of all Facilities" shall be attained within 30 months from the date of Notification of Award.</p> <p>The program for supplying installing, commissioning including completion of facilities and supply of mandatory spares covered in the contract shall be in the form of Master Network identifying the Key phases in various areas of total works, like design, procurement, manufacture, field activities. In addition, key milestone dates (10-15 nos.) shall also be identified for the complete facilities under the subject package. The Master Network shall conform to the following schedule dates:</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 13 of 16</p>

BDS Item No.	ITB Clause Ref., if any	DATA		
		<u>Work Schedule for Flue Gas Desulphurization System Package for HPGCL- Yamunanagar (2x300 MW).</u>		
		Sl. No.	Activity/Description of Milestones	<u>Duration in months from NOA</u>
				Start
				Finish
		A Engineering Completion		
		1.	Engineering for start of civil work and BOI order finalization,	00 02
		2.	BOI engineering	- 03
		B Manufacturing & Supply		
		3.	BOI Ordering	00 03
		4.	Manufacturing & Supply of Equipments	- 14
		5.	Manufacturing & Supply of gate, support structure, actuators etc. required for FGD inlet duct connection with ID-Chimney duct.	- 07
		C Civil and Structural Works of FGD		
		6.	Initial mobilization	- 01
		7.	Civil & Structural Works: Piling, Civil & structural works for FGD system, Chimney, Limestone Handling System, Common Lime stone milling system, Absorber System, Gypsum Dewatering System Gypsum Handling System, Auxiliary Absorbent Tank, Process Water storage & Pumping System, Waste Water treatment system and associated cable trestles for air & water lines, slurry lines, steam line & waste water lines etc as per technical specification.	02 16
		D Equipment Erection		
		8.	Equipment erection for FGD system, Limestone Grinding System, Absorber System, Gypsum Dewatering System, Auxiliary Absorbent Tank, Process Water storage & Pumping System, Waste Water treatment system etc. as per technical specification.	06 22
		9.	Electrical and C&I: For FGD system, Limestone Handling System, Common Lime stone milling system, Absorber System, Gypsum Dewatering System, Gypsum Handling System, Auxiliary Absorbent Tank etc.	- 24
		E Commissioning of FGD		
		10	Commissioning as per definition in technical specification	- 27
		F Completion of facilities		
				30
DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251		SECTION –III (BDS)		Page 14 of 16

BDS Item No.	ITB Clause Ref., if any	DATA	
10.2		<ul style="list-style-type: none"> • The schedule given above is for Unit#1, #2 (as single absorber is used) and Common facilities. • Supply of mandatory spares needs to be ensured along with respective main equipment. <p>The bidder shall also be required to submit a brief integrated PERT Network (L1 Schedule) matching with the above work schedule. The L1 Schedule shall, inter alia, include at least following activities for each systems listed above, showing their inter-relationship and duration so as to meet the above mentioned milestone details.</p> <p>(i) Milestones to be incorporated in L1 Network to be submitted with bid:</p> <ol style="list-style-type: none"> 1. Ordering on sub vendor (wherever applicable) 2. Start of engineering 3. Completion of engineering 4. Start of manufacturing/fabrication 5. Completion of manufacturing/fabrication 6. Commencement of Supplies 7. Completion of supplies of all items 8. Completion of site delivery of mandatory spares. 9. Readiness of Type Test (whether applicable) 10. Completion of Type Test (whether applicable) 11. Commencement of despatch 12. Completion of despatch 13. Start and completion of Erection 14. Commissioning of the system 	
DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251		SECTION –III (BDS)	Page 15 of 16

BDS Item No.	ITB Clause Ref., if any	DATA	
10.3		<p>15. Completion of the Facilities</p> <p>The master network and the key milestone dates will be discussed with the successful Bidder and agreed upon before the issue of Notification of Award. Engineering Drawing and Data Submission Schedule shall also be discussed and finalised before the issue of Notification of Award.</p>	
10.4		<p>After the Notification of Award, the contractor shall plan the sequence of work of manufacture, supply and erection to meet the above stated dates of successful completion of facilities and shall ensure all work, manufacture, shop testing, inspection and shipment of the equipment in accordance with the required sequence.</p>	
11.0	ITB 24.3	<p>(i) Currency chosen for purpose of evaluation : Indian Rupees</p> <p>(ii) Type of Transaction and Source of exchange rates : Bills Selling Exchange Rate established by STATE BANK OF INDIA</p> <p>(iii) Date of exchange rate : Deadline set for submission of Bids</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>		<p>SECTION –III (BDS)</p>	<p>Page 16 of 16</p>

Instructions to bidders on Electronic Tendering System

1. These conditions will over-rule the conditions stated in the tender documents, wherever relevant and applicable.

1.1 Information regarding Online Payment of tender document, e-service and EMD:-

The Bidders can download the tender documents from the portal, <https://etenders.hry.nic.in>. The Bidders shall have to pay for the Tender documents & eService fee online.

NOTE: If the tenders are cancelled or recalled on any grounds, the tender document fees & e-service fee will not be refunded to the bidder.

1.2 Conditions/Procedure for submission of tender:

1.2.1 Pre-requisites for online bidding:

In order to bid online on the portal <https://etenders.hry.nic.in>, the user machine must be updated with the required version Java. The link for downloading latest java applet is available on the Home page of the e-tendering Portal.

1.2.2 Online Viewing of Detailed Notice Inviting Tenders:

The bidders can view the detailed N.I.T and the time schedule (Key Dates) for all the tenders floated through the single portal e-Procurement system at <https://etenders.hry.nic.in>.

1.2.3. Download of Tender Documents:

The tender documents can be downloaded free of cost from the e-Procurement portal <https://etenders.hry.nic.in>.

1.2.4 Key Dates:

The bidders are strictly advised to follow dates and times as indicated in the online Notice Inviting Tenders. The date and time shall be binding on all bidders. All online activities are time tracked and the system enforces time locks that ensure that no activity or transaction can take place outside the start and end dates and the time of the stage as defined in the online Notice Inviting Tenders.

Instructions to bidders on Electronic Tendering System

1.2.5 Bid for a particular tender must be submitted online using the digital certificate (Encryption & Signing), which is used to encrypt the data. In case, during the process of a particular tender, the user loses his digital certificate (due to virus attack, hardware problem, operating system or any other problem) he will not be able to submit the bid online. Hence, the users are advised to keep a backup of the certificate and also keep the copies at safe place under proper security (for its use in case of emergencies).

1.2.6 Bid Preparation (Technical & Financial) online Bids:

- (i) The bidders shall upload their technical offer containing documents, qualifying criteria, technical specification, schedule of deliveries, and all other terms and conditions except the rates (price bid). The bidders shall quote the prices in price bid format.
- (ii) Submission of bids will be preceded by submission of the digitally signed & sealed bid (Hash) as stated in the time schedule (Key Dates) of the Tender.

NOTE:-

- (A) If bidder fails to complete the Online Bid Submission stage on the stipulated date and time. His/her bid will be considered as bid not submitted, as such bid will not appear during tender opening stage.
- (B) Bidders participating in online tenders shall check the validity of his/her Digital Signature Certificate before participating in the online Tenders at the portal <https://etenders.hry.nic.in>.

Special Instructions to the Contractors/Bidders for the e-submission of the bids online through this e-Procurement Portal.

- Bidder should do Online Enrolment in this Portal using the option Click Here to Enroll available in the Home Page. Then the Digital Signature enrollment has to be done with the e-token, after logging into the portal. The e-token may be obtained from one of the authorized Certifying Authorities such as eMudhraCA/ GNFC/ IDRBT/ MtnlTrustline/ SafeScrpT/TCS.
- Bidder then logs into the portal giving user id / password chosen during enrollment.

Instructions to bidders on Electronic Tendering System

- The e-token that is registered should be used by the bidder and should not be misused by others.
- DSC once mapped to an account cannot be remapped to any other account. It can only be inactivated.
- The Bidders can update well in advance, the documents such as certificates, purchase order details etc., under My Documents option and these can be selected as per tender requirements and then attached along with bid documents during bid submission. This will ensure lesser upload of bid documents.
- After downloading / getting the tender schedules, the Bidder should go through them carefully and then submit the documents as per the tender document, otherwise, the bid will be rejected.
- The BOQ template must not be modified/replaced by the bidder and the same should be uploaded after filling the relevant columns, else the bidder is liable to be rejected for that tender. Bidders are allowed to enter the Bidder Name and Values only.
- If there are any clarifications, this may be obtained online through the eProcurement Portal, or through the contact details given in the tender document. Bidder should take into account of the corrigendum published before submitting the bids online.
- Bidder, in advance, should prepare the bid documents to be submitted as indicated in the tender schedule and they should be in PDF/XLS/RAR/DWF formats. If there is more than one document, they can be clubbed together.
- Bidder should arrange for the EMD as specified in the tender. The original should be posted/couriered/given in person to the Tender Inviting Authority, within the bid submission date and time for the tender.
- The bidder reads the terms and conditions and accepts the same to proceed further to submit the bids.
- The bidder has to submit the tender document(s) online well in advance before the prescribed time to avoid any delay or problem during the bid submission process.

Instructions to bidders on Electronic Tendering System

- There is no limit on the size of the file uploaded at the server end. However, the upload is decided on the Memory available at the Client System as well as the Network bandwidth available at the client side at that point of time. In order to reduce the file size, bidders are suggested to scan the documents in 75-100 DPI so that the clarity is maintained and also the size of file also gets reduced. This will help in quick uploading even at very low bandwidth speeds.
- It is important to note that, the bidder has to Click on the Freeze Bid Button, to ensure that he/she completes the Bid Submission Process. Bids Which are not Frozen are considered as Incomplete/Invalid bids and are not considered for evaluation purposes.
- In case of Offline payments, the details of the Earnest Money Deposit(EMD) document submitted physically to the Department and the scanned copies furnished at the time of bid submission online should be the same otherwise the Tender will be summarily rejected.
- The Tender Inviting Authority (TIA) will not be held responsible for any sort of delay or the difficulties faced during the submission of bids online by the bidders due to local issues.
- The bidder may submit the bid documents online mode only, through this portal. Offline documents will not be handled through this system.
- At the time of freezing the bid, the eProcurement system will give a successful bid updation message after uploading all the bid documents submitted and then a bid summary will be shown with the bid no, date & time of submission of the bid with all other relevant details. The documents submitted by the bidders will be digitally signed using the e-token of the bidder and then submitted.
- After the bid submission, the bid summary has to be printed and kept as an acknowledgement as a token of the submission of the bid. The bid summary will act as a proof of bid submission for a tender floated and will also act as an entry point to participate in the bid opening event.
- Successful bid submission from the system means, the bids as uploaded by the bidder is received and stored in the system. System does not certify for its correctness.

Instructions to bidders on Electronic Tendering System

- The bidder should see that the bid documents submitted should be free from virus and if the documents could not be opened, due to virus, during tender opening, the bid is liable to be rejected.
- The time that is displayed from the server clock at the top of the tender Portal, will be valid for all actions of requesting bid submission, bid opening etc., in the e-Procurement portal. The Time followed in this portal is as per Indian Standard Time (IST) which is GMT+5:30. The bidders should adhere to this time during bid submission.
- All the data being entered by the bidders would be encrypted at the client end, and the software uses PKI encryption techniques to ensure the secrecy of the data. The data entered will not be viewable by unauthorized persons during bid submission and not viewable by any one until the time of bid opening. Overall, the submitted bid documents become readable only after the tender opening by the authorized individual.
- During transmission of bid document, the confidentiality of the bids is maintained since the data is transferred over secured Socket Layer(SSL) with 256 bit encryption technology. Data encryption of sensitive fields is also done.
- The bidders are requested to submit the bids through online e-Procurement system to the TIA well before the bid submission end date and time (as per Server System Clock).

**LIST OF BANKS ACCEPTABLE FOR SUBMISSION
OF BANK GUARANTEE FOR BID SECURITY****SCHEDULED COMMERCIAL BANKS****A STATE BANK OF INDIA****B NATIONALISED BANKS**

- | | |
|--------------------------|-------------------------------|
| 1. Allahabad Bank | |
| 2. Andhra Bank | 11. Oriental Bank of Commerce |
| 3. Bank of India | 12. Punjab National Bank |
| 4. Bank of Maharashtra | 13. Punjab & Sind Bank |
| 5. Canara Bank | 14. Syndicate Bank |
| 6. Central Bank of India | 15. Union Bank of India |
| 7. Corporation Bank | 16. United Bank of India |
| 8. Dena Bank | 17. UCO Bank |
| 9. Indian Bank | 18. Vijaya Bank |
| 10. Indian Overseas Bank | 19. Bank of Baroda |

C SCHEDULED PRIVATE BANKS (INDIAN BANKS)

- | | |
|----------------------------------|---------------------------|
| 1. Catholic Syrian Bank | |
| 2. City Union Bank | 8. Lakshmi Vilas Bank Ltd |
| 3. Dhanlaxmi Bank Ltd. | 9. Nainital Bank Ltd |
| 4. Federal Bank Ltd | 10. Kotak Mahindra Bank |
| 5. Jammu & Kashmir Bank Ltd | 11. RBL Bank Limited |
| 6. Karnataka Bank Ltd | 12. South Indian Bank Ltd |
| 7. Karur Vysya Bank Ltd | |
| 13. Tamilnad Mercantile Bank Ltd | 17. ICICI Bank |
| 14. ING Vysya Bank Ltd | 18. HDFC Bank Ltd. |
| 15. Axis Bank Ltd. | 19. DCB Bank Ltd |
| 16. IndusInd Bank Ltd | 20. Yes Bank Ltd |

ANNEXURE-II TO BID DATA SHEETS

21. IDFC Bank Limited

22. Bandhan Bank Limited

D SCHEDULED PRIVATE BANKS (FOREIGN BANKS)1. Abu Dhabi Commercial Bank
PJSC24. Krung Thai Bank Public
Company Ltd.

2. Bank of America NA

25. The Bank of Tokyo-Mitsubishi
UFJ Limited.3. Bank of Bahrain & Kuwait
B.S.C.26. Australia & Newzealand
Banking Group Limited

4. Mashreq Bank p.s.c.

27. Sumitomo Mitsui Banking
Corporation

5. Bank of Nova Scotia

6. Crédit Agricole Corporate and
Investment Bank28. American Express Banking
Corporation

7. BNP Paribas

29. Credit Suisse A.G.

8. Barclays Bank

9. Citi Bank N.A.

30. FirstRand Bank Ltd.

10. Deutsche Bank A.G.

11. The HongKong Shangai
Banking Corporation Ltd31. Industrial & Commercial Bank
of China Ltd.

12. Societe Generale

32. JSC VTB Bank

13. Sonali Bank Ltd.

14. Standard Chartered Bank

33. National Australia Bank

15. J.P. Morgan Chase Bank,
National Association

34. Cooperatieve Rabobank U.A.

16. State Bank of Mauritius Ltd.

35. Sberbank

17. DBS Bank Ltd.

36. United Overseas Bank Ltd.

18. Bank of Ceylon

37. Westpac Banking Corporation

19. PT Bank Maybank Indonesia
TBK

38. Woori Bank

20. A B Bank

39. The Royal Bank of Scotland
plc

21. Shinhan Bank.

22. CTBC Bank Co. Ltd.

40. Doha Bank Qsc

23. Mizuho Bank Ltd

41. Industrial Bank of Korea

ANNEXURE-II TO BID DATA SHEETS

42. KEB Hana Bank

44. Emirates NBD Bank (P.J.S.C)

43. First Abu Dhabi Bank PJSC

45. Qatar National Bank SAQ

E OTHER PUBLIC SECTOR BANKS

1. IDBI Bank Ltd

HARYANA POWER GENERATION CORPORATION LIMITED



BIDDING DOCUMENTS

FOR

**FLUE GAS DESULPHURISATION (FGD) SYSTEM
PACKAGE**

FOR

DCRTPP YAMUNA NAGAR (2X300 MW)

SECTION – IV

GENERAL CONDITION OF CONTRACT (GCC)

BIDDING DOCUMENT NO. : 32/CE/PLG/DCRTPP/FGD-251

(This document is meant for the exclusive purpose of bidding against this Bid Document No. / Specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued).

Table of Clauses – General Conditions of Contract

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A. Contract and 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 1.1 (Contract Documents) of the Form of Contract Agreement (including any amendments thereto).

