



BOKARO POWER SUPPLY CO. (P) LTD.

A JOINT VENTURE COMPANY OF SAIL & DVC

HALL NO:- M-01, OLD ADMINISTRATIVE BUILDING,
ISPAT BHAVAN, BOKARO STEEL CITY - 827001

CIN:U40300DL2001PTC112074

Reg. Office : Ispat Bhawan, Lodhi Road, New Delhi - 110 003

INTERNATIONAL COMPETITIVE BIDDING (ICB) BIDDING DOCUMENTS

FOR

**Renovation & Modernization of Steam Generator / Boiler and
Auxiliaries Package on EPC basis of any one (01) unit of
BPSCL Boiler Unit # 1 to 5 (220 TPH)**

**BID SPECIFICATION NO.: BPSCL/CEO/P&C/16-17/C-084/NIT-592/3670
Dated 14.07.2016**

VOLUME – I COMMERCIAL SPECIFICATIONS

CONSULTANTS

steag

STEAG ENERGY SERVICES (INDIA) PVT LIMITED

(A wholly owned subsidiary of Steag Energy Services GmbH, Germany)

A-29 & 30, SECTOR-16, NOIDA

UP– 201 301, India

JULY 2016

GENERAL INDEX

SECTION – I	3
INVITATION FOR BIDS	5
BID DATA SHEET	8
SPECIAL CONDITIONS OF CONTRACT	14
INTEGRITY PACT	17
GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS	23
GUIDELINES ON BANNING OF BUSINESS DEALINGS	24
SECTION – II	31
INSTRUCTIONS TO BIDDERS (ITB)	32
GENERAL CONDITIONS OF CONTRACT	111
SAFETY CODE FOR CONTRACTORS	185

SECTION – I

- **Invitation for Bids (IFB)**
- **Bid Data Sheet (BDS)**
- **Special Conditions of Contract (SCC)**
- **Integrity Pact**
- **Guidelines for Indian Agents of Foreign Suppliers**
- **Guidelines on Banning of Business Dealings**



BOKARO POWER SUPPLY CO. (P) LTD

TABLE OF CONTENTS

INVITATION FOR BIDS	5
BID DATA SHEET	8
SPECIAL CONDITIONS OF CONTRACT	14
INTEGRITY PACT	17
GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS	23
GUIDELINES ON BANNING OF BUSINESS DEALINGS	24
1.0 Introduction	26
2.0 Scope	26
3.0 Definitions	26
4.0 Initiation of Banning / Suspension	27
5.0 Suspension of Business Dealings	27
6.0 Ground on which Banning of Business Dealings can be initiated	28
7.0 Banning of Business Dealings	29
8.0 Removal from List of Approved Agencies - Suppliers / Contractors, etc.	29
9.0 Show-cause Notice	29
10.0 Appeal against the Decision of the Competent Authority	30
11.0 Review of the Decision by the Competent Authority	30
12.0 Circulation of the names of Agencies with whom Business Dealings have been banned	30



PROJECT NO.: **ETRM012**

PROJECT NAME: **BPSCL UNIT 1
TO 5 BOILER (220 TPH)**

PACKAGE / SYSTEM:
COMMERCIAL

INVITATION FOR BIDS

INVITATION FOR BIDS (IFB)

BOKARO POWER SUPPLY CO. (P) LTD, invites sealed bids from eligible / prequalified Bidders for the **“Renovation & Modernization of Steam Generator / Boiler and Auxiliaries Package on EPC basis of any one (01) unit of BPSCL Boiler Unit # 1 to 5 (220 TPH)”** on Divisible Turnkey Contract basis.

1.0 Introduction

- 1.1 Bokaro Power Supply Company Pvt. Ltd. (BPSCL) established in 2001 a Joint Venture Company of Steel Authority of India Ltd.(SAIL) and Damodar Valley Corporation (DVC) and is engaged in power and steam generation and supplies power and steam (at various pressures) to SAIL's Bokaro Steel Plant (BSL) located at Bokaro, Jharkhand for meeting the process requirement of BSL.
- 1.2 It is envisaged that Bokaro Power Supply Co. (P) Ltd. to be the modern plant in terms of efficiency, technology, state-of-the-art design features, highest quality complying/ conforming to the applicable international standards, codes, best industry practices etc, in all its materials, equipments, process design, quality, workmanship and execution. Ensuring adequate protection to the equipments, components, each system, unit, plant and ensuring safety to the personnel shall be integral part of the design.
- 1.3 After successful commissioning and trial run for six (06) months, extensive R&M of another Boiler may be initiated, if BPSCL management desires.

2.0 Interested Bidders may obtain further information from the office of

DGM (P&C),

Bokaro Power Supply Company (P) Ltd.,

Hall No. – M 01, Old Administrative Building,

ISPAT Bhawan, Bokaro Steel City – 827001, Jharkhand.

Landline No.- +91 6542 240380, Telefax: +91 6542 247062

E-mail: purchase.bpscl@gmail.com

3.0 Bidder may download the bidding documents from website at ***www.bpscl.in*** and submit the bid along with cost of bidding documents.

4.0 Salient features of the Bid:

Tender No.	BPSCL/CEO/P&C/C-084/NIT-592/3670 dt.14.07.2016
Description	Renovation & Modernization of Steam Generator / Boiler and Auxiliaries Package on EPC basis of any one (01) unit of BPSCL Boiler Unit # 1 to 5 (220 TPH)
Cost of Bidding Document (Non Refundable and Not Exempted)	INR 15,000.00 (Rupees Fifteen Thousand) Only / Equivalent USD/EURO
Site Visit & Pre- Bid Conference	Date: 11.08.2016 & 12.08.2016 Time: 11.30 Hrs. (IST) Place: Power Plant site, Bokaro Steel City (Queries to be submitted on or before 04.08.2016)
Tender Submission	02.09.2016 by 13.00 Hrs. IST
Place of Submission of Bid	Hall No. – M 01, Old Administrative Building, ISPAT Bhawan, Bokaro Steel City – 827001,

	Jharkhand, India
Opening of Tender	02.09.2016 by 15.00 Hrs. IST
Bid Security	INR 3.5 Million (Rupees Three point Five Million) only / Equivalent USD/EURO
Time For Completion	Twelve (12) months
Validity of Bid	180 days from the date of tender opening

5.0 The tender document consists of:

Section – I:

- i) Invitation for Bid (IFB)
- ii) Bid Data Sheet (BDS)
- iii) Special Conditions of Contract (SCC)
- iv) Technical Specification no. ETRM012-1-M-TS-001 (Section-A, B and C).
- v) General Technical Specifications (GTS)

Section – II:

- vi) Instruction to Bidders (ITB)
- vii) Form of Contract Agreement
- viii) General Conditions of Contract (GCC)
- ix) Safety code for Contractors

6.0 The bid will consist of three parts as follows:

Part-I - Cost of tender document, Bid Security (along with Integrity pact)

Part-II - Eligibility Criteria Fulfillment & Techno-Commercial Bid (**Hard Copy**)

Part-III - **Online Price Bid**

7.0 Bids must be accompanied by the bid security in the following forms:

- a) a Bank Draft / Pay Order or
- b) a Bank Guarantee from scheduled bank in the form provided in the bidding documents

Signature:_____

Name & Title of the:_____

Authorized Person:_____

Employer:_____

Seal:



PROJECT NO.: **ETRM012**

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PACKAGE / SYSTEM:
COMMERCIAL

BID DATA SHEET

BID DATA SHEET (BDS)

The following bid-specific data for the Facilities including plant and equipment to be procured, installed & commissioned, shall amend and / or supplement the provisions in the Invitation for Bids (IFB) and Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in the IFB and ITB.

[The notes in italics provide instructions for completing the Bid Data Sheet for the relevant ITB clauses.]