“GCC” means the General Conditions of Contract hereof.

“SCC” means the Special Conditions of Contract.

“Day” means calendar day of the Gregorian Calendar.

“Month” means calendar month of the Gregorian Calendar.

“Employer” means the person named as such in the SCC and includes the legal successors or permitted assigns of the Employer.

“Project Manager” means the person appointed by the Employer in the manner provided in GCC Sub-Clause 17.1 (Project Manager) hereof and named as such in the SCC to perform the duties delegated by the Employer.

“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.

“Contractor’s Representative” means any person nominated by the Contractor and approved by the Employer in the manner provided in GCC Sub-Clause 17.2 (Contractor’s Representative and Construction Manager) hereof to perform the duties delegated by the Contractor.

“Subcontractor,” 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.

“Facilities” means the Plant and Equipment to be supplied and installed, as well as all the Installation Services to be carried out by the Contractor under the Contract.

Clause No.

GENERAL CONDITIONS OF CONTRACT (GCC)

“Plant and Equipment” means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the spare parts to be supplied by the Contractor under GCC Sub-Clause 7.3 hereof), but does not include Contractor’s Equipment.

“Installation Services” means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Contractor under the Contract; e.g., transportation and provision of marine or other similar insurance, inspection, expediting, Site preparation works (including the provision and use of Contractor’s Equipment and the supply of all construction materials required), installation, testing, pre-commissioning, commissioning, operations & maintenance required for achieving Completion of Facilities, the provision of operations and maintenance manuals, training of Employer’s Personnel etc.

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

“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” means the date from which the Time for Completion shall be determined as stated in Article 3 (Effective Date for Determining Time for Completion) of the Form of Contract Agreement.

“Time for Completion” means the time 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 in the SCC and the relevant provisions of the Contract.

“Completion” means that the Facilities (or a specific part thereof where specific parts are specified in the SCC) have been completed operationally and structurally and put in a tight and clean condition, and that all work in respect of Pre-commissioning of the Facilities or such specific part thereof has been completed; and Commissioning has been attained as per Technical Specifications.

“Pre-commissioning” means the testing, checking and other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning as provided in GCC Clause 24 (Completion) hereof.

“Commissioning” means trial/initial operation of the Facilities or any part thereof by the Contractor, which operation is to be carried out by the Contractor as provided in GCC Sub-Clause 25.1 (Commissioning) hereof, for the purpose of carrying out Performance Guarantee Test(s).

“Performance Guarantee Test(s)” means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Technical Specifications in accordance with

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	<p>the provisions of GCC Sub-Clause 25.2 (Performance Guarantee Test) hereof.</p> <p>“Operational Acceptance” means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor’s fulfilment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of GCC Clause 28 (Functional Guarantees) hereof and shall include deemed acceptance in accordance with GCC Clause 25 (Commissioning and Operational Acceptance) hereof.</p> <p>“Defect Liability Period” means the period of validity of the warranties given by the Contractor commencing at Completion of the Facilities or a part thereof, during which the Contractor is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC Clause 27 (Defect Liability) hereof.</p> <p>“Goods and Services Tax” or “GST” means taxes levied under the Central Goods and Services Tax Act, Integrated Goods and Services Tax Act, Goods and Services Tax (Compensation to States) Act, and various State/Union Territory Goods and Services Tax Laws and applicable cesses, if any under the laws in force (hereinafter referred to as relevant GST Laws).”</p>
2.	Contract Documents
2.1	Subject to Article 1.2 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory. The Contract shall be read as a whole.
2.2	The Contract will be signed in three originals and the Contractor shall be provided with one signed original and the rest will be retained by the Employer.
2.3	The Contractor shall provide free of cost to the Employer all the engineering data, drawing and descriptive materials submitted with the bid, in at least six (6) copies to form a part of the Contract immediately after Notification of Award.
2.4	Subsequent to signing of the Contract, the Contractor at his own cost shall provide the Employer with at least twenty (20) copies of electronic version of the signed Contract Agreement on CD-ROM/ pen drive within thirty (30) days of its signing.
3.	Interpretation
3.1	Language
3.1.1	Unless the Contractor is a national of the Employer’s country and the Employer and the Contractor agree to use the local language, all Contract Documents, 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 that language.

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3.1.2		If any of the Contract Documents, correspondence or communications are prepared in any language other than the governing language under GCC Sub-Clause 3.1.1 above, the English translation of such documents, correspondence or communications shall prevail in matters of interpretation.
3.1.3		The English Translation of the documents shall be carried out by professional translators and the translator shall certify that he is proficient in both languages in order to translate the document and that the translation is complete and accurate. Further, translation shall be authenticated by the Indian Consulate located in the Country where the documents have been issued or the Embassy of that Country in India.
3.2		<p>Singular and Plural</p> <p>The singular shall include the plural and the plural the singular, except where the context otherwise requires.</p>
3.3		<p>Headings</p> <p>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.</p>
3.4		<p>Persons</p> <p>Words importing persons or parties shall include firms, corporations and government entities.</p>
3.5		<p>Incoterms</p> <p>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 Incoterms.</p> <p>Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1er, 75008 Paris, France.</p>
3.6		<p>Construction of the Contract</p>
3.6.1		<p>The Contracts to be entered into between the Employer and the successful bidder shall be as under:</p> <p>For Foreign Bidder</p> <ul style="list-style-type: none"> -- First Contract: For CIF (Indian port-of-entry) supply of all Plant and Equipment including Mandatory Spares to be supplied from abroad -- Second Contract: For Ex-works (India) supply of Plant and Equipment including Mandatory Spares. -- Third Contract : For providing all services i.e. port handling, port clearance and port charges for the imported goods, further loading, inland transportation for delivery at site, inland transit insurance,
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unloading, storage, handling at site, installation, insurance covers other than inland transit insurance, erection, testing, commissioning and conducting Performance Guarantee Tests in respect of all the equipment supplied under the 'First Contract' & the 'Second Contract' and all other services as specified in the Contract Documents.

If the foreign bidder has proposed an Assignee in his bid to execute the Second Contract and/or the Third Contract and has also furnished written unequivocal consent of the proposed Assignee to work as independent Contractor on the terms and conditions offered by the bidder and if the Employer is satisfied with capacity and experience of the Assignee, the Employer will enter into the 'Second Contract' and/or 'Third Contract' with the said Assignee. In case no Assignee has been proposed by the foreign bidder in his bid or if the Assignee fails to enter into the Second Contract and/or Third Contract with the Employer or if the Employer in its judgment does not find acceptance of the proposed Assignee as its Contractor, then the foreign bidder shall be obliged to enter into and execute all the three Contracts with the Employer.

For Domestic Bidder

-- First Contract: For CIF (Indian port-of-entry) supply of Plant and equipment including Mandatory Spares to be supplied from abroad

-- Second Contract: For Ex-works (India) supply of Plant and Equipment including Mandatory Spares.

-- Third Contract : For providing all services i.e. port handling, port clearance and port charges for the imported goods, further loading, inland transportation for delivery at site, inland transit insurance, unloading, storage, handling at site, installation, insurance covers other than inland transit insurance, erection, testing, commissioning and conducting Performance Guarantee Tests in respect of all the equipment supplied under the 'First Contract' & the 'Second Contract' and all other services as specified in the Contract Documents.

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

3.7 Entire Agreement

Subject to GCC Sub-Clause 16.4 hereof, the Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

3.8 Amendment

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

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3.9	Independent Contractor	<p>The Contractor shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties hereto.</p> <p>Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Employer, and nothing contained in the Contract or in any subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and the Employer.</p>
3.10	Joint Venture or Consortium	<p>If the Contractor is a joint venture or consortium of two or more firms, all such firms shall be jointly and severally bound to the Employer for the fulfilment of the provisions of the Contract and shall designate one of such firms to act as a leader with authority to bind the joint venture or consortium. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the Employer.</p>
3.11	Non-Waiver	<p>3.11.1 Subject to GCC Sub-Clause 3.11.2 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.</p> <p>3.11.2 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.</p>
3.12	Severability	<p>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.</p>
3.13	Country of Origin	<p>"Origin" means the place where the materials, equipment and other supplies for the Facilities are mined, grown, produced or manufactured, and from which the services are provided.</p>
4. Notices	4.1	<p>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, airmail post, special courier, cable, telegraph, telex, facsimile or Electronic Data Interchange (EDI) to the address of the relevant party set out in the</p>

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	<p>Contract Coordination Procedure to be finalised pursuant to GCC Sub-Clause 17.2.3.1, with the following provisions.</p> <p>4.1.1 Any notice sent by cable, telegraph, facsimile or EDI shall be confirmed within two (2) days after despatch by notice sent by airmail post or special courier, except as otherwise specified in the Contract.</p> <p>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 despatch. In proving the fact of despatch, 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.</p> <p>4.1.3 Any notice delivered personally or sent by telegraph, facsimile shall be deemed to have been delivered on date of its despatch.</p> <p>4.1.4 Either party may change its postal, cable, telex, facsimile or EDI address or addressee for receipt of such notices by ten (10) days' notice to the other party in writing.</p> <p>4.2 Notices shall be deemed to include any approvals, consents, instructions, orders and certificates to be given under the Contract.</p>
5.	Governing Laws
5.1	The Contract shall be governed by and interpreted in accordance with laws in force in India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
6.	Settlement of Disputes
	<p>All the disputes shall be settled as per HPGCL rules and regulations. In case dispute or disagreement relating to this Contract arises during the contract/ implementation and the understanding is not reached between the two parties, either of the parties may invoke the arbitration clause for which MD, HPGCL or his nominee shall be Sole Arbitrator. All arbitration proceedings under this regulation shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 and the Rule there under, with any statutory modifications thereof for the time being in force. The award of the Arbitrator shall be final and binding on both the parties. The Arbitration proceedings shall take place at Panchkula, Haryana.</p>
	B. Subject Matter of Contract
7.	Scope Of Facilities
7.1	Unless otherwise expressly limited in the Technical Specifications, the Contractor's obligations cover the provision of all Plant and Equipment including structural steel and the performance of all Installation Services

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	<p>and civil works, allied works etc. required for the design, the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Pre-commissioning and delivery) of the Plant and Equipment and the installation, completion, commissioning and performance testing of the Facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the Technical Specifications. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labour, materials, equipment, spare parts (as specified in GCC Sub-Clause 7.3 below) and accessories; Contractor's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, unloading and hauling to, from and at the Site); and storage, except for those supplies, works and services that will be provided or performed by the Employer, as set forth in Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement.</p>
7.2	<p>The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.</p>
7.3	<p>In addition to the supply of Mandatory Spare Parts included in the Contract, the Contractor agrees to supply spare parts required for the operation and maintenance of the Facilities. However, the identity, specifications and quantities of such spare parts and the terms and conditions relating to the supply thereof are to be agreed between the Employer and the Contractor, and the price of such spare parts shall be that given in Price Schedule No. 6, which shall be added to the Contract Price. The price of such spare parts shall include the purchase price therefor and other costs and expenses (including the Contractor's fees) relating to the supply of spare parts. Prices of recommended spares covered under price Schedule No. 6 shall be kept valid for a period of Five (5) years after placement of Notification of Award for Main Equipment and Mandatory Spares.</p>
7.3.1	<p>The Contractor agrees that the spare parts recommended by him for 3 years operation and quoted in Schedule No. 6 shall be supplied by him at the same terms and conditions as are otherwise applicable to this Contract. Further, the Contractor also agrees to supply spare parts required for the operation and maintenance of the Facilities as per provision of subsequent paragraphs of this Sub-Clause.</p>
7.3.1.1	<p>All the spares for the equipment under the Contract will strictly conform to the Specification and other relevant documents and will be identical to the corresponding main equipment/components supplied under the Contract and shall be fully interchangeable.</p>
7.3.1.2	<p>All the mandatory spares covered under the Contract shall be produced alongwith the main equipment as a continuous operation and the delivery of the spares will be effected alongwith the main equipment in a phased manner and the delivery would be completed by the respective dates for the</p>

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	various categories of equipment as per the agreed network. In case of recommended spares the above will be applicable provided the order for the recommended spares have been placed with the Contractor prior to commencement of manufacture of the main equipment.
7.3.1.3	The Contractor will provide the Employer with the manufacturing drawings, catalogues, assembly drawings and any other document required by the Employer so as to enable the Employer to identify the recommended spares. Such details will be furnished to the Employer as soon as they are prepared but in any case not later than two months prior to commencement of manufacture of the corresponding main equipment.
7.3.1.4	To enable the Employer to finalise the requirement of recommended spares which are ordered subsequent to placement of order for main equipment/plant, in addition to necessary technical details, catalogue and such other information brought-out herein above, the Contractor will also provide a justification in support of reasonableness of the quoted prices of spares which will, inter-alia, include documentary evidence that the prices quoted by the Contractor to the Employer are not higher than those charged by him from other customers in the same period.
7.3.1.5	In addition to the spares recommended by the Contractor, if the Employer further identifies certain items of spares, the Contractor will submit the prices and delivery quotation for such spares within thirty (30) days of receipt of such request with a validity period of six (6) months for consideration by the Employer and placement of order for additional spares if the Employer so desires.
7.3.1.6	The quality plan and the inspection requirement finalised for the main equipment will also be applicable to the corresponding spares.
7.3.1.7	The Contractor will provide the Employer with all the addresses and particulars of his sub-suppliers while placing the order on vendors for items/components/equipment covered under the Contract and will further ensure with his vendors that the Employer, if so desires, will have the right to place order for spares directly on them on mutually agreed terms based on offers of such vendors.
7.3.1.8	The Contractor shall guarantee the long term availability of spares to the Employer for the full life of the equipment covered under the Contract. The Contractor shall guarantee that before going out of production of spare parts of the equipment covered under the Contract, he shall give the Employer atleast 2 years advance notice so that the latter may order his bulk requirement of spares, if it so desires. The same provision will also be applicable to Sub-contractors. Further, in case of discontinuance of manufacture of any spares by the Contractor and/or his Sub-contractor, Contractor will provide the

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	<p>Employer, two years in advance, with full manufacturing drawings, material specification and technical information including information on alternative equivalent makes required by the Employer for the purpose of manufacture/procurement of such items.</p> <p>7.3.1.9 The prices of all future requirements of item of spares beyond 3 years operational requirement will be derived from the corresponding ex-works price at which the order for such spares have been placed by Employer as a part of mandatory spares or recommended spares, or from the rates of mandatory spares or recommended spares as quoted by/negotiated with the Contractor. Ex-works order price of future spares shall be computed in accordance with the price adjustment provisions covered under the main Contract excepting that the base indices will be counted from the scheduled date of Commissioning of the last equipment under the main contract and there will be no ceiling on the amount of variation in the prices. The above option for procuring future recommended spares by the Employer shall remain valid for the period of 5 years from the date of Commissioning of the equipment.</p> <p>7.3.1.10 The Contractor will indicate in advance the delivery period of the items of spares, which the Employer may procure in accordance with above sub-clause. In case of emergency requirements of spares, the Contractor would make every effort to expedite the manufacture and delivery of such spares on the basis of mutually agreed time schedule.</p> <p>7.3.1.11 In case the Contractor fails to supply the mandatory, recommended or long term spares in the terms stipulated above, the Employer shall be entitled to purchase the same from the alternate sources at the risk and the cost of the Contractor and recover from the Contractor, the excess amount paid by the Employer over the rates worked on the above basis. In the event of such risk purchase by the Employer, the purchases will be as per the Works and Procurement Policy of the Employer prevalent at the time of such purchases and the Employer at his option may include a representative from the Contractor in finalising the purchases.</p> <p>7.3.1.12 It is expressly understood that the final settlement between the parties in terms of relevant clauses of the Contract Documents shall not relieve the Contractor of any of his obligations under the provision of long term availability of spares and such provisions shall continue to be enforced till the expiry of 5 years period reckoned from the scheduled date of Commissioning of the Plant and Equipment unless otherwise discharged expressly in writing by the Employer. Further, the provisions pertaining to long term availability of spares shall be extended beyond 5 years applicability period mentioned hereinabove if so desired by the Employer and at the mutually acceptable escalation formula.</p>

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7.3.1.13	<p>The Contractor shall warrant that all spares supplied will be new and in accordance with the Contract Documents and will be free from defects in design, material and workmanship and shall further guarantee as under:</p> <p>(i) For 3 years operational spares (both mandatory and recommended)</p> <p>a) For any item of spares ordered or to be ordered by the Employer for 3 years operational requirement of the plant which are manufactured as a continuous operation together with the corresponding main equipment/component, the Defect Liability Period will be twelve (12) months from the scheduled date of commercial operation of main equipment/plant under the Contract. 'Commercial Operation' shall mean the conditions of operation in which the complete equipment covered under the Contract is officially declared by the Employer to be available for continuous operation at different loads upto and including rated capacity. Such declaration by the Employer, however, shall not relieve or prejudice the Contractor any of his obligations under the Contract. In case of any failure in the original component/equipment due to faulty designs, materials and workmanship, the corresponding spare parts, if any, supplied will be replaced without any extra cost to the Employer unless a joint examination and analysis by the Employer and the Contractor of such spare parts prove that the defect found in the original part that failed, can safely be assumed not to be present in spare parts. Such replaced spare parts will have the same Defect Liability as applicable to the replacement made for the defective original part/component provided that such replacement for the original equipment and the spare replaced are again manufactured together. The discarded spare parts will become the property of the Contractor as soon as they have been replaced by the Contractor.</p> <p>b) For the item of spares ordered or to be ordered by the Employer for 3 years operational requirement of the plant, which with the written approval of the Employer, are not manufactured as a continuous operation will be warranted for 7000 hrs of trouble free operation if used within a period of eighteen (18) months reckoned from the date of delivery at site. However, if such spare parts are put to use after eighteen (18) months of the delivery at Site then the guarantee of such spares will stand valid till the expiry of thirty six (36) months from the scheduled date of Commissioning of equipment/plant covered under the contract or 7000 hrs of trouble free</p>

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	<p>operation after such spares are put in service, whichever is earlier.</p> <p>c) For long term requirement</p> <p>For item of spares that may be ordered by the Employer to cover requirements beyond 3 years of Initial Operation of the plant, the warranty will be till the expiry of 7000 hrs of trouble free operation if used within a period of eighteen (18) months from the date of delivery at site. For item of spares that may be used after eighteen (18) months from the date of delivery at site, the warranty period will be 12 months from the date they are put to use or 7000 hrs of trouble free operation, whichever is earlier. In any case the defect liability of spares will expire at the end of forty eight (48) months from the date of their receipt at site.</p> <p>ii) The Defect Liability of spares covered in para (b) & (c) above, that are not used within 18 months from the respective date of the delivery at Site will, however, be subject to condition that all such spares being stored/maintained/preserved in accordance with Contractor's standard recommended practice, if any, and the same has been furnished to the Employer.</p>	
<p>8. Time for Commencement and Completion</p>	<p>8.1 The Contractor shall commence work on the Facilities from the date of Notification of Award and without prejudice to GCC Sub-Clause 26.2 hereof, the Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in Appendix 4 (Time Schedule) to the Contract Agreement.</p> <p>8.2 The Contractor shall attain Completion of the Facilities (or of a part where a separate time for Completion of such part is specified in the Contract) within the time stated in the SCC or within such extended time to which the Contractor shall be entitled under GCC Clause 40 (Extension of Time for Completion) hereof.</p>	
<p>9. Contractor's Responsibilities</p>	<p>9.1 The Contractor shall design, manufacture (including associated purchases and/or subcontracting), install and complete the Facilities with due care and diligence in accordance with the Contract.</p> <p>9.2 The Contractor confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Facilities (including any data as to boring tests) provided by the Employer, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site (if access thereto was available) and of other data readily available to it relating to the Facilities as at the date twenty-eight (28) days prior to deadline set for price bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and</p>	
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	information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.
9.3	The Contractor shall acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located that are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Employer under GCC Sub-Clause 10.3 hereof and that are necessary for the performance of the Contract.
9.4	The Contractor shall comply with all laws in force in the country where the Facilities are installed and where the Installation Services are carried out. The laws will include all national, provincial, municipal or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Sub-Clause 10.1 hereof.
9.5	Any Plant, Material and Services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified under GCC Clause 3.13 (Country of Origin).
10. Employer's Responsibilities	
10.1	The Employer shall ensure the accuracy of all information and/or data to be supplied by the Employer as described in Appendix 6 (Scope of Works and Supply by the Employer) to the Contract, 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 and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement. The Employer shall give full possession of and accord all rights of access thereto on or before the date(s) specified in Appendix 6.
10.3	The Employer shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Employer to obtain them in the Employer's name, are necessary for the execution of the Contract (they include those required for the performance by both the Contractor and the Employer of their respective obligations under the Contract), including those specified in Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement.

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10.4	If requested by the Contractor, the Employer shall use its best endeavours 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 all local, state or national government authorities or public service undertakings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.
10.5	Unless otherwise specified in the Contract or agreed upon by the Employer and the Contractor, the Employer shall provide sufficient, properly qualified operating and maintenance personnel; shall supply and make available all raw materials, utilities, lubricants, chemicals, catalysts, other materials and facilities ; and shall perform all work and services of whatsoever nature, to enable the Contractor to properly carry out Pre-commissioning, Commissioning and Performance Guarantee Tests, all in accordance with the provisions of Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement at or before the time specified in the program furnished by the Contractor under GCC Sub-Clause 18.2 (Program of Performance) hereof and in the manner thereupon specified or as otherwise agreed upon by the Employer and the Contractor.
10.6	The Employer shall be responsible for the continued operation of the Facilities after Completion, in accordance with GCC Sub-Clause 24.8, and shall be responsible for facilitating the Performance Guarantee Test(s) for the Facilities, in accordance with GCC Sub-Clause 25.2.
10.7	All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the Employer, save those to be incurred by the Contractor with respect to the performance of Performance Guarantee Tests, in accordance with GCC Sub-Clause 25.2.
	C. Payment
11. Contract Price	
11.1	The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Form of Contract Agreement.
11.2	The Contract Price shall be adjusted in accordance with provisions of Appendix-2 (Price Adjustment) to the Contract Agreement.
11.3	Subject to GCC Sub-Clauses 9.2, 10.1 and 35 (Unforeseen Conditions) hereof, the Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.
12. Terms of Payment	
12.1	The Contract Price shall be paid as specified in Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement. The

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	procedures to be followed in making application for and processing payments shall be those outlined in the same Appendix 1.
12.2	No payment made by the Employer herein shall be deemed to constitute acceptance by the Employer of the Facilities or any part(s) thereof.
12.3	The currency or currencies in which payments are made to the Contractor under this Contract shall be specified in Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement, subject to the general principle that payments will be made in the currency or currencies in which the Contract Price has been stated in the Contractor's bid.
13. Securities	13.1 Issuance of Securities The Contractor shall provide the securities specified below in favor of the Employer at the times, and in the amount, manner and form specified below.
	13.2 Advance Payment Security 13.2.1 The Contractor shall, within twenty-eight (28) days of the Notification of Award of Contract, provide a security in an amount equal to the 110% of the advance payment for supply of Plant & Equipment and 110% of the advance amount for Installation Services and Civil & Allied Works calculated in accordance with Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement, and in the currency or currencies of the Contract, with an initial validity of up to ninety (90) days beyond the schedule date of Completion of the last facility covered under the package in accordance with GCC Clause 24. However, in case of delay in completion of the facilities under the package, the validity of this security shall be extended by the period of such delay. 13.2.2 The security shall be in the form of an unconditional bank guarantee as per the proforma provided in Section VII (Forms and Procedures)- Form of Advance Payment Security. The Advance payment Security shall be reduced prorata every three (3) months after First Running Account Bill/Stage Payment under the Contract based on the value of the respective equipment/facilities received. The cumulative amount of reduction at any point of time shall not exceed seventy five percent (75%) of the advance corresponding to cumulative value of the respective equipment/Facilities supplied and received as per certificate issued by the Project Manager. The balance shall be released after ninety (90) days beyond Completion of those Facilities. It should be clearly understood that reduction in the value of security for advance shall not in any way dilute the Contractor's responsibility and liabilities under the Contract including in respect of the Facilities for which the reduction in the value of security is allowed.
	13.3 Performance Security 13.3.1 The Contractor shall, within twenty-eight (28) days of the Notification of Award, provide securities for the due performance of the Contract for ten percent (10%) of the Contract Price of all
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	<p>the Contracts, with an initial validity upto ninety (90) days beyond the end of scheduled Defect Liability Period of the last equipment covered under the package. Further, The Contractor shall, within twenty-eight (28) days of the start of O&M services, provide securities for the due performance of the Contract for ten percent (10%) of the total O&M Contract Price for the two years valid upto ninety (90) days beyond completion of O&M Contract Period under the package.</p> <p>If the Employer accepts to enter into 'Second Contract' and/or 'Third Contract' with the Assignee of a foreign Contractor, pursuant to GCC Sub-Clause 3.6, the said Assignee, in addition to the Contract Performance Securities to be provided by the foreign contractor for ten percent (10%) of the value of all the Contracts i.e. First Contract, Second Contract and Third Contract, shall provide within twenty eight (28) days of the Notification of Award, separate Contract Performance Security(ies) equivalent to ten percent (10%) of the value of Contract(s) entered into with the Assignee, for the due performance of Contract, with an initial validity upto ninety (90) days beyond the end of Scheduled Defect Liability period of the last equipment covered under the package.</p> <p>However, in case of delay in completion of the defect liability period, the validity of all the contract performance securities shall be extended by the period of such delay.</p> <p>13.3.2 The performance security shall be denominated in the currency or currencies of the Contract, or in a freely convertible currency acceptable to the Employer, and shall be in the form of unconditional bank guarantee provided in Section-VII (Forms and Procedures)-Form of Performance Security of the bidding documents.</p> <p>13.3.3 Unless otherwise stipulated in SCC, the security shall be reduced pro rata to the Contract Price of a part of the Facilities for which a separate time for Completion is provided, twenty one (21) months after Completion of the Facilities or where relevant part thereof, or fifteen (15) months after Operational Acceptance of the Facilities (or the relevant part thereof), whichever occurs first; provided, however, that if the Defects Liability Period has been extended on any part of the Facilities pursuant to GCC Sub-Clause 27.8 hereof, the Contractor shall issue an additional security in an amount proportionate to the Contract Price of that part. The security shall be returned to the Contractor immediately after its expiration, provided, however, that if the Contractor, pursuant to GCC Sub-Clause 27.10, is liable for an extended warranty obligation, the performance security shall be extended for the period and up to the amount agreed upon or as specified in the SCC.</p> <p>13.4 Security for Joint Deed of Undertaking</p> <p>In case Deed(s) of Joint Undertaking by the Contractor along with his Collaborator(s) / Associate(s) form part of the Contract, then, in addition to the Contract performance securities</p>	
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	<p>furnished by the Contractor, the Collaborator(s) / Associate(s) shall furnish, within twenty eight (28) days of the Notification of Award, separate unconditional Bank Guarantee(s) towards faithful performance of the Deed(s) of Joint Undertaking for amount(s) specified in relevant Item of Bid Data Sheets and with validity till such period as specified in the corresponding format for Deed of Joint Undertaking. However, in case of delay in completion of defect liability period, the validity of Bank Guarantee(s) submitted towards faithful performance of Deed(s) of Joint Undertaking shall be extended by such period of delay.</p> <p>The Bank Guarantee(s) shall be denominated in the currency or currencies of Contract and shall be as per the proforma provided in Section-VII (Forms and Procedures) - Form of Bank Guarantee to be furnished by Associate(s) / Collaborator(s).</p> <p>13.5 The bank guarantee submitted from within India towards Advance Payment Security, Contract Performance Security and Security for Deed of Joint Undertaking (if applicable) shall be issued on a stamp paper of appropriate value as per stamp act prevailing in the State of the issuing Bank in India or the state of Haryana in India, whichever is higher.</p> <p>13.6 Where a BG issued by a Bank outside India also needs to bear Stamp Duty of appropriate value applicable to the place in where BG is to be submitted, the BG will be adjudicated from Collector of Stamps, within 3 months of arrival of BG in India and the expenses incurred in this regard shall be borne by the Contractor.</p>	
14.	Taxes and Duties	
14.1	<p>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-contractor or their employees by all municipal, state or national government authorities in connection with the Facilities in and outside of the country where the Site is located.</p>	
14.2	<p>Notwithstanding GCC Sub-Clauses 14.1 above, the Employer shall bear and promptly pay/reimburse all Customs and Import duties, if imposed on the Plant and Equipment including Mandatory Spares supplied from abroad and specified in Price Schedule No. 1 (and on Recommended Spare Parts to be supplied from abroad and specified in Price Schedule No. 6, when awarded) and that are to be incorporated into the Facilities, by the law of the country where the Site is located. However, if the Plant and Equipment are shipped in Shipper's containers, then the custom duty levied on the cost of empty containers shall be borne and paid/reimbursed by the Contractor. Further, Anti-dumping duty, Counter-vailing duty on subsidised articles, Safeguard duty etc. and any other tax including GST, levies, cess etc. applicable on such additional duties, if imposed on Plant and Equipment including Type Test and Mandatory Spares/ Recommended Spares, shall be borne by the Contractor.</p>	
	<p>Further, if the Custom Duty, Import Duty & GST on Imports levied are more than as specified in Schedule-7A , contractor shall bear the same.</p>	
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The Employer shall also bear and pay/reimburse to the Contractor Goods and Services Tax (GST) applicable on: (a) Plant and Equipment (including Type Test Charges) and Mandatory Spares to be supplied from within the Employer's country specified in Price Schedule No. 2 (and also on locally supplied Recommended Spare Parts quoted in Price Schedule No. 6, when awarded) to be incorporated in the Facilities, by the law of country where the site is located, (b) local transportation & insurance, other local costs incidental to delivery of plant & equipment including mandatory spares specified in Price Schedule No. 3 (and also of locally supplied Recommended Spare Parts quoted in Price Schedule No. 6, when awarded) and (c) Installation Services including Erection, Civil & Allied Works and other services specified in Price Schedule No. 4. However, all other taxes, duties & levies as may be applicable on goods and services specified in Price Schedules Nos. 2, 3 & 4 and on the materials used for civil construction works and erection & commissioning shall be to the contractor's account and no separate claim in this regard will be entertained by the Employer.

For the above purpose, price components of Schedule-2 & Schedule-4, if quoted in foreign currency and so incorporated in the contract, shall be converted to Indian Rupees as per the exchange rate determined by relevant GST notifications / rules prevailing on the date and time of supply of goods and services.

Notwithstanding anything to contrary contained in the Contract, the Contractor's right to payment under the Contract is subject to issuance of valid tax invoice, payment of applicable GST to the credit of appropriate Government and submission of valid particulars of tax invoice under GST returns in accordance with GST Law.

The Contractor shall issue tax invoices, file appropriate returns, and deposit the applicable GST to the account of appropriate government within the time limit prescribed under the GST Law. In the event of any default, Contractor shall be liable to pay any penalty/demand raised on Employer due to default by Contractor, and the same shall be recovered/Contractor shall make good the loss.

The Contractor shall be responsible for the issuance of e-way bill and other compliances relating to e-way bill as per GST law.

The Employer will deduct GST at source at the applicable rates in case transactions under the contract are liable to GST deduction at source as per the prevailing provisions of GST Law.

14.3 If any tax exemptions, reductions, allowances or privileges are available to the Contractor in the country where the Site is located, the Employer shall use its best endeavours to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.