Name of Facilities	Renovation & Modernization of Steam Generator / Boiler and Auxiliaries Package on EPC basis of any one (01) unit of BPSCL Boiler Unit # 1 to 5 (220 TPH)
Name of Employer	BOKARO POWER SUPPLY COMPANY (P) LTD.
Employer Details	BOKARO POWER SUPPLY COMPANY (P) LTD. Hall No. – M 01, Old Administrative Building, ISPAT Bhawan, Bokaro Steel City, Jharkhand – 827001, India. Telephone No.: +91 6542 240380 FAX No.: +91 6542 247062 E-mail: purchase.bpscl@gmail.com
Name of Consultant	STEAG Energy Services (India) Pvt. Ltd.
Language of Bid ITB 7.1	English
Eligibility / Qualification requirement for Bidders ITB 8.3 (b) 7 (c)	<p>The Bid is open for participation to the Bidders who fulfill the following qualification requirements.</p> <p>1.0 Financial Capability:</p> <p>1.1 Tenderer / Consortium (combined) should have Minimum Average Annual Turnover (MAT) of INR 741.75 million or equivalent amount in USD / Euro.</p> <p>1.1.1 Average annual turnover shall be determined taking into consideration turnover of available preceding three consecutive financial years. Other income shall not be considered for arriving at annual turnover.</p> <p>1.1.2 Audited annual accounts along with auditor's report of the bidder should be furnished in support of the same. Where audited annual account is not mandatory as per the law, the bidder has to submit annual financial turnover during the consecutive last three (03) years, ending 31st March of the previous financial year duly certified by CA.</p> <p>1.1.3 Solvency certificate from Banks is to be submitted by the bidder / consortium (combined) for INR 741.75 million or equivalent amount in US Dollar / Euro. Moreover, solvency certificate submitted by any of the members of the consortium shall not be less than INR 74.175 million or equivalent amount in USD / Euro.</p> <p>2.0 Technical Capability:</p> <p>2.1 The bidder should have successfully designed, manufactured,</p>

	<p>supplied, erected, commissioned and performance tested as Contractor / Subcontractor / Engineering, Procurement and Construction (EPC) or Turnkey Management and Construction (TMC) Contractor of Steam Generator / Boiler of unit capacity of 220 TPH or above during the last 07 (Seven) years ending last day of month previous to the one in which offer are invited.</p> <p>2.2 All the units executed by the Bidder as per Clause 2.1 above shall have been in successful commercial operation for a period of not less than two (2) years after commissioning of the same.</p> <p>2.3 The bidder shall have manufacturing base in India, except in case of OEM of the Boiler, M/s Krasny Kotelshik (Russia).</p> <p>2.4 The bidder must submit Customer Certificate / documentary evidence duly signed by authorized signatory in support of Clause 2.1 and 2.2.</p> <p>3.0 Consortium Conditions:</p> <p>3.1 Bidder may quote as a consortium of not more than three members. The consortium members should individually or collectively fulfill the requirements of Clause 2.1 and 2.2 and shall furnish along with the Bid an agreement in prescribed format jointly executed by them for successful performance of the Steam Generator / Boiler and Auxiliaries.</p> <p>3.2 In case one of the members of the consortium is Steam Generator / Boiler manufacturer / collaborator, the consortium shall also furnish a deed of joint undertaking duly signed by the manufacturer / collaborator and other members of the consortium in the prescribed format.</p> <p>3.3 All other terms and conditions for participation in the tender as a consortium shall be as per Clause 8.3 (b) and Annexure - 4 of ITB of SBD.</p> <p>3.4 Each member of the Consortium shall furnish Audited Statement of Accounts, Auditors Report and the Directors' Report for the last three consecutive financial years along with the Bid.</p> <p>3.5 The average annual turnover of any of the members of the consortium should not be less than INR 74.175 million or equivalent amount in USD / Euro during the preceding three consecutive financial years as on the date of Bid submission. The bidder(s) must submit the Audited Financial statements in support of this.</p> <p>4.0 Other Conditions:</p> <p>4.1 The Bidder has to submit authenticated documentary evidence of all above along with the tender.</p> <p>4.2 Notwithstanding anything stated above, BPSCL reserves the right to assess the bidder's capability and capacity to perform, should the circumstances warrant such assessment in the overall interest of BPSCL.</p>
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	<p>4.3 The Original documents are to be produced on demand.</p> <p>4.4 Rates will be finalized through Reverse Auction among techno commercially acceptable bidders through our authorized service provider i.e. M/s. Mjunction Service Ltd.. The bidders have to submit their acceptance for the same.</p> <p>4.5 The Bidder shall provide satisfactory evidence that he and / or, wherever applicable, the consortium members:</p> <p>a) have adequate 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 to meet the requirements appropriate to the works covered in the Technical Specifications. The details of alternative arrangements to be organized by the Bidder for this purpose and which shall meet the Owner's requirement as per scope.</p> <p>b) have an adequate field service organization to provide necessary field erection and management services required to successfully erect, test and commission the equipment / system.</p> <p>c) has established quality assurance systems and organization designed to achieve high levels of equipments / system reliability, both during manufacturing and / or fabrication and field installation activities.</p> <p>d) has an established project management organization covering the areas related to engineering of equipment / systems, interface engineering, procurement of equipments required for successful construction, installation, testing and commissioning of all the equipments and systems covered in the scope of work.</p>
Bids on licensing arrangement ITB 8.3 (b) - (ix) Attachment-2, Bidder's eligibility	<p>Not acceptable.</p> <p>[Where bids on licensing arrangement are acceptable, the Employer shall specify clearly indicating the specific requirements, if any.]</p>
Spares ITB 8.3 (c) (ii)	List of O&M Spares required for operation of 2 years following completion of the Facilities
Alternative Bids ITB 8.3 (f)	<p>Acceptable / not acceptable</p> <p>[Delete the inapplicable option.]</p> <p>[Where alternative bids are acceptable, the Employer shall specify clearly indicating the specific requirements, if any.]</p>
Bid Currencies	In addition to Indian Rupees, the Bidders may use any freely convertible foreign currency.
Amount of Bid Security ITB 11.1	<p>As mentioned above.</p> <p>[This amount shall be the same as that indicated in IFB.]</p>
Bid Validity Period ITB 12.1	Bid shall be valid for 180 days from Bid opening date

Copies ITB 13.1, 17.2 (a)	Original and five (5) along with soft copy in CD
Bid Submission ITB 14.2, 15.1	Address of Employer for bid submission Bokaro Power Supply Co. (P) Ltd. Hall no.- M01, Old ADM Building, Ispat Bhawan, Bokaro Steel City -827 001 Jharkhand (India) Deadline for bid submission 02.09.2016 at 13:00 Hrs.
Bid Opening ITB 14.2 (b) & 18.1	Bids shall be opened at 15:00 hrs on 02.09.2016 in the Office of the Employer at Bokaro Power Supply Co. (P) Ltd. Hall no.- M01, Old ADM Building, Ispat Bhawan, Bokaro Steel City – 827001 Jharkhand (India)
Deviations in Bid ITB 20.3	Generally no deviation is acceptable against the tender documents. <i>(Name of the clauses against which no deviations are acceptable, should be specified clearly. If any Bidder does not comply with this provision its bid shall be considered as non-responsive and rejected.)</i>
Technical evaluation of bid	As per TS The following additional criteria will be used in the evaluation in the manner stated there under: <i>(Optional)</i>
Conversion to single currency ITB 26.2	Currency chosen for the purpose of converting to a common currency shall be local currency, i.e. Rupees (INR). Source of exchange rate: <i>[As the common currency shall be the local currency, exchange TT Selling rates observed by the Reserve Bank of India (RBI) and notified by the State Bank of India (SBI), will be used for converting prices quoted in foreign currencies.]</i> Date of exchange rate: The closing TT Selling rate of exchange on the previous working day of the date of opening of Price bid / RA date shall be considered.
Price bid evaluation ITB 25.3	The following criteria will be used in the evaluation in the manner stated below: i) The taxes & duties, which are to be borne and paid by the Employer, shall be considered on the quoted price for imported supplies & services for the purpose of price evaluation as follows. Basic custom duty (BCD) at the prevalent rate on Assessable value on (FOB price + Ocean freight + Marine insurance + Landing charges) Countervailing duty (CVD) including applicable cess at prevailing rate on (Assessable value + BCD) Applicable cess at prevailing rate on BCD & CVD Additional Duty of Custom (ADC) at prevailing rate on (Assessable value + BCD + CVD + applicable cess) Income tax including surcharge & Applicable cess to be on grossed up value as per the double taxation avoidance agreement or 10.5575% as per Income Tax Act, whichever is lower.