14.4 For the purpose of the Contract, it is agreed that the Contract Price specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies and charges prevailing on seven (7) days prior to the deadline set for price bid submission in the country where the Site is located (hereinafter called "Tax" in this GCC Sub-Clause 14.4). If any rates of Tax are 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

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	<p>the performance of Contract, which was or will be assessed on the Contractor in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction therefrom, as the case may be, in accordance with GCC Clause 36 (Change in Laws and Regulations) hereof. However, these adjustments would be restricted to direct transactions between the Employer and Contractor and Bought out items (dispatched directly from sub-vendor's works to Site). These adjustments shall not be applicable on procurement of raw materials, intermediary components, and intermediary services etc. by the Contractor.</p>
14.5	<p>In case the CIF price of mandatory spares and / or of recommended spares exceeds the exemption limit as provided under the extant Policy/Notifications of GOI, all applicable additional taxes & duties (if any) on the excess price shall be to the account of Employer.</p> <p>If the Employer orders any spare at a later date as per GCC Cl 7.3, all applicable additional taxes & duties, If any, not included in the original price shall be to the account of Employer</p>
14.6	<p>Income Tax : As per Indian Income Tax Act & Rules, Employer is required to deduct Income Tax at source from all the payments to be made to Non resident/Foreign Contractor. For this purpose, the Contractor shall be required to either furnish</p> <p>(i) the certificate from Indian Tax Authority or</p> <p>Ruling from “the Authority for Advance Ruling (AAR)” determining the applicable rate of Income tax in India before release of first payment.</p> <p>The Contractor will be required to submit PAN details to the Project Manager before the submission of the first bill</p>
14.7	<p>Royalty</p> <p>1 If the Contractor intends to engage itself in quarrying or mining of soil/earth, sand, stone/aggregates, metals, minerals or minor minerals required for the Civil works, as the case may be, it shall obtain necessary permits under the applicable law for such mining or quarrying from the State/Central Government authorities and pay the fee or charges applicable thereto.</p> <p>2 The Civil works component of the Contract Price shall be inclusive of any Royalties or Seigniorage Fee or Cess or other charges payable on the quarried or mined metal, minerals, or minor minerals, as the case may be, at the rate(s) prevailing as on seven (7) days prior to the date of Price bid opening.</p> <p>2.1 It shall be the responsibility of the Contractor to ensure that the Royalties or Seigniorage Fee or Cess or other charges on the quarried or mined metal, minerals or minor minerals are paid to the statutory authorities.</p>

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2.2	<p>The component of Royalties or Seigniorage Fee or Cess or other charges, if applicable in a running account bill, shall only be released by the Employer to the Contractor on submission of the following documents in original:</p> <p>A) In case the Contractor is the primary license holder of the quarry /mines:</p> <ul style="list-style-type: none"> i) Vehicle wise challan / transit permit and proof of payment of royalty, and ii) Any other document required as per the relevant Acts/Rules of the concerned state. <p>B) In case the Contractor is the purchaser of soil/earth, sand, stone/aggregates, metals, minerals or minor minerals:</p> <ul style="list-style-type: none"> i) Purchase voucher and vehicle wise challan / transit permit and proof of payment of royalty, and ii) Any other document required as per the relevant Acts/ Rules of the concerned state
2.3	<p>In case the Contractor fails to provide the required proof of royalty payment with the RA bill then an amount based on the prevailing rates of the royalty shall be deducted from the respective RA bill, which shall be refunded to the Contractor on submission of proof of royalty payment. However, if the Contractor fails to provide the proof of royalty payment within a period of 60 days from the date of RA bill, EMPLOYER shall issue a notice to the Contractor giving 30 days' time for submission of the proof of royalty payment. In case of non-submission of the proof of payment of royalty by the Contractor, the amount so deducted shall be deposited by EMPLOYER to the concerned authority. Engineer in charge shall be responsible to ensure the compliance of the Royalty payment.</p>
2.4	<p>The Contractor shall pay and indemnify the Employer against any default in payment of Royalties or Seigniorage Fee or Cess or other charges by the Contractor or the agency from which the Contractor purchases soil/earth, sand, stone/aggregates, metals, minerals or minor minerals.</p>
2.5	<p>In the event of there being a statutory increase in the rates of royalty charges/fresh levy of royalty on materials, the same shall be reimbursed to the Contractor upon submission of original challan by him of having made the payments at revised rates. In the event of there being a decrease in such rates, the same shall be recovered from the Contractor. The base date for calculating the increase or decrease shall be the rate as on seven (7) days prior to the date of Techno-Commercial Bid opening. The total reimbursement (positive or negative) as specified above, to be paid or recovered, shall however be calculated on the quantity of materials actually considered while making the royalty payments to the concerned authorities, or the theoretical consumption of these materials (calculated on the basis of the volume of concrete or fill accepted for payment), whichever is less, and on the basis</p>

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	of documentary evidence of Govt. Notification. However, the Contractor will settle claims, if any, on account of over charge by the State Authorities.	
	D. Intellectual Property	
15. Copyright	<p>15.1 The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Employer directly or through the Contractor by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party. The Employer shall however be free to reproduce all drawings, documents and other material furnished to the Employer for the purpose of the contract including, if required, for operation and maintenance of the facilities.</p>	
16. Confidential Information	<p>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 documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this GCC Clause 16.</p> <p>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.</p> <p>16.3 The obligation of a party under GCC Sub-Clauses 16.1 and 16.2 above, however, shall not apply to that information which</p> <ul style="list-style-type: none"> (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. <p>16.4 The above provisions of this GCC Clause 16 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.</p>	
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16.5	<p>The provisions of this GCC Clause 16 shall survive termination, for whatever reason, of the Contract.</p> <p>E. Work Execution</p>
17. Representatives	
17.1	<p>Project Manager</p> <p>If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Employer shall appoint and notify the Contractor in writing of the name of the Project Manager. The Employer may from time to time appoint some other person as the Project Manager in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. The Employer shall take reasonable care to see that no such appointment is made at such a time or in such a manner as to impede the progress of work on the Facilities. The Project Manager shall represent and act for the Employer at all times during the currency of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as herein otherwise provided.</p> <p>All notices, instructions, information and other communications given by the Contractor to the Employer under the Contract shall be given to the Project Manager, except as herein otherwise provided.</p>
17.2	<p>Contractor's Representative & Construction Manager</p>
17.2.1	<p>The Contractor shall appoint the Contractor's Representative within fourteen (14) days of the Effective Date or before start of work whichever is earlier and shall request the Employer in writing to approve the person so appointed.</p>
17.2.1.1	<p>The Contractor's representative shall be a regular Employee/ Partner/ Director only and the Contractor shall be required to submit a Power of Attorney in original in favour of its representative. Notarized photocopy of the Power of Attorney shall be acceptable only if the Power of Attorney has been registered by the Contractor. The Employer may verify the photocopy of the Power of Attorney with the Original and the Contractor shall be required to produce the original Power of Attorney for verification, if required by the Employer. The relation of the Contractor's representative with the contractor such as Partner/ Employee etc. should be clearly brought out in the Power of Attorney. The Contractor would be required to submit a documentary proof of the relation of the Contractor's representative with the contractor in the form of self-attested copy of any of the following documents:</p> <ol style="list-style-type: none"> i. Previous financial year's Form 16 as available at TRACES site of Income tax department, if the Contractor's representative is an employee of contractor or his Appointment Letter/Salary Slip/other documentary evidence (only in case of recent appointment or where Form 16 details are not uploaded at TRACES). Further, the Contractor shall submit the copy of Form 16 as available

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	<p>through TRACES site for every subsequent year also in respect of the Contractor's representative till the period of authorization.</p> <p>ii. Article of Association / Registered Partnership Deed if the Contractor's representative is a partner or stake holder in Company.</p> <p>In case, the Contractor is not able to submit any of the documentary proofs as mentioned above at para (i) & (ii), he would be required to submit an affidavit stating the relationship between the Contractor's representative and the Contractor.</p> <p>17.2.1.2 In case, the Contractor's representative is also doing some other Contract(s)/Work(s) as nominee of the same contractor, the Contractor shall give a declaration citing list of all works where the Contractor's representative is the nominee.</p> <p>17.2.1.3 If the Employer objects to the appointment giving the reason therefore, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 17.2.1 shall apply thereto.</p> <p>17.2.2 The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Project Manager all the Contractor's notices, instructions, information and all other communications under the Contract.</p> <p>All notices, instructions, information and all other communications given by the Employer or the Project Manager to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.</p> <p>The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in GCC Sub-Clause 17.2.1.</p> <p>17.2.3 The Contractor's Representative may, subject to the approval of the Employer (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Employer and the Project Manager.</p> <p>Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this</p>

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	<p>GCC Sub-Clause 17.2.3 shall be deemed to be an act or exercise by the Contractor's Representative.</p> <p>17.2.3.1 Notwithstanding anything stated in GCC Sub-clause 17.1 and 17.2.1 above, for the purpose of execution of contract, the Employer and the Contractor shall finalise and agree to a Contract Co-ordination Procedure and all the communication under the Contract shall be in accordance with such Contract Co-ordination Procedure.</p> <p>17.2.4 From the commencement of installation of the Facilities at the Site until Operational Acceptance, the Contractor's Representative shall appoint a suitable person as the construction manager (hereinafter referred to as "the Construction Manager"). The Construction Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as his or her deputy.</p> <p>17.2.5 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under GCC Sub-Clause 22.3. The Employer shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities.</p> <p>17.2.6 If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 17.2.5, the Contractor shall, where required, promptly appoint a replacement.</p> <p>17.2.7 In case any of the information/declaration/undertaking provided by Contractor/Contractor's representative is found to be false and/or the Contractor/Contractor's representative suppresses any relevant information at any stage, the Contractor will be liable for actions in terms of Employer's Banning policy.</p>
18. Work Program	
18.1	<p>Contractor's Organization</p> <p>The Contractor shall supply to the Employer and the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out work on the Facilities. The chart shall include the identities of the key personnel together with the curricula vitae of such key personnel to be employed within twenty-one (21) days of the Effective Date. The Contractor shall promptly inform the Employer and the Project Manager in writing of any revision or alteration of such an organization chart.</p>
18.2	<p>Program of Performance</p>

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	<p>Within twenty-eight (28) days after the date of notification of award of Contract, the Contractor shall prepare and submit to the Project Manager a detailed program of performance of the Contract, made in the form of PERT Network and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and precommission the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion and Acceptance of the Facilities in accordance with the Contract. The program so submitted by the Contractor shall accord with the Time Schedule included in Appendix 4 (Time Schedule) to the Contract Agreement and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion given in the SCC and any extension granted in accordance with GCC Clause 40, and shall submit all such revisions to the Project Manager.</p>	
<p>18.3</p>	<p>Progress Report</p> <p>The Contractor shall monitor progress of all the activities specified in the program referred to in GCC Sub-Clause 18.2 (Program of Performance) above, and supply a progress report to the Project Manager every month.</p> <p>The progress report shall be in a form acceptable to the Project Manager and shall also indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.</p>	
<p>18.4</p>	<p>Progress of Performance</p> <p>If at any time the Contractor's actual progress falls behind the program referred to in GCC Sub-Clause 18.2 (Program of Performance), or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Sub-Clause 8.2 (Time for Commencement and Completion), any extension thereof entitled under GCC Sub-Clause 40.1 (Extension of Time for Completion), or any extended period as may otherwise be agreed upon between the Employer and the Contractor.</p>	
<p>18.5</p>	<p>Work Procedures</p> <p>The Contract shall be executed in accordance with the Contract Documents and the procedures given in the section on Forms and Procedures of the Contract Documents.</p> <p>If agreed between the Employer and the Contractor, the Contractor may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with the provisions contained in the Contract.</p>	
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18.6	<p>Maintenance of Records of Weekly Progress Review Meetings at Site</p> <p>The Contractor shall be required to attend all weekly site progress review meetings organized by the 'Project Manager' or his authorised representative. The deliberations in the meetings shall interalia include the weekly program, progress of work (including details of manpower tools and plants deployed by the contractor vis-à-vis agreed schedule), inputs to be provided by Employer, delays, if any and recovery program, specific hindrances to work and work instructions by Employer. The minutes of the weekly meetings shall be recorded in triplicate in a numbered register available with the Project Manager or his authorized representative. These recordings shall be jointly signed by the Project Manager or his authorized representative and the Contractor and one copy of the signed records shall be handed over to the Contractor".</p>
19. Subcontracting	
19.1	Appendix 5 (List of Approved Subcontractors) to the Contract Agreement specifies major items of supply or services and a list of approved Subcontractors against each item, including vendors. Insofar as no Subcontractors are listed against any such item, the Contractor shall prepare a list of Subcontractors for such item for inclusion in such list. The Contractor may from time to time propose any addition to or deletion from any such list. The Contractor shall submit any such list or any modification thereto to the Employer for its approval in sufficient time so as not to impede the progress of work on the Facilities. Such approval by the Employer for any of the Subcontractors shall not relieve the Contractor from any of its obligations, duties or responsibilities under the Contract.
19.2	The Contractor shall select and employ its Subcontractors for such major items from those listed in the lists referred to in GCC Sub-Clause 19.1.
19.3	For items or parts of the Facilities not specified in Appendix 5 (List of Approved Subcontractors) to the Contract Agreement, the Contractor may employ such Subcontractors as it may select, at its discretion.
20. Design And Engineering	
20.1	Specifications and Drawings
20.1.1	<p>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.</p> <p>The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.</p>

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20.1.2	The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Employer, by giving a notice of such disclaimer to the Project Manager.
20.2	<p>Codes and Standards</p> <p>Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to deadline set for price bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the Employer and shall be treated in accordance with GCC Clause 39 (Changes Originating from Contractor).</p>
20.3	<p>Approval/Review of Technical Documents by Project Manager</p> <p>20.3.1 The Contractor shall prepare (or cause its Subcontractors to prepare) and furnish to the Project Manager the documents listed in Appendix 7 (List of Documents for Approval or Review) to the Contract Agreement for its approval or review as specified and as in accordance with the requirements of GCC Sub-Clause 18.2 (Program of Performance).</p> <p>Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval thereof.</p> <p>GCC Sub-Clauses 20.3.2 through 20.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.</p> <p>20.3.2 Within twenty one (21) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Sub-Clause 20.3.1, the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefor and the modifications that the Project Manager proposes.</p> <p>20.3.3 The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good engineering practice.</p> <p>20.3.4 If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Sub-Clause 20.3.2. If the Project Manager approves the document subject to modification(s), the Contractor shall make the required modification(s), and upon resubmission with the required modifications the document shall be deemed to have been approved.</p>

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	<p>The procedure for submission of the documents by the Contractor and their approval by the Project Manager shall be discussed and finalised with the Contractor.</p>
20.3.5	<p>If any dispute or difference occurs between the Employer and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) thereto that cannot be settled between the parties within a reasonable period, then such dispute or difference shall be settled as per cl. 6 of GCC.</p> <p>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."</p> <p>Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.</p> <p>If the parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be settled in accordance with the provisions of GCC Sub-Clause 6.</p>
20.3.6	<p>The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.</p>
20.3.7	<p>The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager's approval thereof, pursuant to the provisions of this GCC Sub-Clause 20.3.</p> <p>If the Project Manager requests any change in any already approved document and/or in any document based thereon, the provisions of GCC Clause 39 (Change in the Facilities) shall apply to such request.</p>
21. Procurement	
21.1	<p>Plant and Equipment</p> <p>Subject to GCC Sub-Clause 14.2, the Contractor shall manufacture or procure and transport all the Plant and Equipment in an expeditious and orderly manner to the Site.</p>

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21.2	<p>Employer-Supplied Plant, Equipment, and Materials</p> <p>If Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement provides that the Employer shall furnish any specific items of machinery, equipment or materials to the Contractor, the following provisions shall apply:</p> <p>21.2.1 The Employer shall, at its own risk and expense, transport each item to the place on or near the Site as agreed upon by the parties and make such item available to the Contractor at the time specified in the program furnished by the Contractor, pursuant to GCC Sub-Clause 18.2 (Program of Performance), unless otherwise mutually agreed.</p> <p>21.2.2 Upon receipt of such item, the Contractor shall inspect the same visually and notify the Project Manager of any detected shortage, defect or default. The Employer shall immediately remedy any shortage, defect or default, or the Contractor shall, if practicable and possible, at the request of the Employer, remedy such shortage, defect or default at the Employer's cost and expense. After inspection, such item shall fall under the care, custody and control of the Contractor. The provision of this GCC Sub-Clause 21.2.2 shall apply to any item supplied to remedy any such shortage or default or to substitute for any defective item, or shall apply to defective items that have been repaired.</p> <p>21.2.3 The foregoing responsibilities of the Contractor and its obligations of care, custody and control shall not relieve the Employer of liability for any undetected shortage, defect or default, nor place the Contractor under any liability for any such shortage, defect or default whether under GCC Clause 27 (Defect Liability) or under any other provision of Contract.</p>	
21.3	<p>Transportation</p> <p>21.3.1 The Contractor shall at its own risk and expense transport all the Plant and Equipment and the Contractor's Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.</p> <p>Packing Material</p> <p>The Contractor shall ensure that all the plant and equipment are suitably packed and protected to prevent damage or deterioration during its transportation to site, handling and storage at site till the time of its installation. The ownership of all such packing material (except empty shipper's containers on which the customs duty has been paid by the Contractor pursuant to GCC Clause 14.2) shall stand transferred to the Employer upon dispatch of the plant and equipment and endorsement of dispatch documents in favour of the Employer.</p> <p>21.3.2 Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the Plant and Equipment and the Contractor's Equipment.</p>	
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21.3.3	Upon despatch of each shipment of the Plant and Equipment and the Contractor's Equipment, the Contractor shall notify the Employer by telex, cable, facsimile or Electronic Data Interchange (EDI) of the description of the Plant and Equipment and of the Contractor's Equipment, the point and means of dispatch, and the estimated time and point of arrival in the country where the Site is located, if applicable, and at the Site. The Contractor shall furnish the Employer with relevant shipping documents to be agreed upon between the parties.
21.3.4	The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the Plant and Equipment and the Contractor's Equipment to the Site. The Employer shall use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining such approvals, if requested by the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the Plant and Equipment and the Contractor's Equipment to the Site.
21.4	<p>Customs Clearance (Applicable in case of ICB Tender only)</p> <p>The Contractor shall, at its own expense, handle all imported Plant and Equipment and Contractor's Equipment at the point(s) of import and shall handle any formalities for customs clearance, subject to the Employer's obligations under GCC Sub-Clause 14.2, provided that if applicable laws or regulations require any application or act to be made by or in the name of the Employer, the Employer shall take all necessary steps to comply with such laws or regulations. In the event of delays in customs clearance due to fault of the Employer, the Contractor shall be entitled to an extension in the Time for Completion, pursuant to GCC Clause 40.</p>
22. Installation	
22.1	<p>Setting Out/Supervision/Labour</p> <p>22.1.1 Bench Mark: The Contractor shall be responsible for the true and proper setting-out of the Facilities in relation to bench marks, reference marks and lines provided to it in writing by or on behalf of the Employer.</p> <p>If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by or on behalf of the Employer, the expense of rectifying the same shall be borne by the Employer.</p> <p>22.1.2 Contractor's Supervision: The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only</p>

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	<p>technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.</p>
22.1.3	<p>Labour:</p> <p>(a) 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. The Contractor shall preferably engage skilled/semiskilled/unskilled workers from amongst the land oustees of the Project.</p> <p>(b) Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation and catering of all labour, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.</p> <p>(c) The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labour and personnel to be employed on the Site into the country where the Site is located.</p> <p>(d) The Contractor shall at its own expense provide the means of repatriation to all of its and its Subcontractor's personnel employed on the Contract at the Site to their various home countries. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Contractor defaults in providing such means of transportation and temporary maintenance, the Employer may provide the same to such personnel and recover the cost of doing so from the Contractor.</p> <p>(e) The Contractor shall at all times during the progress of the Contract use its best endeavor to prevent any unlawful, riotous or disorderly conduct or behaviour by or amongst its employees and the labour of its Subcontractors.</p> <p>(f) The Contractor shall, in all dealings with its labour and the labour of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labour.</p>
22.2	<p>Contractor's Equipment</p>
22.2.1	<p>All Contractors' Equipment brought by the Contractor onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Project Manager's consent</p>

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	that such Contractor's Equipment is no longer required for the execution of the Contract.
22.2.2	Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor onto the Site and any surplus materials remaining thereon.
22.2.3	The Employer will, if requested, use its best endeavor to assist the Contractor in obtaining any local, state or national government permission required by the Contractor for the export of the Contractor's Equipment imported by the Contractor for use in the execution of the Contract that is no longer required for the execution of the Contract.
22.3	<p>Site Regulations and Safety</p> <p>The Employer and the Contractor shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply therewith. The Contractor shall prepare and submit to the Employer, with a copy to the Project Manager, proposed Site regulations for the Employer's approval, which approval shall not be unreasonably withheld.</p> <p>Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.</p>
22.4	<p>Opportunities for Other Contractors</p> <p>22.4.1 The Contractor shall, upon written request from the Employer or the Project Manager, give all reasonable opportunities for carrying out the work to any other contractors employed by the Employer on or near the Site.</p> <p>22.4.2 If the Contractor, upon written request from the Employer or the Project Manager, makes available to other contractors any roads or ways the maintenance for which the Contractor is responsible, permits the use by such other contractors of the Contractor's Equipment, or provides any other service of whatsoever nature for such other contractors, the Employer shall fully compensate the Contractor for any loss or damage caused or occasioned by such other contractors in respect of any such use or service, and shall pay to the Contractor reasonable remuneration for the use of such equipment or the provision of such services.</p> <p>22.4.3 The Contractor shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other contractors. The Project Manager shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Employer in regard to their work.</p>

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22.4.4	The Contractor shall notify the Project Manager promptly of any defects in the other Contractors' work that come to its notice, and that could affect the Contractor's work. The Project Manager shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Project Manager shall be binding on the Contractor.
22.5	<p>Emergency Work</p> <p>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.</p> <p>If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine is necessary in order to prevent damage to the Facilities. In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefor. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. Otherwise, the cost of such remedial work shall be borne by the Employer.</p>
22.6	<p>Site Clearance</p> <p>22.6.1 Site Clearance in Course of Performance: In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.</p> <p>22.6.2 Clearance of Site after Completion: After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities clean and safe.</p> <p>22.6.3 Disposal of Scrap</p> <p>"The Contractor shall with the agreement of the Employer promptly remove from the site any 'Scrap' generated during performance of any activities at site in pursuance of the Contract. The term 'Scrap' shall refer to scrap / waste / remnants arising out of the fabrication of structural steel work and piping work at the project site in the course of execution of the contract and shall also include any wastage of cables during the termination process while installing the cables.</p> <p>The ownership of such Scrap shall vest with the Contractor except in cases where the items have been issued by the Employer from its stores for their installation only without any adjustment to the Contract Price. The removal of scrap shall be subject to the Contractor producing the necessary clearance from the relevant authorities (Custom, Excise etc.), if required by</p>

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	<p>the law, in respect of disposal of the scrap. The liability for the payment of the applicable taxes/duties shall be that of the Contractor.</p> <p>The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal/disposal of scrap. The Indemnity-cum-Undertaking Agreement shall be furnished by Contractor as per proforma enclosed in Section-VII (Forms and Procedure). Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the scrap to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer".</p>	
22.7	<p>Watching and Lighting</p> <p>The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.</p>	
	<p>22.8 Shift Work</p>	
22.8.1	<p>To achieve the required rate of progress in order to complete the Facilities within the Time for Completion, the Contractor may carry on the work, round the clock, in multiple shifts per day, as may be necessary. The Contractor shall however be responsible to comply with all applicable laws in this regard.</p>	
22.8.2	<p>No additional payment will be made on account of round the clock working in multiple shifts.</p>	
22.8.3	<p>Wherever the work is carried out at night adequate lighting of working areas and access routes for pedestrians or vehicles shall be provided by the Contractor at his cost. Sufficient notice should be given by the Contractor to the Employer regarding the details of works in shifts so that necessary supervision could be provided.</p>	
23.	<p>Test And Inspection</p>	
23.1	<p>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.</p>	
23.2	<p>The Employer and the Project Manager or their designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the Employer shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.</p>	
23.3	<p>Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give a reasonable advance notice of such</p>	
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	test and/or inspection and of the place and time thereof to the Project Manager. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Employer and the Project Manager (or their designated representatives) to attend the test and/or inspection.
23.4	<p>The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection.</p> <p>If the Employer or Project Manager (or their designated representatives) fails to attend the test and/or inspection, or if it is agreed between the parties that such persons shall not do so, then the Contractor may proceed with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the results thereof.</p>
23.5	The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, where the purpose of these tests / inspection is to verify compliance with the Technical Specifications and are feasible without creating a risk of damage to the Works, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impede the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.
23.6	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 GCC Sub-Clause 23.3.
23.7	If any dispute or difference of opinion shall arise between the parties in connection with or arising out of the test and/or inspection of the Plant and Equipment or part of the Facilities that cannot be settled between the parties within a reasonable period of time, it may be referred to the Expert Settlement Council (ESC) for determination in accordance with GCC Sub-Clause 6.2.
23.8	The Contractor shall afford the Employer and the Project Manager, at the Employer's expense, access at any reasonable time to any place where the Plant and Equipment are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Contractor a reasonable prior notice.
23.9	The Contractor agrees that neither the execution of a test and/or inspection of Plant and Equipment or any part of the Facilities, nor the attendance by the Employer or the Project Manager, nor the issue of any test certificate pursuant to GCC Sub-Clause 23.4, shall release the Contractor from any other responsibilities under the Contract.

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23.10	No part of the Facilities or foundations shall be covered up on the Site without the Contractor carrying out any test and/or inspection required under the Contract. The Contractor shall give a reasonable notice to the Project Manager whenever any such part of the Facilities or foundations are ready or about to be ready for test and/or inspection; such test and/or inspection and notice thereof shall be subject to the requirements of the Contract.
23.11	<p>The Contractor shall uncover any part of the Facilities or foundations, or shall make openings in or through the same as the Project Manager may from time to time require at the Site, and shall reinstate and make good such part or parts.</p> <p>If any part of the Facilities or foundations have been covered up at the Site after compliance with the requirement of GCC Sub-Clause 23.10 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Employer, and the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.</p>
24. Completion of the Facilities	
24.1	As soon as installation of the Facilities or any part thereof has, in the opinion of the Contractor, been completed as specified in the Technical Specifications, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer in writing.
24.2	Within seven (7) days after receipt of the notice from the Contractor under GCC Sub-Clause 24.1, the Employer shall supply the operating and maintenance personnel and the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services as specified in Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement, required for Pre-commissioning of the Facilities or any part thereof.
24.3	As soon as reasonably practicable after the operating and maintenance personnel have been supplied by the Employer and the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters, if so specified in Appendix 6 (Scope of Works and Supply by the Employer)/ Technical Specifications, have been provided by the Employer in accordance with GCC Sub-Clause 24.2, the Contractor shall commence Pre-commissioning of the Facilities or the relevant part thereof in preparation for Commissioning.
24.4	As soon as all works in respect of Pre-commissioning are completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall commence Commissioning as per procedures stipulated in Technical Specifications, and as soon as Commissioning is satisfactorily completed, the Contractor shall so notify the Project Manager in writing.
24.5	The Project Manager shall, within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 24.4, either issue a Completion Certificate in the form specified in the Forms and Procedures section in the bidding documents, stating that the Facilities or that part

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	<p>thereof have reached Completion as at the date of the Contractor's notice under GCC Sub-Clause 24.4, or notify the Contractor in writing of any defects and/or deficiencies.</p> <p>If the Project Manager notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies, and shall repeat the procedure described in GCC Sub-Clause 24.4.</p> <p>If the Project Manager is satisfied that the Facilities or that part thereof have reached Completion, the Project Manager shall, within seven (7) days after receipt of the Contractor's repeated notice, issue a Completion Certificate stating that the Facilities or that part thereof have reached Completion as at the date of the Contractor's repeated notice.</p> <p>If the Project Manager is not so satisfied, then it 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.</p>
24.6	<p>If the Project Manager fails to issue the Completion Certificate and fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 24.4 or within seven (7) days after receipt of the Contractor's repeated notice under GCC Sub-Clause 24.5, or if the Employer makes use of the Facilities or part thereof, then the Facilities or that part thereof shall be deemed to have reached Completion as of the date of the Contractor's notice or repeated notice, or as of the Employer's use of the Facilities, as the case may be.</p>
24.7	<p>As soon as possible after Completion, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Employer will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.</p>
24.8	<p>Upon Completion, the Employer shall be responsible for the care and custody of the Facilities or the relevant part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.</p>
<p>25. Commissioning, Performance Guarantee Tests and Operational Acceptance</p>	
<p>25.1 Commissioning</p>	
<p>25.1.1 Commissioning of the Facilities or any part thereof shall be completed by the Contractor as per procedures detailed in the Technical Specifications.</p> <p>The Employer shall, unless otherwise specified in Appendix 6 (Scope of Works and Supply by the Employer)/ Technical Specifications, supply the operating and maintenance personnel and all raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Commissioning of the Facilities.</p>	

25.2 **Performance Guarantee Test**

25.2.1 The Performance Guarantee Test (and repeats thereof) shall be conducted by the Contractor after Commissioning of the Facilities or the relevant part thereof to ascertain whether the Facilities or the relevant part can attain the Functional Guarantees specified in the Contract Documents. The Contractor's and Project Manager's advisory personnel shall attend the Performance Guarantee Test. The Employer shall promptly provide the Contractor with such information as the Contractor may reasonably require in relation to the conduct and results of the Performance Guarantee Test (and any repeats thereof).

25.2.2 If for reasons attributable to the Employer, the Performance Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within the period of twelve months from the date of Completion of respective facility, the payment towards Successful Completion of Performance Guarantee Test, shall be released to the Contractor against Bank Guarantee. Such Bank Guarantee shall have initial validity of one (1) year. The Bank Guarantee shall be extended for any subsequent period, if required, such that the same remains valid till the Successful Completion of Performance Guarantee Test.

25.3 **Operational Acceptance**

25.3.1 Subject to GCC Sub-Clause 25.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the Facilities or any part thereof when

(a) the Performance Guarantee Test has been successfully completed and the Functional Guarantees are met; or

(b) the Contractor has paid the liquidated damages specified in GCC Sub-Clause 28.3 hereof; and

(c) any minor items mentioned in GCC Sub-Clause 24.7 hereof relevant to the Facilities or that part thereof have been completed.

25.3.2 At any time after any of the events set out in GCC Sub-Clause 25.3.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Bidding Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as at the date of such notice.

25.3.3 The Project Manager shall, after consultation with the Employer, and within forty five (45) days after receipt of the Contractor's notice, issue an Operational Acceptance Certificate.

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25.3.4	If within forty five (45) days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have been accepted as at the date of the Contractor's said notice.
25.4	Partial Acceptance
25.4.1	If the Contract specifies that Completion and Commissioning shall be carried out in respect of parts of the Facilities, the provisions relating to Completion and Commissioning including the Performance Guarantee Test shall apply to each such part of the Facilities individually, and the Operational Acceptance Certificate shall be issued accordingly for each such part of the Facilities.
25.4.2	If a part of the Facilities comprises facilities such as buildings, for which no Commissioning or Performance Guarantee Test is required, then the Project Manager shall issue the Operational Acceptance Certificate for such facility when it attains Completion, provided that the Contractor shall thereafter complete any outstanding minor items that are listed in the Operational Acceptance Certificate.
	F. Guarantees and Liabilities
26.	Completion Time Guarantee
26.1	The Contractor guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for completion is specified in the SCC) within the Time for Completion specified in the SCC pursuant to GCC Sub-Clause 8.2, or within such extended time to which the Contractor shall be entitled under GCC Clause 40 (Extension of Time for Completion) hereof.
26.2	If the Contractor fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under GCC Clause 40 (Extension of Time for Completion), the Contractor shall pay to the Employer liquidated damages in the amount computed at the rates specified in the SCC. The aggregate amount of such liquidated damages shall in no event exceed the amount specified as "Maximum" in the SCC. Once the "Maximum" is reached, the Employer may consider termination of the Contract, pursuant to GCC Sub-Clause 42.2.2. Such payment shall completely satisfy the Contractor's obligation to attain Completion of the Facilities or the relevant part thereof within the Time for Completion or any extension thereof under GCC Clause 40 (Extension of Time for Completion). The Contractor shall have no further liability whatsoever to the Employer in respect thereof. 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. Save for liquidated damages payable under this GCC Sub-Clause 26.2, the failure by the Contractor to attain any milestone or other act, matter or