	<p>Service tax including Applicable cess on the value of services. Landing Charges are 1% of (FOB + Ocean Freight + Marine Insurance)</p> <p>Note:</p> <ul style="list-style-type: none"> a) Bidders to indicate the value of supplies on which Entry Tax are to be borne by them and not required to be loaded for the evaluation of their Price, failing which Entry Tax will be loaded for the full value of Supplies. (For the states where Entry Tax is applicable) b) The price evaluation will be done on the basis of "Net of CENVAT". The CENVAT will constitute the CVD, ADC and the amount of CENVAT credit on indigenous supplies.
Time Schedule ITB 25.5 (b)	<p>Time to complete the facilities from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of pre-commissioning activities.</p> <p><i>[The completion time specified shall be for the entire facilities.]</i></p>
Performance Guarantees ITB 25.5 (c)	The Bidder shall quote his price conforming to the Performance Guarantee Parameters and the acceptable limits as specified in the Technical Specifications.
Additional details on the evaluation ITB 25.5 (e)	Additional details, as appropriate, on the evaluation method or reference to the Technical Specifications <i>(Optional)</i>
Amount of Performance Security (Performance Bank Guarantee) ITB 33.1	Performance Security amount shall be five percent (5%) of the Total Contract price in Rupees or any other freely convertible foreign currency.
Surrounding Value of Project to be Insured GCC Clause 36.1.11	The surrounding value for insurance purposes shall be considered as Rs..... (Indian Rupees) as per GCC Clause 36.1.11
Integrity Pact ITB 8.3(b) Attachment 7	Integrity pact to be signed : Yes
Mobilization Advance	Yes / No <i>(if yes, details including mode of recovery to be indicated in IFB)</i>



PROJECT NO.: **ETRM012**

PROJECT NAME: **BPSCL UNIT 1
TO 5 BOILER (220 TPH)**

PACKAGE / SYSTEM:
COMMERCIAL

SPECIAL CONDITIONS OF CONTRACT

SPECIAL CONDITIONS OF CONTRACT (SCC)

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

1.0 Definitions [GCC Clause 1]

1.1 Employer

BOKARO POWER SUPPLY COMPANY (P) LTD.
HALL NO. – M 01, OLD ADMINISTRATIVE BUILDING,
ISPAT BHAWAN, BOKARO STEEL CITY, JHARKHAND – 827001, INDIA.
Telephone: +91 6542 240380
Telefax No.: +91 6542 247062
E-mail: purchase.bpscl@gmail.com

1.2 Engineer

Name: Mr. A Nayek & Mr. G. Mondal
Bokaro Power Supply Company (P) Ltd.,
Hall No. – M 01, Old Administrative Building,
ISPAT Bhawan, Bokaro Steel City, Jharkhand – 827001, India.
Telefax no.: +91 6542 247062
E-mail: purchase.bpscl@gmail.com

1.3 Contractor

M/s
Address:
.....
.....
Telephone No.:
E-mail:
FAX No.:

1.4 Consultant

M/s STEAG Energy Services (India) Pvt. Ltd.,
A-29 & 30, Sector – 16,
NOIDA – 201301, India.
Telephone No.: +91 120 4625 029
E-mail: m.mohan@steag.in
FAX No.: +91 120 4625 100

2.0 Notices [GCC Clause 4]

2.1 Employer's Address for Notice purposes [Reference GCC Sub-Clause 4.1]

BOKARO POWER SUPPLY COMPANY (P) LTD.
HALL NO. – M 01, OLD ADMINISTRATIVE BUILDING,

ISPAT BHAWAN, BOKARO STEEL CITY, JHARKHAND – 827001, INDIA.

Telephone No.: +91 6542 240380

Telefax No.: +91 6542 247062

E-mail: purchase.bpscl@gmail.com

2.2 Contractor's Address for Notice purposes [Reference GCC Sub-Clause 4.1]

M/s

Address:

.....

.....

Telephone No.:

E-mail:

FAX No.:

3.0 Transportation by Wagons [Reference GCC Clause 21.4.2]

The destination for consignments to be dispatched by wagons by the Contractor shall be as under:

Bokaro Steel Plant (BSCS) (*Name of the Railway Station where site is situated*)

4.0 Mobilization Advance

(Details of providing Mobilization Advance including mode of recovery to be given, if applicable)



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PACKAGE / SYSTEM:
COMMERCIAL

INTEGRITY PACT

INTEGRITY PACT

- 1.0 The Bidder(s) / Contractor (s) is required to enter into an “Integrity Pact” (Format provided in FORMAT 20) with the Principal, i.e., BPSCL. The Integrity Pact has to be signed by the Competent Authority. Failure to return the Integrity Pact along with the offer / bid, duly signed by the authority as mentioned above, will disqualify the offer / bid.
- 2.0 The Bidder(s) / Contractor(s), if aggrieved, may raise complaints / pass on information, if any, to the Competent Authority / Operating Authority of the Tender / Contract or to the Chief Vigilance Officer (CVO), DVC, Kolkata.

FORMAT FOR INTEGRITY PACT

INTEGRITY PACT

Between

Bokaro Power Supply Company (P) Ltd. (BPSCL) hereinafter referred to as “The Principal”,

And

..... hereinafter referred to as “The Bidder / Contractor”

Preamble

The Principal intends to award, under laid down organizational procedures, contracts for..... The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness / transparency in its relations with its Bidder(s) and / or Contractor(s).

Section 1 – Commitments of the Principal

The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

- a) No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
- b) The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
- c) The Principal will exclude from the process all known prejudiced persons.

If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC / PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

Section 2 – Commitments of the Bidder(s) / contractor(s)

1. The Bidder(s) / Contractor(s) commit themselves to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
 - a) The Bidder(s) / Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
 - b) The Bidder(s) / Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
 - c) The Bidder(s) / Contractor(s) will not commit any offence under the relevant IPC / PC Act; further the Bidder(s) / Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - d) The Bidder(s) / Contractors(s) of foreign origin shall disclose the name and address of the Agents / representatives in India, if any. Similarly the Bidder(s) / Contractors(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s) / Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent / representative have to be in Indian Rupees only. Copy of the "Guidelines for Indian Agents of Foreign Suppliers" is placed at page no. 20 – 21.
 - e) The Bidder(s) / Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
2. The Bidder(s) / Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

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

If the Bidder(s) / Contractor(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s) / Contractor(s) from the tender process.

Section 4 – Compensation for Damages

1. If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit / Bid Security.
2. If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

Section 5 – Previous transgression

1. The Bidder declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the tender process.
2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process.

Section 6 – Equal treatment of all Bidders / Contractors / Subcontractors

1. The Bidder(s) / Contractor(s) undertake(s) to demand from his subcontractors a commitment in conformity with this Integrity Pact.
2. The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.
3. The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

Section 7 – Criminal charges against violating Bidder(s) / Contractor(s) / Subcontractor(s)

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

Section 8 – Pact Duration

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

If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by Chief Executive Officer (CEO) of BPSCL.

Section 9 – Other provisions

1. This agreement is subject to Indian Law. Place of performance and jurisdiction is Ranchi, India.
2. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
3. If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
4. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
5. In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the Integrity Pact will prevail."



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PACKAGE / SYSTEM:
COMMERCIAL

(For & on behalf of the Principal)

(For & on behalf of Bidder / Contractor)

(Office Seal)

(Office Seal)

Witness 1:

(Name & Address)

Witness 1:

(Name & Address)



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PACKAGE / SYSTEM:
COMMERCIAL

GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS

GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS

- 1.0 There shall be compulsory registration of agents for all Global (Open) Tender and Limited Tender. An agent who is not registered with **BPSCL** shall apply for registration in the prescribed Application – Form.
 - 1.1 Registered agents will file an authenticated Photostat copy duly attested by a Notary Public / Original Certificate of the principal confirming the agency agreement and giving the status being enjoyed by the agent and the commission / remuneration / salary / retainership being paid by the principal to the agent before the placement of order by **BPSCL**.
 - 1.2 Wherever the Indian representatives have communicated on behalf of their principals and the foreign parties have stated that they are not paying any commission to the Indian agents, and the Indian representative is working on the basis of salary or as retainer, a written declaration to this effect should be submitted by the party (i.e. Principal) before finalizing the order.
- 2.0 **DISCLOSURE OF PARTICULARS OF AGENTS / REPRESENTATIVES IN INDIA, IF ANY**
 - 2.1 Tenderers of Foreign nationality shall furnish the following details in their offer:
 - 2.1.1 The name and address of the agents / representatives in India, if any and the extent of authorization and authority given to commit the Principals. In case the agent / representative is a foreign Company, it shall be confirmed whether it is real substantial Company and details of the same shall be furnished.
 - 2.1.2 The amount of commission / remuneration included in the quoted price(s) for such agents / representatives in India.
 - 2.1.3 Confirmation of the Tenderer that the commission / remuneration if any, payable to his agents / representatives in India, may be paid by BPSCL in Indian Rupees only.
 - 2.2 Tenderers of Indian Nationality shall furnish the following details in their offers:
 - 2.2.1 The name and address of the foreign principals indicating their nationality as well as their status, i.e., whether manufacturer or agents of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to tender either directly or through the agents / representatives.
 - 2.2.2 The amount of commission / remuneration included in the price(s) quoted by the Tenderer for himself.
 - 2.2.3 Confirmation of the foreign principals of the Tenderer that the commission / remuneration, if any, reserved for the Tenderer in the quoted price(s), may be paid by **BPSCL** in India in equivalent Indian Rupees on satisfactory completion of the Project or supplies of Stores and Spares in case of operation items.
 - 2.3 In either case, in the event of contract materializing, the terms of payment will provide for payment of the commission / remuneration, if any payable to the agents / representatives in India in Indian Rupees on expiry of 90 days after the discharge of the obligations under the contract.
 - 2.4 Failure to furnish correct and detailed information as called for in paragraph-2.0 above will render the concerned tender liable to rejection or in the event of a contract materializing, the same liable to termination by **BPSCL**. Besides this, there would be a penalty of banning business dealings with BPSCL or damage or payment of a named sum.

GUIDELINES ON BANNING OF BUSINESS DEALINGS

GUIDELINES ON BANNING OF BUSINESS DEALINGS

TABLE OF CONTENTS

1.0	Introduction	26
2.0	Scope	26
3.0	Definitions	26
4.0	Initiation of Banning / Suspension	27
5.0	Suspension of Business Dealings	27
6.0	Ground on which Banning of Business Dealings can be initiated	28
7.0	Banning of Business Dealings	29
8.0	Removal from List of Approved Agencies - Suppliers / Contractors, etc.	29
9.0	Show-cause Notice	29
10.0	Appeal against the Decision of the Competent Authority	30
11.0	Review of the Decision by the Competent Authority	30
12.0	Circulation of the names of Agencies with whom Business Dealings have been banned	30

GUIDELINES ON BANNING OF BUSINESS DEALINGS

1.0 Introduction

- 1.1 BOKARO POWER SUPPLY CO. (P) LTD (BPSCL), being a Joint Venture Company of Steel Authority of India Ltd. and Damodar Valley Corporation and 'State', within the meaning of Article 12 of Constitution of India, has to ensure preservation of rights enshrined in Chapter III of the Constitution. BPSCL has also to safeguard its commercial interests. BPSCL deals with *Agencies*, who have very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of BPSCL to deal with *Agencies* who commit deception, fraud or other misconduct in the execution of contracts awarded / orders issued to them. In order to ensure compliance with the constitutional mandate, it is incumbent on BPSCL to observe principles of natural justice before banning the business dealings with any *Agency*.
- 1.2 Since banning of business dealings involves civil consequences for an *Agency* concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

2.0 Scope

- 2.1 The General Conditions of Contract (GCC) of BPSCL generally provide that **BPSCL** reserves its rights to remove from list of approved suppliers / contractors or to ban business dealings if any *Agency* has been found to have committed misconduct and also to suspend business dealings pending investigation. If such provision does not exist in any GCC, the same may be incorporated.
- 2.2 Similarly, in case of sale of material there is a clause to deal with the *Agencies* / customers / buyers, who indulge in lifting of material in unauthorized manner. If a situation does not exist in any Sale Order, the same may be incorporated.
- 2.3 However, absence of such a clause does not in any way restrict the right of Company (BPSCL) to take action / decision under these guidelines in appropriate cases.
- 2.4 The procedure of (i) Removal of *Agency* from the List of approved suppliers / contractors; (ii) Suspension and (iii) Banning of Business Dealing with *Agencies*, has been laid down in these guidelines.
- 2.5 It is clarified that these guidelines do not deal with the decision of the Management not to entertain any particular *Agency* due to its poor / inadequate performance or for any other reason.
- 2.6 The banning shall be with prospective effect, i.e., future business dealings.

3.0 Definitions

In these Guidelines, unless the context otherwise requires:

- i) '*Party / Contractor / Supplier / Purchaser / Customer / Bidder / Tenderer*' shall mean and include a public limited company or a private limited company, a firm whether registered or not, an individual, a cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. '*Party / Contractor / Supplier / Purchaser / Customer / Bidder / Tenderer*' in the context of these guidelines is indicated as '*Agency*'.
- ii) '*Inter-connected Agency*' shall mean two or more companies having any of the following

features:

- a) If one is a subsidiary of the other.
- b) If the Director(s), Partner(s), Manager(s) or Representative(s) are common;
- c) If management is common;
- d) If one owns or controls the other in any manner;
- iii) '*Competent Authority*' and '*Appellate Authority*' shall mean the following:
Any officer not below the rank of General Manager / Deputy General Manager appointed or nominated by the Chief Executive Officer (CEO) shall be the '*Competent Authority*' for the purpose of these guidelines. The Chief Executive Officer shall be the '*Appellate Authority*' in all such cases.
 - a) Chairman, BPSCL shall have overall power to take suo-moto action on any information available or received by him and pass such order(s) as he may think appropriate, including modifying the order(s) passed by any authority under these guidelines.
- iv) '*Investigating Department*' shall mean any Department or Unit investigating into the conduct of the Agency and shall include the Vigilance Department, Central Bureau of Investigation, the State Police or any other department setup by the Central or State Government having powers to investigate.
- v) '*List of Approved Agencies – Parties / Contractors / Suppliers / Purchasers / Customers / Bidders / Tenderers*' shall mean and include list of approved / registered Agencies – Parties / Contractors / Suppliers / Purchasers / Customers / **Bidders / Tenderers**, etc.

4.0 Initiation of Banning / Suspension

Action for banning / suspension of business dealings with any Agency should be initiated by the department having business dealings with them after noticing the irregularities or misconduct on their part. Besides the concerned department, Vigilance Department of Plant / Unit may also be competent to advise such action.