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	<p>thing by any date specified in Appendix 4 (Time Schedule) to the Contract Agreement and/or other program of work prepared pursuant to GCC Clause 18 (Program of Performance) shall not render the Contractor liable for any loss or damage thereby suffered by the Employer.</p>
26.3	No bonus shall be given for earlier completion of the facilities or part thereof.
27. Defect Liability	
27.1	The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant and Equipment supplied and of the work executed.
27.2	<p>The Defect Liability Period shall be eighteen (18) months from the date of Completion of the Facilities (or any part thereof) or twelve (12) months from the date of Operational Acceptance of the Facilities (or any part thereof), whichever first occurs, unless specified otherwise in the SCC.</p> <p>If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant and Equipment supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good (as the Contractor shall, at its discretion, determine) such defect as well as any damage to the Facilities caused by such defect. The Contractor shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:</p> <ul style="list-style-type: none"> (a) improper operation or maintenance of the Facilities by the Employer (b) operation of the Facilities outside specifications provided in the Contract (c) normal wear and tear.
27.3	<p>The Contractor's obligations under this GCC Clause 27 shall not apply to</p> <ul style="list-style-type: none"> (a) any materials that are supplied by the Employer under GCC Sub-Clause 21.2 (Employer-Supplied Plant, Equipment and Materials), are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein (b) any designs, specifications or other data designed, supplied or specified by or on behalf of the Employer or any matters for which the Contractor has disclaimed responsibility herein (c) any other materials supplied or any other work executed by or on behalf of the Employer, except for the work executed by the Employer under GCC Sub-Clause 27.7.
27.4	The Employer shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly

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	following the discovery thereof. The Employer shall afford all reasonable opportunity for the Contractor to inspect any such defect.
27.5	<p>The Employer shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this GCC Clause 27.</p> <p>The Contractor may, with the consent of the Employer, 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.</p>
27.6	<p>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.</p> <p>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 in character shall in any case be not less than what has already been agreed by the Employer and the Contractor for the original equipment/part of the Facilities.</p>
27.7	<p>If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the Employer may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Employer in connection therewith shall be paid to the Employer by the Contractor or may be deducted by the Employer from any monies due to the Contractor or claimed under the Performance Security.</p>
27.8	<p>If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons. Upon correction of the defects in the Facilities or any part thereof by repair/replacement, such repair/replacement shall have the Defect Liability Period extended by a period of twelve (12) month from the time such replacement/repair of the Facilities or any part thereof.</p> <p>27.8.1 At the end of the Defect Liability Period, the contractor liability ceases except for latent defects. The contractor's liability for latent defects warranty shall be limited to a period of five (5) years from the end of Defect Liability Period. For the purpose of the this clause, the latent defects shall be the defects inherently lying within the material or arising out of design deficiency which do not manifest themselves during the Defect Liability Period in this GCC clause 27, but later.</p> <p>In case, there is any dispute between Employer and Contractor regarding latent defects, any of the parties listed hereunder or any other</p>

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	<p>third party as mutually agreed upon by the Employer and the Contractor shall be engaged by the Employer for settling the dispute :</p> <p>(a) M/s KEMA, Netherland</p> <p>(b) M/s TUV, Germany</p> <p>(c) M/s EPRI, USA</p> <p>The third party, so engaged by the Employer, shall be paid free plus reasonable expenditures incurred in the execution of its duties as mentioned above. These costs shall be initially paid by the Employer. In case of latent defect being proved, such costs shall be recoverable from the Contractor and the Contractor shall bear and reimburse such costs to the Employer.</p> <p>If the dispute regarding latent defects cannot be settled as above, then the dispute shall be settled as per provision of GCC Clause 6 (Settlement of Disputes).</p> <p>27.9 Except as provided in GCC Clauses 27 and 33 (Loss of or Damage to Property / Accident or Injury to Workers/Indemnification), the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contract or at law, in respect of defects in the Facilities or any part thereof, the Plant and Equipment, design or engineering or work executed that appear after Completion of the Facilities or any part thereof, except where such defects are the result of the gross negligence, fraud, criminal or wilful action of the Contractor.</p> <p>27.10 In addition, the Contractor shall also provide an extended warranty for any such component of the Facilities and during the period of time as may be specified in the SCC. Such obligation shall be in addition to the defect liability specified under GCC Sub-Clause 27.2.</p> <p>28. Functional Guarantees</p> <p>28.1 The Contractor guarantees that during the Performance Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees specified in Appendix 8 (Functional Guarantees) to the Contract Agreement, subject to and upon the conditions therein specified.</p> <p>28.2 If, for reasons attributable to the Contractor, the guaranteed level of the Functional Guarantees specified in Appendix 8 (Functional Guarantees) to the Contract Agreement are not met either in whole or in part, the Contractor shall, within a mutually agreed time, at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet such Guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall seek the Employer's consent to repeat the Performance Guarantee Test. If the specified Functional Guarantees are not established even during the repeat of the Performance Guarantee Test, the Employer may at its option, either</p>

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	<p>(a) Reject the Equipment and recover the payments already made, or</p> <p>(b) Terminate the Contract pursuant to GCC Sub-Clause 42.2.2 and recover the payments already made, or</p> <p>(c) Accept the equipment after levy of liquidated damages in accordance with the provisions specified in Appendix-8(Functional Guarantees) to the Contract Agreement.</p>
28.3	<p>In case the Employer exercises its option to accept the equipment after levy of liquidated damages, the payment of liquidated damages under GCC Sub-Clause 28.2, up to the limitation of liability specified in the Appendix-8 (Functional Guarantees) to the Contract Agreement, shall completely satisfy the Contractor's guarantees under GCC Sub-Clause 28.2, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.</p>
29. Patent Indemnity	
29.1	<p>The Contractor shall, subject to the Employer's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in the country where the Site is located; and (b) the sale of the products produced by the Facilities in any country.</p> <p>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.</p>
29.2	<p>If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in GCC Sub-Clause 29.1, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.</p> <p>If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defence of any such proceedings or claim.</p>

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	<p>The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.</p>
29.3	<p>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 or designed by or on behalf of the Employer.</p>
30. Limitation of Liability	
30.1	<p>Except in cases of criminal negligence or wilful misconduct,</p> <p>(a) neither Party shall be liable to the other Party, 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</p> <p>(b) the aggregate liability of the either party to the other party, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to any obligation of the Contractor to indemnify the Employer with respect to patent infringement.</p> <p>Notwithstanding anything contained hereinabove, the aggregate liability of the Employer to the Contractor shall not exceed the Total Contract Price, less payments already released to the Contractor, if any.</p>
	G. Risk Distribution
31. Transfer of Ownership	
31.1	<p>Ownership of the Plant and Equipment</p> <p>Ownership of the Plant and Equipment (including spare parts) to be imported into the country where the Site is located shall be transferred to the Employer upon loading on to the mode of transport to be used to convey the Plant and Equipment from the country of origin to that country and upon endorsement of despatch document in favour of the Employer.</p> <p>Ownership of the Plant and Equipment (including spare parts) procured in the country where the Site is located shall be transferred to the Employer when the Plant and Equipment are loaded on to the mode of transport to</p>

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	<p>be used to convey the Plant and Equipment from the works to the site and upon endorsement of the despatch documents in favour of the Employer</p>
31.2	<p>Ownership of the Contractor's Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.</p>
31.3	<p>Disposal of Surplus Material</p> <p>"Ownership of any Plant and Equipment in excess of the requirements for the Facilities (i.e. surplus material) shall revert to the Contractor upon Completion of the Facilities and Performance Guarantee Test or at such earlier time when the Employer and the Contractor agree that the Plant and Equipment in question are no longer required for the Facilities, provided quantity of any Plant and Equipment specifically stipulated in the Contract shall be the property of the Employer whether or not incorporated in the Facilities. The Contractor shall remove from the site such surplus material brought by him in pursuance of the Contract, subject to the Contractor producing the necessary clearance from the relevant authorities (Customs, Excise etc.), if required by law, in respect of re-export or disposal of the surplus material locally. The liability for the payment of the applicable taxes/duties, if any, on the surplus material so re-exported and/or disposed locally shall be that of the Contractor.</p> <p>The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal/disposal of surplus material. The Indemnity-cum-Undertaking Agreement shall be furnished by contractor as per proforma enclosed in Section-VII (Part 3 of 3 -Forms and Procedures). Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the surplus material to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer."</p>
31.4	<p>Notwithstanding the transfer of ownership of the Plant and Equipment, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to GCC Clause 32 (Care of Facilities) hereof until Completion of the Facilities or the part thereof in which such Plant and Equipment are incorporated.</p>
31.5	<p>In case of two/three Contracts entered into between the Employer and the Contractor as per GCC Sub-Clause 3.6 or where the Employer hands over his equipment to the Contractor for executing the Contract, then the Contractor shall at the time of taking delivery of the Equipment through Bill of Lading or other despatch documents furnish Trust Receipt for Plant, Equipment and Materials and also execute an Indemnity-cum-Undertaking Agreement in favour of the Employer in the form acceptable to Employer for keeping the equipment in safe custody and to utilise the same exclusively for the purpose of the said Contract. Proforma for the Trust Receipt and Indemnity-cum-Undertaking Agreement is enclosed under Section-VII (Forms and Procedures). The Employer shall also issue a separate Authorisation Letter to the Contractor to enable him to take physical delivery of plant, equipment and materials from the Employer as per proforma enclosed under Section-VII (Forms and Procedures).</p>

32. Care of Facilities

32.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities pursuant to GCC Clause 24 (Completion of the Facilities) or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to GCC Clause 27 (Defect Liability). 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) and (c) of GCC Sub-Clauses 32.2 and 38.1.

32.2 If any loss or damage occurs to the Facilities or any part thereof or to the Contractor's temporary facilities by reason of

- (a) (insofar as they relate to the country where the Site is located) nuclear reaction, nuclear radiation, radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks, taken out under GCC Clause 34 (Insurance) hereof
- (b) any use or occupation by the Employer or any third party (other than a Subcontractor) authorized by the Employer of any part of the Facilities
- (c) any use of or reliance upon any design, data or specification provided or designated 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, and will pay to the Contractor the replacement value of all temporary facilities and all parts thereof 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 GCC Clause 39 (Change in the Facilities). If the Employer does not request the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Employer shall either request a change in accordance with GCC Clause 39 (Change in the Facilities), 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 GCC Sub-Clause 42.1 (Termination for Employer's Convenience) hereof, except that the Contractor shall have no entitlement to profit under

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	paragraph (e) of GCC Sub-Clause 42.1.3 in respect of any unexecuted Facilities as at the date of termination.		
32.3	The Contractor shall be liable for any loss of or damage to any Contractor's Equipment, or any other property of the Contractor used or intended to be used for purposes of the Facilities, except (i) as mentioned in GCC Sub-Clause 32.2 (with respect to the Contractor's temporary facilities), and (ii) where such loss or damage arises by reason of any of the matters specified in GCC Sub-Clauses 32.2(b) and (c) and 38.1.		
32.4	With respect to any loss or damage caused to the Facilities or any part thereof or to the Contractor's Equipment by reason of any of the matters specified in GCC Sub-Clause 38.1, the provisions of GCC Sub-Clause 38.3 shall apply.		
33.	Loss of or Damage to Property; Accident or Injury to workers; Indemnification		
33.1	Subject to GCC Sub-Clause 33.3, the Contractor shall indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any 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, officers or agents, except any injury, death or property damage caused by the negligence of the Employer, its contractors, employees, officers or agents.		
33.2	<p>If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under GCC Sub-Clause 33.1, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.</p> <p>If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defence of any such proceedings or claim.</p> <p>The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.</p>		
33.3	The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from any liability for loss of or damage to property of the Employer, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 34 (Insurances), provided that such fire, explosion or other perils were not caused by any act or failure of the Contractor.		
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33.4	The party entitled to the benefit of an indemnity under this GCC Clause 33 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.
34. Insurance	
34.1	To the extent specified in Appendix 3 (Insurance Requirements) to the Contract Agreement, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the said Appendix. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, who should not unreasonably withhold such approval.
	<p>(a) Cargo Insurance During Transport</p> <p>Covering loss or damage occurring while in transit from the Contractor's or Subcontractor's works or stores until arrival at the Site, to the Plant and Equipment (including spare parts therefor) and to the Contractor's Equipment.</p> <p>(b) Installation All Risks Insurance</p> <p>Covering 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.</p> <p>(c) Third Party Liability Insurance</p> <p>Covering bodily injury or death suffered by third parties (including the Employer's personnel) and loss of or damage to property occurring in connection with the supply and installation of the Facilities.</p> <p>(d) Automobile Liability Insurance</p> <p>Covering use of all vehicles used by the Contractor or its Subcontractors (whether or not owned by them) in connection with the execution of the Contract.</p> <p>(e) Workers' Compensation</p> <p>In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.</p> <p>(f) Employer's Liability</p> <p>In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.</p>

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	<p>(g) Other Insurances</p> <p>Such other insurances as may be specifically agreed upon by the parties hereto as listed in the said Appendix 3.</p>		
34.2	<p>The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1, except for the Third Party Liability, Workers' Compensation and Employer's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1 except for the Cargo Insurance During Transport, Workers' Compensation and Employer's Liability Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.</p>		
34.3	<p>The Contractor shall, in accordance with the provisions of Appendix 3 (Insurance Requirements) to the Contract Agreement, deliver to the Employer certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect. The certificates shall provide that no less than twenty-one (21) days' notice shall be given to the Employer by insurers prior to cancellation or material modification of a policy.</p>		
34.4	<p>The Contractor shall ensure that, where applicable, its Subcontractor(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 Subcontractors are covered by the policies taken out by the Contractor.</p>		
34.5	<p>The Employer shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in Appendix 3 (Insurance Requirements) to the Contract Agreement.</p>		
34.6	<p>If the Contractor fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause 34.1, the Employer may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Employer shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor. If the Employer fails to take out and/or maintain in effect the insurances referred to in GCC 34.5, the Contractor may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Employer under the Contract any premium that the Contractor shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Employer. If the Contractor fails to or is unable to take out and maintain in effect any such insurances, the Contractor shall nevertheless have no liability or responsibility towards the Employer, and the Contractor shall have full recourse against the Employer for any and all liabilities of the Employer herein.</p>		
34.7	<p>Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 34, and all monies payable by any insurers shall be paid to the Contractor as per the procedure outlined in GCC Sub-Clause 34.8 below. The Employer shall give to the Contractor all such</p>		
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	<p>reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Employer's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Employer. With respect to insurance claims in which the Contractor's interest is involved, the Employer shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.</p> <p>34.8 (i) Wherever total damages/loss of equipment/material, would occur, the Contractor will be entitled to payment of all payments received from the underwriters except the following amounts:</p> <p>(a) The amount paid to the Contractor under the Contract in respect of equipment/material damaged/lost (excluding the pro-rata initial advance) but including the entire amount of escalation, if any, already paid to the Contractor.</p> <p>(b) Taxes and duties which have already been paid by the Employer.</p> <p>In the event the claim money settled, is less than the total of the amount in a & b above, then the entire claim money settled will be retained by the Employer and the Contractor will forthwith pay the Employer the short fall amount between the claim money and the total of amounts as per a & b mentioned above.</p> <p>Subsequent payments, if any, due under the Contract shall be regulated by the relevant terms of payment.</p> <p>(ii) In case of damage to any equipment/material during any stage, the Contractor upon rectification of the damaged equipment to the satisfaction of the Employer shall be paid to the extent of full claims settled by the underwriters.</p> <p>If the Plant & Equipment being supplied by the Employer free of cost for installation of the equipment, cabling, earthing and lightning protection etc. by the Contractor, covered by this specification shall be kept insured by the Contractor against loss, damage, theft, pilferage, fire etc. from the point of unloading at Site upto the time of taking over by the Employer including handling, in plant transportation, storage, installation, testing and commissioning, etc. and the Contractor shall be fully responsible for making good of any loss or damage at his own cost within a reasonable time as mutually agreed upon by the Employer and the Contractor. Any loss / damage shall be brought to the Employer's notice immediately. The premium paid by the Contractor to the Insurance Company for such insurance shall be reimbursed by the Employer to the Contractor at actuals against documentary proof to be furnished by the Contractor. The Contractor shall obtain competitive quotation for such insurance and shall take prior approval from the Employer before taking the insurance. The insurable value of the equipment being procured by the Employer will be intimated to the Contractor for the purpose of insurance.</p> <p>It will be the responsibility of the Contractor to lodge, pursue and settle all claims with the Insurance Company in case of any damage, loss, theft, pilferage, fire, etc. and the Employer shall be kept informed about it. The losses, if any, will have to be borne by the Contractor, if the claims</p>