5.0 Suspension of Business Dealings

- 5.1 If the conduct of any Agency dealing with BPSCL is under investigation by the standing committee, the Competent Authority may consider whether the allegations under investigation are of a serious nature and whether pending investigation, it would be advisable to continue business dealing with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the standing committee, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order to this effect may indicate a brief of the charges under investigation. If it is decided that inter-connected Agencies would also come within the ambit of the order of suspension, the same should be specifically stated in the order. The order of suspension would operate for a period not more than six months and may be communicated to the Agency as also to the standing committee. The standing committee may ensure that their investigation is completed and whole process of final order is over within such period.
- 5.2 The order of suspension shall be communicated to all Sectional Heads. During the period of suspension, no business dealing may be held with the Agency.
- 5.3 As far as possible, the existing contract(s) with the Agency may continue unless the Competent Authority, having regard to the circumstances of the case, decides otherwise.

- 5.4 If the gravity of the misconduct under investigation is very serious and it would not be in the interest of BPSCL, as a whole, to deal with such an Agency pending investigation, the Competent Authority may send his recommendation to Chief Vigilance Officer (CVO) along with the material available. If CVO considers that depending upon the gravity of the misconduct, it would not be desirable for BPSCL to have any dealings with the Agency concerned, an order suspending business dealings may be issued by the Competent Authority, copy of which may be endorsed to the Agency concerned. Such an order would operate for a period of six months from the date of issue.
- 5.5 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.
- 5.6 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension. However, if investigations are not complete in six months' time, the Competent Authority may extend the period of suspension by another three months, during which period the investigations must be completed.

6.0 Ground on which Banning of Business Dealings can be initiated

- 6.1 If the security consideration, including questions of loyalty of the Agency to the State, so warrants;
- 6.2 If the Director / Owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises or BPSCL, during the last five years;
- 6.3 If there is strong justification for believing that the Directors, Proprietors, Partners, owner of the Agency have been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolations, etc.;
- 6.4 If the Agency continuously refuses to return / refund the dues of BPSCL without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in arbitration or Court of Law;
- 6.5 If the Agency employs a public servant dismissed / removed or employs a person convicted for an offence involving corruption or abetment of such offence;
- 6.6 If business dealings with the Agency have been banned by the Govt. or any other public sector enterprise;
- 6.7 If the Agency has resorted to corrupt, fraudulent practices including misrepresentation of facts **and / or fudging / forging / tampering documents**;
- 6.8 If the Agency uses intimidation / threatening or brings undue outside pressure on the Company (BPSCL) or its official in acceptance / performances of the job under the contract;
- 6.9 If the Agency indulges in repeated and / or deliberate use of delay tactics in complying with contractual stipulations;
- 6.10 Willful indulgence by the Agency in supplying sub-standard material irrespective of whether pre-dispatch inspection was carried out by BPSCL or not;
- 6.11 Based on the findings of the investigation report of CBI / Police against the Agency for malafide / unlawful acts or improper conduct on his part in matters relating to the Company (BPSCL) or even otherwise;
- 6.12 Established litigant nature of the Agency to derive undue benefit;

- 6.13 Continued poor performance of the Agency in several contracts;
- 6.14 If the Agency misuses the premises or facilities of the BPSCL, forcefully occupies, tampers or damages the BPSCL's properties including land, water resources, forests / trees, etc.
- (Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason).

7.0 Banning of Business Dealings

- 7.1 There will be a Standing Committee to be appointed by Chief Executive Officer for processing the cases of "Banning of Business Dealings".
- The functions of the committee shall, inter-alia include:
- To recommend for issue of show-cause notice to the Agency by the concerned department.
 - To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
 - To submit final recommendation to the Competent Authority for banning or otherwise.
- 7.2 If the Competent Authority is prima-facie of view that action for banning business dealings with the Agency is called for, a show-cause notice may be issued to the Agency as per paragraph 9.1 and an enquiry held accordingly.

8.0 Removal from List of Approved Agencies - Suppliers / Contractors, etc.

- 8.1 If the Competent Authority decides that the charge against the Agency is of a minor nature, it may issue a show-cause notice as to why the name of the Agency should not be removed from the list of approved Agencies- Suppliers / Contractors, etc.
- 8.2 The effect of such an order would be that the Agency would not be disqualified from competing in Open Tender Enquiries but LTE may not be given to the Agency concerned.
- 8.3 Past performance of the Agency may be taken into account while processing for approval of the Competent Authority for awarding the contract.

9.0 Show-cause Notice

- 9.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice has to be issued to the Agency. Statement containing the imputation of misconduct or misbehavior may be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statement in its defense.
- 9.2 If the Agency requests for inspection of any relevant document in possession of BPSCL, necessary facility for inspection of documents may be provided.
- 9.3 The Competent Authority may consider and pass an appropriate speaking order:
- For exonerating the Agency if the charges are not established;
 - For removing the Agency from the list of approved Suppliers / Contractors, etc.
 - For banning the business dealing with the Agency.
- 9.4 If it decides to ban business dealings, the period for which the ban would be operative may be mentioned. The order may also mention that the ban would extend to the interconnected Agencies of the Agency.

10.0 Appeal against the Decision of the Competent Authority

- 10.1 The Agency may file an appeal against the order of the Competent Authority banning business dealing, etc. The appeal shall lie to Appellate Authority. Such an appeal shall be preferred within one month from the date of receipt of the order banning business dealing, etc.
- 10.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.

11.0 Review of the Decision by the Competent Authority

Any petition / application filed by the Agency concerning the review of the banning order passed originally by Competent Authority under the existing guidelines either before or after filing of appeal before the Appellate Authority or after disposal of appeal by the Appellate Authority, the review petition can be decided by the Chief Executive Officer / Competent Authority upon disclosure of new facts/circumstances or subsequent development necessitating such review. The Competent Authority may refer the same petition to the Standing Committee for examination and recommendation.

12.0 Circulation of the names of Agencies with whom Business Dealings have been banned

- 12.1 Depending upon the gravity of misconduct established, the Competent Authority may circulate the names of Agency with whom business dealings have been banned, to the Government Departments, other Public Sector Enterprises, etc. for such action as they deem appropriate.
- 12.2 If Government Departments or a Public Sector Enterprise request for more information about the Agency with whom business dealings have been banned, a copy of the report of Enquiring Authority together with a copy of the order of the Competent Authority / Appellate Authority may be supplied.
- 12.3 If business dealings with any Agency have been banned by the Central or State Government or any other Public Sector Enterprise, BPSCL may, without any further enquiry or investigation, issue an order banning business dealing with the Agency and its inter-connected Agencies.

SECTION – II

- **Instructions to Bidders (ITB)**
- **Form of Contract Agreement with Appendices**
- **General Conditions of Contract (GCC) with Annexures**
- **Safety Code for Contractors**



BOKARO POWER SUPPLY CO. (P) LTD

INSTRUCTIONS TO BIDDERS (ITB)

INSTRUCTIONS TO BIDDERS (ITB)

TABLE OF CONTENTS

A. INTRODUCTION	35
1.0 Eligible Bidders	35
2.0 Facilities - Plant, Equipment & Services	35
3.0 Cost of Bidding	35
B. THE BIDDING DOCUMENTS	35
4.0 Content of Bidding Documents	35
5.0 Clarification of Bidding Documents	36
6.0 Amendment of Bidding Documents	37
C. PREPARATION OF BID	37
7.0 Language of Bid	37
8.0 Documents Comprising the Bid	37
9.0 Bid Form and Price Schedules	41
10.0 Bid Prices	41
11.0 Bid Security	42
12.0 Period of Validity of Bid	43
13.0 Format and Signing of Bid	43
D. SUBMISSION OF BIDS	43
14.0 Sealing and Marking of Bids	43
15.0 Deadline for Submission of Bids	44
16.0 Late Bids	44
17.0 Modification and Withdrawal of Bids	44
E. OPENING AND EVALUATION OF BIDS	44
18.0 Opening of Bids by Employer	44
19.0 Clarification of Bids	45
20.0 Techno-Commercial Evaluation of Bid	45
21.0 Techno-Commercial Evaluation of Bid - Review of Alternative Bids	46
22.0 Qualification	46
F. CLARIFICATION MEETING	46
23.0 Clarification of Bids and Review of Bidders' Proposed Deviations & Alternative Solutions	46
24.0 Updated Technical, Commercial and Price Bid	47
25.0 Price Bid Evaluation	47
26.0 Conversion to Single Currency	49

27.0	Contacting the Employer	49
G.	AWARD OF CONTRACT	49
28.0	Changes in Qualification Status	49
29.0	Award Criteria	49
30.0	Employer's Right to accept Any Bid and to reject Any or All Bids	49
31.0	Notification of Award	49
32.0	Signing of Contract Agreement	50
33.0	Performance Security (Performance Bank Guarantee)	50
34.0	Risk Purchase Action	50
35.0	Transfer of Bid Document	50
36.0	Funding by Bidder	50
37.0	General	50
38.0	Compliance with Company Law	51

INSTRUCTIONS TO BIDDERS (ITB)

A. INTRODUCTION

1.0 Eligible Bidders

- 1.1 This Invitation for Bids, issued by the Employer, is open to all the Bidders (Domestic, International or a consortium thereof) meeting the eligibility criteria stipulated in the Bid data Sheet.
- 1.2 Bidders (including all the members of their consortium) who are associated for this Tender with Consultant or any of its associates that have been engaged by the Employer to provide Consultancy Services for the preparation of design Specifications & other documents to be used for procurement of the Facilities to be purchased and installed under this Invitation are ineligible to bid for this tender.

Bidder (including all the members of their consortium) shall not directly or indirectly, take any service or assistance from the above referred Consultant for the above work, if he becomes successful Bidder.
- 1.3 The Employer's Consultant(s) for the Facilities shall not be eligible to submit their bid.

2.0 Facilities - Plant, Equipment & Services

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

3.0 Cost of Bidding

- 3.1 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.

B. THE BIDDING DOCUMENTS

4.0 Content of Bidding Documents

- 4.1 The facilities required, bidding procedures, Contract terms and technical requirements are prescribed in the Bidding Documents. The Bidding Documents include the following sections:
 - i) Invitation for Bids (IFB)
 - ii) Bid Data Sheet (BDS)
 - iii) Instructions to Bidders (ITB) and Annexure 1-6
 - Annexure-1: Bid Form
 - Annexure-2: Bid Security Bank Guarantee Form
 - Annexure-3: Guidelines for Indian Agents of Foreign Suppliers
 - Annexure-4: Consortium Agreement
 - Annexure-5: Undertaking by Licensor
 - Annexure-6: Check list for submission of Bid
 - iv) Form of Contract Agreement and Appendices 1-6

Appendix-1: Price Schedules

Appendix-2: Time Schedule

Appendix-3: Terms of Payment

Att.1 to Appendix 3: LC Format

Appendix-4: Price Adjustment due to Variation in Price Indices

Appendix-5: Performance Guarantees

Appendix-6: List of Approved Vendors

v) Special Conditions of Contract (SCC)

vi) General Conditions of Contract (GCC) & Annexure I-IX

Annexure I – Performance Bank Guarantee

Annexure II – Bank Guarantee for release of payment against Commissioning Certificate; Performance Guarantee Certificate; Final Acceptance Certificate

Annexure III - Performa for Custody cum Indemnity Bond

Annexure IV - Form of Preliminary Acceptance Certificate

Annexure V - Form of Commissioning Certificate

Annexure VI - Form of Performance Guarantee Certificate

Annexure VII - Form of Final Acceptance Certificate

Annexure VIII - Form of Change Order

Annexure IX - Bank Guarantee for Interim Advance

vii) Safety in Contract Works (as per IPSS: 1-11-011-01)

viii) Technical Specifications (TS)

ix) General Technical Specifications (GTS)

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

5.0 Clarification of Bidding Documents

5.1 The Bidder is required to carefully examine the Bidding Documents, terms & conditions of Form of Agreement, drawings and other details relating to work given in the Bidding Documents and fully acquaint himself as to all conditions and matters which may in any way affect the work or the cost thereof. Bidder is deemed to have known the scope, nature and magnitude of the work and the requirements of materials, labour involved, site conditions etc.

5.2 A prospective Bidder requiring any clarification of the Bidding Documents may notify the Employer in writing or by telefax or e-mail at the Employer's mailing address indicated in the **Bid Data Sheet**. In particular, if a Bidder desires to seek any clarification on the documents including those listed in **ITB Sub-Clause 20.2**, such a clarification should be raised at this stage. The Employer will respond in writing to any request for clarification or modification of the Bidding Documents that it receives no later than 7 (seven) days prior to the deadline for submission of bids prescribed by the Employer.

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

- 5.3 The prospective Bidder and any of its authorized personnel or representative will be granted permission by the Employer to enter upon its premises and lands for the purpose of inspection, but only upon the condition that the prospective Bidder, its personnel and representative will release and indemnify the Employer and its representatives from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of the inspection.
- 5.4 The Bidder shall be deemed to have acquainted itself of local / Government taxes, duties, laws, statute, regulations, levies and other charges relating to supplies to be made, services to be rendered and works to be done at site as applicable at the work site.
- 5.5 Any neglect or omission or failure on the part of the Bidder in obtaining necessary and reliable information or on any other matter affecting the Bidder, shall not relieve the Bidder from any risk or liability or the entire responsibility for completion of the work in accordance with the Bidding Documents.

6.0 Amendment of Bidding Documents

- 6.1 At any time, but latest 10 (ten) days prior to the deadline for submission of bids, the Employer may, for any reason, whether at its own initiative, or in response to a clarification requested by a prospective Bidder, amend the Bidding Documents.
- 6.2 Any amendment issued prior to submission of Bids would be put on the Employer's web site. All prospective Bidders would be presumed to have examined all amendments on the website & have submitted their bids accordingly.
- 6.3 In order to afford prospective Bidders reasonable time to take the amendment into account in preparing their bid, the Employer may, at its discretion, extend the deadline for the submission of bids. Notification of extension, if any, of the deadline for submission of bids, shall be put on the Employer's web-site also.

C. PREPARATION OF BID

7.0 Language of Bid

- 7.1 The bid prepared by the Bidder and all correspondence & documents related to the bid exchanged by the Bidder and the Employer, shall be written in the English language. Bid submitted in any other language is liable to be rejected. In case any printed literature furnished by the Bidder, is written in another language, it must be accompanied by a translation of its pertinent passages in the English language and for the purposes of interpretation of the bid, such translation shall govern.

8.0 Documents Comprising the Bid

- 8.1 The bid duly completed and signed by the Bidder together with Attachments identified in **ITB Sub-Clause 8.3** hereof, should be submitted and shall comprise the following documents in separate sealed covers:

Part-I: This part shall be marked as Part-I “Cost of Bidding Documents & Bid Security” and shall not contain any technical, commercial component or price at all.

Part-II: This part shall be marked as “Part-II: Technical Part & Commercial Part” containing documents for Eligibility Criteria Fulfillment & Techno-Commercial Bid (**Hard Copy**) along with system generated acknowledgement for online submission of “Sealed Price Bid” through [URL:http://www.buyjunction.in](http://www.buyjunction.in), However BPSCL reserves the right to finalize the case either through “On Line Price Bid” submitted or by obtaining the price through Reverse Auction, to be conducted by our service provider M/s mjunction, as deemed fit. **The process of submission of Online Line Price Bid is given at ANNEXURE – 1E.**

Integrity Pact must be filled in, signed and submitted with the techno-commercial bid without fail.

- 8.2 Bidders shall note that they are permitted to propose technical alternatives or other alternative bids with their bids in addition to or in lieu of the Scope of Facilities and requirements specified in the Bidding Documents, provided they can substantiate through document that the proposed alternative bids are to the benefit of the Employer, that they fulfill the principal objectives of the Tender, and that they meet the basic performance and technical criteria specified in the Bidding Documents.