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	are not lodged and pursued property or in the time or if the same are not settled by the Insurance Company.
35. Unforeseen Conditions	
35.1	<p>If, during the execution of the Contract, the Contractor shall encounter on the Site any physical conditions (other than climatic conditions) or artificial obstructions that could not have been reasonably foreseen prior to the date of the Contract Agreement by an experienced contractor on the basis of reasonable examination of the data relating to the Facilities (including any data as to boring tests) provided by the Employer, and on the basis of information that it could have obtained from a visual inspection of the Site (if access thereto was available) or other data readily available to it relating to the Facilities, and if the Contractor determines that it will in consequence of such conditions or obstructions incur additional cost and expense or require additional time to perform its obligations under the Contract that would not have been required if such physical conditions or artificial obstructions had not been encountered, the Contractor shall promptly, and before performing additional work or using additional Plant and Equipment or Contractor's Equipment, notify the Project Manager in writing of</p> <ul style="list-style-type: none"> (a) the physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen (b) the additional work and/or Plant and Equipment and/or Contractor's Equipment required, including the steps which the Contractor will or proposes to take to overcome such conditions or obstructions (c) the extent of the anticipated delay (d) the additional cost and expense that the Contractor is likely to incur. <p>On receiving any notice from the Contractor under this GCC Sub-Clause 35.1, the Project Manager shall promptly consult with the Employer and Contractor and decide upon the actions to be taken to overcome the physical conditions or artificial obstructions encountered. Following such consultations, the Project Manager shall instruct the Contractor, with a copy to the Employer, of the actions to be taken.</p>
35.2	Any reasonable additional cost and expense incurred by the Contractor in following the instructions from the Project Manager to overcome such physical conditions or artificial obstructions referred to in GCC Sub-Clause 35.1 shall be paid by the Employer to the Contractor as an addition to the Contract Price.
35.3	If the Contractor is delayed or impeded in the performance of the Contract because of any such physical conditions or artificial obstructions referred to in GCC Sub-Clause 35.1, the Time for Completion shall be extended in accordance with GCC Clause 40 (Extension of Time for Completion).
36. Change in Laws and Regulations	
36.1	If, after the date seven (7) days prior to the deadline set for Price Bid submission, in the country where the Site is located, any law, regulation,

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	<p>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 and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. However, these adjustments would be restricted to direct transactions between the Employer and Contractor and Bought out items (to be dispatched directly from the sub-vendor's works to Site). These adjustments shall not be applicable on procurement of raw materials, intermediary components, and intermediary services etc. by the Contractor. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the Appendix 2 to the Contract Agreement.</p>
37. Force Majeure	
37.1	<p>"Force Majeure" shall mean any event beyond the reasonable control of the Employer or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected.</p>
37.2	<p>If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within fourteen (14) days after the occurrence of such event.</p>
37.3	<p>The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with GCC Clause 40 (Extension of Time for Completion).</p>
37.4	<p>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 fulfil its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under GCC Sub-Clauses 37.6 and 38.5.</p>
37.5	<p>No delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall</p> <ul style="list-style-type: none"> (a) constitute a default or breach of the Contract (b) (subject to GCC Sub-Clauses 32.2, 38.3 and 38.4) give rise to any claim for damages or additional cost or expense occasioned thereby <p>if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.</p>

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37.6	If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the currency of the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which the dispute shall be resolved in accordance with GCC Clause 6.	
37.7	Notwithstanding GCC Sub-Clause 37.5, Force Majeure shall not apply to any obligation of the Employer to make payments to the Contractor herein.	
38. War Risks		
38.1	<p>“War Risks” shall mean any of the following events occurring or existing in or near the country (or countries) where the Site is located:</p> <ul style="list-style-type: none"> (a) war, hostilities or warlike operations (whether a state of war is 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 and terrorist acts, and (c) any explosion or impact of any mine, bomb, shell, grenade or other projectile, missile, munitions or explosive of war. 	
38.2	<p>Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to</p> <ul style="list-style-type: none"> (a) destruction of or damage to Facilities, Plant & Equipment, or any part thereof (b) destruction of or damage to property of the Employer or any third party (c) injury or loss of life <p>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.</p>	
38.3	<p>If the Facilities or any Plant and Equipment or Contractor’s Equipment or any other property of the Contractor used or intended to be used for the purposes of the Facilities shall sustain destruction or damage by reason of any War Risks, the Employer shall pay the Contractor for</p> <ul style="list-style-type: none"> (a) any part of the Facilities or the Plant and Equipment so destroyed or damaged (to the extent not already paid for by the Employer) (b) replacing or making good any Contractor’s Equipment or other property of the Contractor so destroyed or damaged so far as may be required by the Employer, and as may be necessary for completion of the Facilities, 	
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	<p>(c) replacing or making good any such destruction or damage to the Facilities or the Plant and Equipment or any part thereof.</p> <p>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 GCC Clause 39 (Change in the Facilities), 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 GCC Sub-Clause 42.1 (Termination for Employer's Convenience).</p>		
38.4	<p>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.</p>		
38.5	<p>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 single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of any War Risks, the parties will attempt to develop a mutually satisfactory solution, failing which the dispute will be resolved in accordance with GCC Clause 6.</p>		
38.6	<p>In the event of termination pursuant to GCC Sub-Clauses 38.3, the rights and obligations of the Employer and the Contractor shall be specified in GCC Sub-Clauses 42.1.2 and 42.1.3, except that the Contractor shall have no entitlement to profit under paragraph (e) of GCC Sub-Clause 42.1.3 in respect of any unexecuted Facilities as of the date of termination.</p>		
<p>H. Change in Contract Elements</p>			
<p>39. Change In The Facilities</p>			
39.1	<p>Introducing a Change</p>		
39.1.1	<p>The Employer shall have the right to propose, and subsequently require, that the Project Manager order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities (hereinafter called "Change"), provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract.</p>		
39.1.2	<p>The Contractor may from time to time during its performance of the Contract propose to the Employer (with a copy to the Project</p>		
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	<p>Manager) any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The Employer may at its discretion approve or reject any Change proposed by the Contractor.</p>
39.1.3	<p>Notwithstanding GCC Sub-Clauses 39.1.1 and 39.1.2, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.</p>
39.1.4	<p>The procedure on how to proceed with and execute Changes is specified in GCC Sub-Clauses 39.2 and 39.3.</p>
39.2	Changes Originating from Employer
39.2.1	<p>If the Employer proposes a Change pursuant to GCC Sub-Clause 39.1.1, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:</p> <ul style="list-style-type: none"> (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.
39.2.2	<p>The pricing of any change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If the rates and prices of any change are not available in the Contract, the parties thereto shall agree on specific rates for the variation of the change.</p>
39.2.3	<p>If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price) of the Contract Agreement by more than fifteen (15) percent, the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Employer accepts the Contractor's objection, the Employer and the Contractor shall agree on specific rates for valuation of the change.</p>
39.2.4	<p>Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained including agreement on rates if such rates are not available in the Contract or if the limit of 15% set forth in Clause 39.2.3 has been exceeded. Within fourteen (14) days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.</p>

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	<p>If the Employer is unable to reach a decision within fourteen (14) days, it shall notify the Contractor with details of when the Contractor can expect a decision.</p> <p>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.</p> <p>39.2.5 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct the Contractor to proceed with the Change by issue of a "Pending Agreement Change Order."</p> <p>Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.</p> <p>If the parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to the Expert Settlement Council (ESC) in accordance with the provisions of GCC Sub-Clause 6.2.</p> <p>39.3 Changes Originating from Contractor</p> <p>39.3.1 If the Contractor proposes a Change pursuant to GCC Sub-Clause 39.1.2, the Contractor shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 39.2.1.</p> <p>Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Sub-Clauses 39.2.4 and 39.2.5.</p>
40.	Extension of Time for Completion
40.1	<p>The Time(s) for Completion specified in the SCC shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:</p> <p>(a) any Change in the Facilities as provided in GCC Clause 39 (Change in the Facilities)</p> <p>(b) any occurrence of Force Majeure as provided in GCC Clause 37 (Force Majeure), unforeseen conditions as provided in GCC Clause 35 (Unforeseen Conditions), or other occurrence of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clause 32.2</p> <p>(c) any suspension order given by the Employer under GCC Clause 41 (Suspension) hereof or reduction in the rate of progress pursuant to GCC Sub-Clause 41.2 or</p>

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	<p>(d) any changes in laws and regulations as provided in GCC Clause 36 (Change in Laws and Regulations) or</p> <p>(e) any default or breach of the Contract by the Employer, specifically including failure to supply the items listed in Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement, or any activity, act or omission of any other contractors employed by the Employer or failure to give possession of site under GCC Clause 10.2.</p> <p>(f) any other matter specifically mentioned in the Contract;</p> <p>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.</p>
40.2	<p>Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Employer and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Employer's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to the Expert Settlement Council (ESC), pursuant to GCC Sub-Clause 6.2.</p>
40.3	<p>The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.</p> <p>The Bank Guarantee and Insurance Charges for the extended period on account of delays attributable to the Employer shall be reimbursed at the following rates:</p> <p style="margin-left: 40px;">Rate applicable for BG Charges : 0.25% p.a. + GST, or actual, whichever is lower, subject to documentary evidence.</p> <p>Rate applicable for Insurance Charges:</p> <p>(I) Basic Rates* (in INR)</p> <p>(i) Extension upto 6 months may be granted on "Pro-Rata + 20%" basis of the original premium</p> <p>(ii) Extensions exceeding 6 months but not exceeding 9 months: 0.56 per thousand of Sum Insured</p> <p>(iii) Extensions exceeding 9 months but not exceeding 12 months: 0.64 per thousand of Sum Insured</p> <p>(iv) Extensions exceeding 12 months but not exceeding 15 months: 0.72 per thousand of Sum Insured</p>

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	(v)	Extensions exceeding 15 months but not exceeding 18 months: 0.80 per thousand of Sum Insured												
	(vi)	Extensions exceeding 18 months but not exceeding 21 months: 0.88 per thousand of Sum Insured												
	(vii)	Extensions exceeding 21 months but not exceeding 24 months: 0.96 per thousand of Sum Insured												
	(viii)	Extensions exceeding 24 months but not exceeding 30 months: 1.04 per thousand of Sum Insured												
	(ix)	Extensions exceeding 30 months but not exceeding 36 months: 1.12 per thousand of Sum Insured												
	(x)	Extensions exceeding 36 months but not exceeding 42 months: 1.20 per thousand of Sum Insured												
	(xi)	Extensions exceeding 42 months but not exceeding 48 months: 1.28 per thousand of Sum Insured												
	(xii)	Extensions exceeding 48 months: insurance charges shall be mutually agreed with the contractor.												
	(II) Additional Cover*													
		In addition to above the rate of premium applicable for 'Earthquake' and 'Terrorism' cover shall be as under:												
		(Rates in INR)												
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 60%;">Earthquake Zone-I</td> <td style="width: 5%; text-align: center;">:</td> <td style="width: 35%;">1.00 per thousand of Sum Insured / Annum</td> </tr> <tr> <td>Earthquake Zone-II</td> <td style="text-align: center;">:</td> <td>0.50 per thousand of Sum Insured / Annum</td> </tr> <tr> <td>Earthquake Zone-III & IV</td> <td style="text-align: center;">:</td> <td>NIL</td> </tr> <tr> <td>Terrorism</td> <td style="text-align: center;">:</td> <td>0.30 per thousand of Sum Insured / Annum</td> </tr> </tbody> </table>	Earthquake Zone-I	:	1.00 per thousand of Sum Insured / Annum	Earthquake Zone-II	:	0.50 per thousand of Sum Insured / Annum	Earthquake Zone-III & IV	:	NIL	Terrorism	:	0.30 per thousand of Sum Insured / Annum
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		<u>*Notes:</u>												
		(i) <i>These rates are applicable for standard deductibles.</i>												
		(ii) <i>The extension shall be done on the same terms and conditions as that of the original policy.</i>												
		(iii) <i>The extension referred herein shall be the extension of insurance policy period and insurance charges shall be calculated as under: Say, extension is of 12 months, then insurance charges shall be reimbursed @ Rs 0.64 per thousand of Sum Insured; if extension is for 24 months then insurance charges shall be reimbursed @ Rs 0.96 per thousand of Sum Insured; and so on.</i>												

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	<p><i>(iv) The Insurance charges shall be reimbursable on the rates as above or actual, whichever is lower, subject to the documentary evidence.</i></p>
40.4	<p>Documents for Consideration of Time Extension</p> <p>The following documents shall form the principal basis for consideration of Time Extension pursuant to GCC clause 40 with or without LD, levy of liquidated damages pursuant to GCC clause 26 and settlement of extra claims during the execution of contract:</p> <ol style="list-style-type: none"> 1. The joint recordings in the weekly meetings register 2. Records of Technical Coordination Meetings. 3. Records of Contract Review meetings. 4. Written notices issued by the "Project Manager" or his authorized representative to Contractor in the relevant period.
41. Suspension	
41.1	<p>The Employer/ Project Manager 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 Project Manager/ Employer.</p> <p>If, by virtue of a suspension order given by the Project Manager/Employer, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may give a notice to the Project Manager requiring that the Employer shall, within twenty-eight (28) days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC Clause 39 (Change in the Facilities), excluding the performance of the suspended obligations from the Contract.</p> <p>If the Employer fails to do so within such period, the Contractor may, by a further notice to the Project Manager, elect to treat the suspension, where it affects a part only of the Facilities, as a deletion of such part in accordance with GCC Clause 39 (Change in the Facilities) or, where it affects the whole of the Facilities, as termination of the Contract under GCC Sub-Clause 42.1 (Termination for Employer's Convenience).</p>
41.2	<p>If</p> <ol style="list-style-type: none"> (a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of such sum, requires approval of such invoice or

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	<p>supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, or fails to remedy the breach or take steps to remedy the breach within fourteen (14)days after receipt of the Contractor's notice or</p> <p>(b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas in accordance with GCC Sub-Clause 10.2, or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities;</p> <p>then the Contractor may by fourteen (14) days' notice to the Employer suspend performance of all or any of its obligations under the Contract, or reduce the rate of progress.</p>
41.3	<p>If the Contractor's performance of its obligations is suspended or the rate of progress is reduced pursuant to this GCC Clause 41, then the Time for Completion shall be extended in accordance with GCC Sub-Clause 40.1, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension or reduction shall be paid by the Employer to the Contractor in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Contractor's default or breach of the Contract.</p>
41.4	<p>During the period of suspension, the Contractor shall not remove from the Site any Plant and Equipment, any part of the Facilities or any Contractor's Equipment, without the prior written consent of the Employer.</p>
42. Termination	
42.1	<p>Termination for Employer's Convenience</p>
42.1.1	<p>The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 42.1.</p>
42.1.2	<p>Upon receipt of the notice of termination under GCC Sub-Clause 42.1.1, the Contractor shall either immediately or upon the date specified in the notice of termination</p> <p>(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</p> <p>(b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d)(ii) below</p>

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	<p>(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</p> <p>(d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 42.1.3, shall</p> <p style="padding-left: 40px;">(i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(iii) deliver to the Employer all non-proprietary drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.</p> <p>42.1.3 In the event of termination of the Contract under GCC Sub-Clause 42.1.1, the Employer shall pay to the Contractor the following amounts:</p> <p style="padding-left: 40px;">(a) the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination</p> <p style="padding-left: 40px;">(b) the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the Site and in the repatriation of the Contractor's and its Subcontractors' personnel</p> <p style="padding-left: 40px;">(c) any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges</p> <p style="padding-left: 40px;">(d) costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 42.1.2</p> <p style="padding-left: 40px;">(e) the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.</p> <p>42.2 Termination for Contractor's Default</p> <p>42.2.1 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</p>

Clause No.	GENERAL CONDITIONS OF CONTRACT (GCC)	
	<p>reasons therefor to the Contractor, referring to this GCC Sub-Clause 42.2:</p> <p>(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</p> <p>(b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 43 (Assignment).</p> <p>(c) if the Contractor, in the judgement of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.</p> <p>For the purpose of this Sub-Clause :</p> <p>"corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.</p> <p>"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.</p> <p>42.2.2 If the Contractor</p> <p>(a) has abandoned or repudiated the Contract</p> <p>(b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 41.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed</p> <p>(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</p> <p>(d) refuses or is unable to provide sufficient materials, services or labour to execute and complete the Facilities in the manner specified in the program furnished under GCC Clause 18 (Program of Performance) at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended</p> <p>then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the</p>	
<p>DCRTPP YAMUNA NAGAR (2X300 MW) FLUE GAS DESULPHURISATION (FGD) SYSTEM PACKAGE BID DOCUMENT NO. 32/CE/PLG/DCRTPP/FGD-251</p>	<p>SECTION –IV (GCC)</p>	<p>Page 62 of 68</p>