Any alternative bid proposed by Bidder will be subject of discussions during the clarification meeting with the Bidder.

8.3 **Attachments to the Bid**

Each Bidder shall submit with its bid the following attachments:

a) **Attachment 1 :Power of Attorney**

**** to be attached with Part II (Commercial Part)***

A power of attorney, duly authenticated by a Notary Public, indicating that the person(s) signing the bid have the authority to sign the bid and thus that the bid is binding upon the Bidder during the full period of its validity, in accordance with **ITB Clause 12**.

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

b) **Attachment 2 :Bidder’s Eligibility & Qualifications**

**** to be attached with Part II in separate envelope***

Where pre-qualification is not done, documentary evidence established in accordance with **Bid Data Sheet** that the Bidder is eligible to bid and is qualified to perform the Contract if its bid is accepted.

Bids submitted by a consortium (not more than three parties) shall comply with the following requirements:

- i) The bid shall include all the information on eligibility / qualification and experience required for a Bidder as described in Bidding Documents including Attachment 2 as described above.
- ii) The bid shall be signed so as to be legally binding on all members.
- iii) The members of the Consortium shall nominate one member as the “Lead Member”, responsible for overall performance of the Contract. The nomination

shall be supported by a Memorandum of Agreement (MOA) and should be signed by all the legally authorized signatories of all members.

The leader shall be either the technology supplier or Member having maximum job or share of work in value terms.

- iv) The leader shall be authorized to incur liabilities and receive instructions and payment for and on behalf of any & all members of the consortium.

However, payments shall be released directly to consortium members provided the Leader of the consortium submits a general authorization document, authorizing the Employer to release payment to its consortium members directly.

- v) Leader of the consortium shall be overall responsible for the execution of the Contract. The Leader and other Members of the Consortium shall be jointly and severally liable for the execution of the Contract, but will be liable for damages in proportion of the respective Contract Price. Each Member shall have a price for his scope of work.

- vi) A copy of the Memorandum of Agreement (MoA) entered into by the consortium members prior to stipulated due date of submission of bids and valid till Time for Completion plus Defect Liability Period for the Facilities shall be submitted.

The MoA (as per Annexure-4) shall clearly outline the proposed roles & responsibilities of each member. Each member of consortium must have the experience for the component of the contract that they are designated to perform. Failure to comply with this requirement may result in rejection of the Consortium's bid.

- vii) Separate bid by a consortium member will not be accepted.

A party can be a member in only one consortium; bids submitted by such consortia which include the same party as member and / or leader will be rejected.

Bidders are not allowed to form new consortium (consortia) with other Bidders participating in the tender.

The composition or the constitution of the consortium, which have become eligible, may be permitted to alter only with the prior consent of the Employer in writing.

- viii) For the purpose of formation of consortium, a member shall be an independent and single legal entity as per laws of India or as per laws in the country of such member and should have its own independent financial accounting system as per laws of India or as per laws in the country of such member.

- ix) If a bid is acceptable from Bidders having in possession of Process Technology License from a Licensor and the same has been mentioned in **Bid Data Sheet**, in such an event, Bidder offers to supply and / or install the Facility on the basis of possession of License of Process Technology from the Licensor, then the Bidder shall also be required to submit along with the Bid **An Undertaking** from Licensor in regard to performance of Contract as per **Annexure-5**. In this case, the Bidder becoming successful shall also submit a **Deed of Joint Undertaking from the Licensor and Bidder** in regard to performance of the Contract.

- c) Attachment 3 : Eligibility and Conformity of the Facilities

*** to be attached with part II Technical Part**

Documentary evidence established in accordance with ITB **Clause 1** that the Facilities offered by the Bidder in its bid or in any alternative bid (if permitted) are eligible & conform to Bidding Documents.

The documentary evidence of the conformity of the Facilities to the Bidding Documents may be in the form of literature, drawings and data, and the Bidder shall furnish:

- i) a detailed description of the essential technical and performance characteristics of the Facilities,
- ii) a list giving full particulars, including available sources, of all spare parts, special tools, etc., necessary for the proper and continuing functioning of the Facilities for the period of two (2) years (or as specified in the Bid Data Sheet), following Completion of Facilities in accordance with the provisions of the Contract,
- iii) commentary on the Employer's Technical Specifications and adequate evidence demonstrating the substantial responsiveness of the Facilities to those specifications. Bidders shall note that the standards for workmanship, materials and equipment designated by the Employer in the Bidding Documents are intended to be descriptive (establishing standards of quality and performance) only and not restrictive.

The Bidder may substitute alternative standards, brand names and / or catalogue numbers in its bid, provided that it demonstrates to the Employer's satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Technical Specifications.

d) Attachment 4 : Vendors Proposed by the Bidder for Indian component

*** to be attached with part II Commercial Part**

The Bidder shall choose its Vendors from the approved list of Vendors as provided in **Appendix 6** to the Form of Contract Agreement, Bidding Documents, for all major items of supply or services. However, the Bidder shall indicate details of all such major items of supply or services that it proposes to purchase or sublet, and shall give details of the name and nationality of the Vendors for each of these items. Bidders are free to list more than one Vendor against each item of the Facilities.

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

The Employer reserves the right to reject or accept any or all the Vendors proposed by the Bidder, prior to award of Contract and after discussions with the Bidder during the clarification meeting between the Employer & the Bidder pursuant to ITB **Clause 23**. Accordingly **Appendix 6** to the Form of Contract Agreement shall be amended to include additional Vendors for any item, if accepted by the Employer.

e) Attachment 5 : Deviations

*** to be attached with part II Technical Part & Commercial Part**

Bidders are required to quote strictly as per Bidding Documents. However, if they strongly feel that some minor deviation will improve their bids, such deviations, if any, from the terms & conditions or Technical Specifications shall be listed in Attachment 5 (Technical & Commercial Deviation to be given separately) to the Bid only and nowhere else. The Bidder shall also provide the additional price, if any, for withdrawal of the deviations pursuant to ITB **Sub-Clause 10.2**.

Bidders shall give details of deviations, objections or reservations, other than alternative bids, from the requirements of the Bidding Documents, that they would

like the Employer to consider during the clarification meeting with the Bidder, pursuant to ITB **Clause 23**.

However, the attention of the Bidders is drawn to the provisions of ITB **Sub-Clause 20.1** regarding the rejection of bids that are not substantially responsive to the requirements of the Bidding Documents.

f) Attachment 6 : Alternative Bid

*** to be attached with part II Technical Part**

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

g) Attachment 7 : Integrity Pact (if applicable)

*** to be attached with part-II**

- i) If required for the Contract and provided in Bid Data Sheet, Bidders are required to unconditionally accept the Integrity Pact executed on Plain paper, which will be signed by the Employer (later on after receipt), and submit the same duly signed on all pages by the Bidder's authorized signatory along with Part-II of the Bid as per ITB Sub- clause 8.1. In case Bidder is a consortium, the signing of Integrity Pact by all the consortium members is mandatory. Bidder's failure to comply with aforesaid requirement regarding submission of Integrity Pact may lead to rejection of their Bid.
- ii) The Bidder(s) / Contractor(s), if feel aggrieved, may raise complaint/pass on, information, if any, to "The Competent Authority / Operating Authority of the Tender / Contract" or to "The Chief Vigilance Officer (CVO), BPSCL, DVC Towers, VIP Road, Kolkata - 700054".

9.0 Bid Form and Price Schedules

- 9.1 The Bidder shall complete the Bid Forms (**Annexure-1**) and appropriate Price Schedules furnished in the Bidding Documents in the manner and detail indicated therein and submit the same with its bid.