Clause No.	GENERAL CONDITIONS OF CONTRACT (GCC)
	<p>Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 42.2.</p> <p>42.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 42.2.1 or 42.2.2, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,</p> <ul style="list-style-type: none"> (a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below (c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination (d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Works and to the Plant and Equipment as at the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors (e) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities. <p>42.2.4 The Employer may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third party. The Employer may, to the exclusion of any right of the Contractor over the same, take over and use with the payment of a fair rental rate to the Contractor, with all the maintenance costs to the account of the Employer and with an indemnification by the Employer for all liability including damage or injury to persons arising out of the Employer's use of such equipment, any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the Employer considers expedient for the supply and installation of the Facilities.</p> <p>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.</p> <p>42.2.5 Subject to GCC Sub-Clause 42.2.6, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities</p>

Clause No.	GENERAL CONDITIONS OF CONTRACT (GCC)
	<p>executed as at the date of termination, the value of any unused or partially used Plant and Equipment on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 42.2.3. Any sums due to the Employer from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.</p>
42.2.6	<p>If the Employer completes the Facilities, the cost of completing the Facilities by the Employer shall be determined.</p> <p>If the sum that the Contractor is entitled to be paid, pursuant to GCC Sub-Clause 42.2.5, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price, the Contractor shall be liable for such excess.</p> <p>If such excess is greater than the sums due to the Contractor under GCC Sub-Clause 42.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due to the Contractor under GCC Sub-Clause 42.2.5, the Employer shall pay the balance to the Contractor.</p> <p>The Employer and the Contractor shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.</p>
42.3	<p>Termination by Contractor</p>
42.3.1	<p>If</p> <ul style="list-style-type: none"> (a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to Appendix 1 (Terms and Procedures of Payment) of the Contract Agreement, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of such sum, requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor's notice, or (b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities which the Employer is required to obtain as per provision of the Contract or as per relevant applicable laws of the country,

Clause No.	GENERAL CONDITIONS OF CONTRACT (GCC)
	<p>then the Contractor may give a notice to the Employer thereof, and if the Employer has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Contractor is still unable to carry out any of its obligations under the Contract for any reason attributable to the Employer within twenty-eight (28) days of the said notice, the Contractor may by a further notice to the Employer referring to this GCC Sub-Clause 42.3.1, forthwith terminate the Contract.</p> <p>42.3.2 The Contractor may terminate the Contract forthwith by giving a notice to the Employer to that effect, referring to this GCC Sub-Clause 42.3.2, if the Employer becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Employer takes or suffers any other analogous action in consequence of debt.</p> <p>42.3.3 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, then the Contractor shall immediately</p> <ul style="list-style-type: none"> (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Facilities already executed, or any work required 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) (c) remove all Contractor's Equipment from the Site and repatriate the Contractor's and its Subcontractor's personnel from the Site (d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 42.3.4, shall <ul style="list-style-type: none"> (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination (ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors (iii) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities. <p>42.3.4 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, the Employer shall pay to the Contractor all payments</p>

Clause No.	GENERAL CONDITIONS OF CONTRACT (GCC)
	<p>specified in GCC Sub-Clause 42.1.3 and reasonable compensation for all loss or damage sustained by the Contractor arising out of, in connection with or in consequence of such termination.</p> <p>42.3.5 Termination by the Contractor pursuant to this GCC Sub-Clause 42.3 is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights conferred by GCC Sub-Clause 42.3.</p> <p>42.4 In this GCC Clause 42, the expression “Facilities executed” shall include all work executed, Installation Services provided, any or all Plant and Equipment acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.</p> <p>42.5 In this GCC Clause 42, in calculating any monies due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement.</p>
43. Assignment	
43.1	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 thereunder, except that the Contractor shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.
44. Contractor Performance Feedback and Evaluation System	
	<p>The Employer has in place an established 'Contractor Performance and Feedback System' against which the Contractor's performance during the execution of Contract shall be evaluated on a continuous basis at regular intervals. In case the performance of the Contractor is found unsatisfactory on any of the following four parameters, the Contractor shall be considered ineligible for participating in future tenders for two years.</p> <ul style="list-style-type: none"> * Financial Status * Project Execution and Project Management Capability. * Engineering & QA Capability * Claims & Disputes <p>On completion of above ineligibility period, the Contractor would be required to submit a request to EMPLOYER for participating in future tenders specifying the measures taken to improve their performance. On receipt of such request, the performance of contractor shall be assessed/ re-evaluated by EMPLOYER and if the performance is found to be satisfactory, the Contractor shall be considered eligible for participation in future tenders.</p>

45. Fraud Prevention Policy

"The contractor along with their associate / collaborator / subcontractors / sub-vendors / consultants / service providers shall strictly adhere to the Fraud Prevention policy of the Employer displayed on its website. The Contractor along with their associate / collaborator / subcontractors / sub-vendors / consultants / service providers shall observe the highest standard of ethics and shall not indulge or allow anybody else working in their organization to indulge in fraudulent activities during execution of the contract. The contractor shall immediately apprise the Employer about any fraud or suspected fraud as soon as it comes to their notice.

46. Withholding/Banning

The Employer has in place a Policy for withholding and Banning of Business Dealings as enclosed at Annexure-II to Special Conditions of Contract (SCC) of the Bidding Documents. Business dealings may be withheld or banned with the Contractor on account of any Default by the Contractor under GCC Clause 42.2.1 & 42.2.2 or any of the grounds as detailed in the said Banning Policy.

47. Black listing of firms

As the Purchase Order becomes a valid contract between the purchaser and the supplier on the date of its issue, no further changes in the terms and conditions thereof are permissible and any request received in this regard from the supplier should be summarily rejected, making it clear to supply the goods strictly in accordance with the terms and conditions of the contract. It should be noted that such a liability can be enforced on the supplier only if the Purchase Order does not contain any term or condition contrary to what had been quoted in the supplier's tender. Once this ensured, any attempt by the supplier to back out of his commitment should be taken as serious and his earnest money deposited be forfeited forthwith, without prejudice to any further legal remedies open to the Corporation under the relevant laws. Where necessary, the case of supplier illegally backing out of the commitment, should also be put up to the Whole Time Directors for consideration and to decide for black-listing of the firm and recovery of damages, if any.

In case of minor punishment, the Project SPC is empowered to take the decision.

Further, the reasons for blacklisting of the firm should be appropriately recorded in detail

Any punitive action as imposing minor punishment or blacklisting shall be taken only after opportunity of personal hearing has been granted to the concerned supplier, as per the principles of natural justice.

The terms & conditions not specified in the document shall be governed by "HPGCL Works & Purchase Regulations 2015" which are available on the HPGCL website i.e. www.hpgcl.org.in

48. Performance Bank Guarantee

Firm shall furnish a Performance Bank Guarantee to HPGCL on prescribed format of HPGCL for an amount of 10% of contract value

Clause No.	GENERAL CONDITIONS OF CONTRACT (GCC)
49.	<p>Obligation of Firm</p> <p>(Total of First, Second and Third contracts, as applicable) from any of the scheduled nationalized banks acceptable to HPGCL. The performance Bank Guarantee shall remain in force beyond three months after the successful completion of defect liability of the contract period or till the settlement of dispute covered under the Risk Purchase Clause whichever is later. The contract Performance Bank Guarantee furnished by firm is irrevocable, non-transferable & unconditional and HPGCL shall have the right to invoke it notwithstanding any dispute or difference between firm and HPGCL pending before any court tribunal, arbitrator or any other authority</p> <p>The firm shall abide by all general regulations enforced at site and to any special conditions notified by the local administration and / or issued by Chief Engineer of respective Power Plants.</p> <p>The firm shall be fully responsible for the conduct of its employees. Any act of misbehavior / man-handling / theft on part of the firm's employees shall be reckoned as breach of contract.</p>
50.	Not used
51.	Not used
52.	<p>No Claim for interest or damage</p> <p>52.1 Interest on money due to the contractor:</p> <p>No omission on the part of the Employer to pay the amount due upon measurement or otherwise shall vitiate or make void the contract, nor shall the contractor be entitled to interest upon any guarantee/security/retention money or payments in arrears nor upon any balance which may on the final settlement of his account be due to him.</p> <p>52.2 No claim for interest or damage:</p> <p>No claim for interest or damage will be entertained or be payable by the Employer in respect of any amount or balance which may be lying with the Employer or may become due upon settlement/adjudication of any dispute, difference or misunderstanding between the parties by way of arbitration or court proceedings or otherwise or in respect of any delay or omission on the part of the Employer in making intermediate or final payment or in respect of any amount/damage which may be claimed through arbitration or court proceedings or in any other respect whatsoever</p>

HARYANA POWER GENERATION CORPORATION LIMITED



BIDDING DOCUMENTS

FOR

**FLUE GAS DESULPHURISATION (FGD) SYSTEM
PACKAGE**

FOR

DCRTPP YAMUNA NAGAR (2X300 MW)

SECTION – V

SPECIAL CONDITIONS OF CONTRACT (SCC)

BIDDING DOCUMENT NO. : 32/CE/PLG/DCRTPP/FGD-251

(This document is meant for the exclusive purpose of bidding against this Bid Document No. / Specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued).

SECTION - V

SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Wherever 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.

Name of Package: Flue Gas Desulphurisation (FGD) System Package for DCRTPP Yamuna Nagar (2X300 MW).

IFB Nos. :

Bid Document No. : 32/CE/PLG/DCRTPP/FGD-251

Special Conditions (SCC) No.	GCC Clause Ref., if any	Special Conditions
1.	Definitions (GCC Clause 1)	<p>The Employer is :</p> <p>Name of Employer : Haryana Power Generation Corporation Limited.</p> <p>Address of Employer: Chief Engineer/Planning HPGCL, C-7, Shakti Bhawan, Sector-6, Panchkula, Haryana</p> <p>Email: ceplg@hpgcl.org.in</p> <p>The Project Manager is :</p> <p>The Chief Engineer/DCRTPP, HPGCL, DCRTPP, Yamuna Nagar-135004 Phone no. 01732-238100 Fax No. 01732-238501 E-mail id: cedcrtp@hpgcl.org.in</p>
2.	Interpretation (GCC Clause 3) GCC 3.10	Joint Venture or Consortium of two or more firms are as per QR.
3	Time for Commencement and Completion (GCC Clause 8) GCC 8.2	<p>Time for Completion:</p> <p>Completion of facilities for first Unit and common facilities shall be attained within 30 months from the date of Notification of Award. The activities specific to subsequent Unit shall be phased at an interval of 3 months, except for engineering activities which shall be completed along with the first unit.</p>
4.	Completion Time Guarantee (GCC Clause 26) GCC 26.2	<p>a) Liquidated Damages for delay in successful Completion of Facilities shall be as under:</p> <p>If the contractor fails to achieve the successful Completion of Facilities within the agreed work schedule, the Contractor shall pay to the Employer as liquidated damages and not as penalty, a sum calculated at the following rates:</p> <p>One percent (1%) of the contract value (excluding cost of mandatory spares) for each week of delay or part thereof.</p>

Special Conditions (SCC) No.	GCC Clause Ref., if any	Special Conditions
		<p>b) The liquidated damages for delay in supply of spares beyond the dates stipulated under the Contract shall be as follows:</p> <p>One percent (1%) of Ex-works (India) price of undelivered spares, per week or part thereof of delay subject to maximum of Ten percent (10%) of the total Ex-works of all spares included in the scope of work of the contractor under the contract.</p> <p>(c) The total amount of liquidated damages for delay under the contract will be subject to a maximum of Ten percent (10%) of the total Contract Price [total of First / Second Contract & Third Contract (as applicable)].</p>
5	Performance Guarantee Test & Operation Acceptance (GCC Clause 25)	The Performance Guarantee Test of the Facilities shall be successfully completed within 12 months from the date of completion.
6	GCC Clause 13.3.3	The provisions regarding reduction in Performance Security(ies) is not applicable

ANNEXURE-I TO SPECIAL CONDITIONS OF CONTRACT

**LIST OF BANKS ACCEPTABLE FOR SUBMISSION OF BANK
GUARANTEES FOR ADVANCE PAYMENTS, PERFORMANCE SECURITIES
AND SECURITIES FOR DEED OF JOINT UNDERTAKING**

SCHEDULED COMMERCIAL BANKS

A STATE BANK OF INDIA

B NATIONALISED BANKS

1. Allahabad Bank
2. Andhra Bank
3. Bank of India
4. Bank of Maharashtra
5. Canara Bank
6. Central Bank of India
7. Corporation Bank
8. Dena Bank
9. Indian Bank
10. Indian Overseas Bank
11. Oriental Bank of Commerce
12. Punjab National Bank
13. Punjab & Sind Bank
14. Syndicate Bank
15. Union Bank of India
16. United Bank of India
17. UCO Bank
18. Vijaya Bank
19. Bank of Baroda

ANNEXURE-I TO SPECIAL CONDITIONS OF CONTRACT

C SCHEDULED PRIVATE BANKS (INDIAN BANKS)

1. Catholic Syrian Bank
2. City Union Bank
3. Dhanlaxmi Bank Ltd.
4. Federal Bank Ltd
5. Jammu & Kashmir Bank Ltd
6. Karnataka Bank Ltd
7. Karur Vysya Bank Ltd
8. Lakshmi Vilas Bank Ltd
9. Nainital Bank Ltd
10. Kotak Mahindra Bank
11. RBL Bank Limited
12. South Indian Bank Ltd
13. Tamilnad Mercantile Bank Ltd
14. ING Vysya Bank Ltd
15. Axis Bank Ltd.
16. IndusInd Bank Ltd
17. ICICI Bank
18. HDFC Bank Ltd.
19. DCB Bank Ltd
20. Yes Bank Ltd
21. IDFC Bank Limited
22. Bandhan Bank Limited

D SCHEDULED PRIVATE BANKS (FOREIGN BANKS)

1. Abu Dhabi Commercial Bank PJSC

ANNEXURE-I TO SPECIAL CONDITIONS OF CONTRACT

2. Bank of America NA
3. Bank of Bahrain & Kuwait B.S.C.
4. Mashreq Bank p.s.c.
5. Bank of Nova Scotia
6. Crédit Agricole Corporate and Investment Bank
7. BNP Paribas
8. Barclays Bank
9. Citi Bank N.A.
10. Deutsche Bank A.G.
11. The HongKong Shanghai Banking Corporation Ltd
12. Societe Generale
13. Sonali Bank Ltd.
14. Standard Chartered Bank
15. J.P. Morgan Chase Bank, National Association
16. State Bank of Mauritius Ltd.
17. DBS Bank Ltd.
18. Bank of Ceylon
19. PT Bank Maybank Indonesia TBK
20. A B Bank
21. Shinhan Bank.
22. CTBC Bank Co. Ltd.
23. Mizuho Bank Ltd
24. Krung Thai Bank Public Company Ltd.
25. The Bank of Tokyo-Mitsubishi UFJ Limited.
26. Austalia & Newzealand Banking Group Limited

ANNEXURE-I TO SPECIAL CONDITIONS OF CONTRACT

27. Sumitomo Mitsui Banking Corporation
28. American Express Banking Corporation
29. Credit Suisse A.G.
30. FirstRand Bank Ltd.
31. Industrial & Commercial Bank of China Ltd.
32. JSC VTB Bank
33. National Australia Bank
34. Cooperatieve Rabobank U.A.
35. Sberbank
36. United Overseas Bank Ltd.
37. Westpac Banking Corporation
38. Woori Bank
39. The Royal Bank of Scotland plc
40. Doha Bank Qsc
41. Industrial Bank of Korea
42. KEB Hana Bank
43. First Abu Dhabi Bank PJSC
44. Emirates NBD Bank (P.J.S.C)
45. Qatar National Bank SAQ

E OTHER PUBLIC SECTOR BANKS

1. IDBI Bank Ltd

*In case, Bank Guarantee is getting issued from State Bank of India, Bidder to take note of NTPC letter ref. NTPC/FC/CS/BG/01 dated 03.09.2014 and SBI letter ref. CAG-I/AMT-1/2014-15/370 dated 04.09.2014 attached herewith.

*Note - Any Addition/ Deletion/ Modification in Bank list shall be as per changes in Second Schedule List by RBI from time to time.