10.0 Bid Prices

- 10.1 Bidders shall quote for the entire facilities on a "single responsibility" basis such that the total bid price covers all the Contractor's obligations mentioned in or to be reasonably inferred from the bidding documents in respect of the design, manufacture, including procurement and sub-contracting (if any), delivery, construction, installation and completion of the facilities. This includes all requirements under the Contractor's responsibilities for testing, pre-commissioning and commissioning of the facilities and, where so required by the bidding documents, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and such other items and services as may be specified in the bidding documents. Items against which no price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other items.
- 10.2 Bidders are required to quote the price for the commercial and technical obligations outlined in the bidding documents. If a Bidder wishes to make a deviation, such deviation

shall be listed in Attachment 5 of its bid. The Bidder shall also provide in the Price Bid the additional price, if any, for withdrawal of the deviations pursuant to ITB **Sub-Clause 8.3 (e)**.

- 10.3 Bidders shall give a break-up of the prices, as may be applicable to their bids, in the manner and detail called for in the Summary Price Schedule and Tables furnished in Appendix-1 to the Form of Contract Agreement. In case of consortium, the Bidder shall give breakup of prices for each consortium member corresponding to work division to be undertaken by each member. For taxes and duties reference may be made to **Clause 14 of GCC**.

Bidder must clearly mention their Income Tax Permanent Account Number (PAN) and Bank Account Number in the offer.

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

- a) Plant & equipment, refractories and commissioning spares to be supplied from abroad and quoted in Foreign Currency shall be on "FOB" port of shipment basis. (Price basis shall be as per GCC sub-clause 11.2.5)
- b) Services to be provided from abroad and quoted in Foreign Currency shall be exclusive of all taxes & duties applicable in India except personal income tax of Foreign Experts (to be borne by the bidder). All taxes & duties payable outside India shall be included in the above price.
- c) Supplies & Services quoted in Indian Rupee shall be quoted on "at- Employer's site" basis and shall be inclusive of all costs as well as all taxes, duties, Levies & Charges paid or payable in India as on Base Date.
- d) Recommended spare parts shall be quoted separately as per **Table No. 3 of Appendix 1** to Contract Agreement by the successful bidder.
- e) The Bidder shall also provide the additional price, if any, for withdrawal of the deviations.
- f) Contract Price should not include any element of agency commission. However, if Overseas Bidder feels that the engagement of agent is necessary for attending to any work in India, the Overseas Bidder shall follow the "Guidelines for Indian Agents of Foreign Suppliers", enclosed as **Annexure 3** and furnish required details.

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

11.0 Bid Security

- 11.1 The Bidder shall furnish, as part of its bid, a bid security for the amount stipulated in the **Bid Data Sheet** in Indian Rupees, or in the equivalent amount in any freely convertible foreign currency.
- 11.2 The bid security shall, at the Bidder's option, be in the form of a Demand Draft / Banker's Cheque or Bank Guarantee issued from any Scheduled Commercial Bank, located anywhere in India. The format of the Bank Guarantee shall be in accordance with the form of bid security included in the Bidding Documents; other formats may be permitted, subject to the prior approval of the Employer. Bid security shall remain valid for a period of sixty (60) days beyond the original bid validity period, and beyond any extension subsequently requested under ITB **Sub-Clause 12.2**.

- 11.3 Any bid not accompanied by bid security of an amount stipulated in the **Bid Data Sheet**, shall be rejected by the Employer as being non-responsive. The Bid Security in the case of a consortium can be submitted by any member of the consortium.
- 11.4 The bid securities of unsuccessful Bidders will be returned as promptly as possible within 30 (thirty) days after opening of the Price Bid / rate finalisation through Reverse Auction.
- 11.5 The bid security of the successful Bidder will be returned when the Bidder has signed the Contract Agreement, pursuant to ITB **Clause 32**, and has furnished the required performance security (Performance Bank Guarantee), pursuant to ITB **Clause 33**.
- 11.6 The bid security shall be forfeited if the Bidder withdraws its bid during the period of bid validity specified by the Bidder or any other breach of the Bid.

12.0 Period of Validity of Bid

- 12.1 Bids shall remain valid for the period indicated in the **Bid Data Sheet**. A bid valid for a shorter period shall be rejected by the Employer as being non-responsive unless extended.
- 12.2 The Employer may solicit the Bidders' consent to an extension of the bid validity period. The request and responses thereto shall be made in writing. If a Bidder accepts to extend the period of validity, the bid security shall also be extended by the Bidder accordingly. A Bidder may refuse the request without forfeiting its bid security. A Bidder accepting such request shall not modify its bid on its own.

13.0 Format and Signing of Bid

- 13.1 The Bidder shall prepare an original and 05 (five) copies / sets of Part-I and Part- II of bids clearly marking each one as: "ORIGINAL-BID", "COPY No. 1", "COPY No. 2", etc., as appropriate. In the event of any discrepancy between the original and any copy, the original shall govern.
- 13.2 The original and all copies of the bid, each consisting of the documents listed in ITB **Clause 8**, shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the Contract. The letter of authorization shall be through power of attorney accompanying the Bid and submitted as Attachment 1 to the Bid under ITB **Sub-Clause 8.3 (a)**. All pages of the bid shall be signed by the person or persons signing the bid.
- 13.3 Any alteration, omission, addition, interlineations, erasures or overwriting shall only be valid if they are initialed by the person or persons signing the bid.
- 13.4 For Technical & Commercial deviation included in Part-II- Commercial Part of Bid, if any, Bidders shall submit soft copy of the same in MS Word Format in CD in sealed envelope with Part-II Commercial Part of the bid. However "Technical & Commercial deviation included in Part-II Commercial Part indicated in the hardcopy shall prevail"

D. SUBMISSION OF BIDS

14.0 Sealing and Marking of Bids

- 14.1 The Bidders shall seal the original Part – I (Cost of Bidding Document, Bid Security) and Part-II (Technical Part & Commercial Part, & Integrity Pact (if applicable); in separate envelopes) and copy of the bids in separate envelopes, each containing the documents specified in ITB **Clause 8**, and shall mark the envelopes as "Original" and "Copies," all duly marked as required in ITB **Sub-Clause 13.1**.
- 14.2 The envelopes shall

- a) be addressed to the Employer at the address given in the **Bid Data Sheet**, and
 - b) bear the Contract name indicated in the **Bid Data Sheet**, the Invitation for Bids title and number indicated in the **Bid Data Sheet**, and the statement “DO NOT OPEN BEFORE _____ (date),” to be completed with the time and date specified.
- 14.3 The envelopes shall each indicate the name and address of the Bidder so that the bid can be returned unopened in case it is declared “late or otherwise found not fit to be opened.”
- 14.4 If the outer envelope is not sealed and marked as required by ITB **Sub-Clause 14.1 & 14.2**, the Employer will assume no responsibility for the bid’s misplacement or premature opening.

15.0 Deadline for Submission of Bids

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

16.0 Late Bids

- 16.1 Any bid received by the Employer after the bid submission deadline prescribed by the Employer, pursuant to ITB **Clause 15**, will be rejected and returned.

17.0 Modification and Withdrawal of Bids

- 17.1 The Bidder may modify or withdraw its bid after submission, provided that written notice of the modification or withdrawal is received by the Employer prior to the deadline prescribed for bid submission.
- 17.2 The Bidder’s modifications specified in ITB **Sub-Clause 17.1**, shall be prepared, sealed, marked and dispatched as follows:
- a) The Bidders shall provide one original plus 4 (four) copies of any modifications to its bid, clearly identified as such, in two inner envelopes duly marked “Bid Modifications – Original” and “Bid Modifications – Copies.” The inner envelopes shall be sealed in an outer envelope, which shall be duly marked “Bid Modifications.”
 - b) Other provisions concerning the marking and dispatch of bid modifications shall be in accordance with ITB **Sub-Clauses 14.2, 14.3 & 14.4**.
- 17.3 A Bidder wishing to withdraw its bid shall notify the Employer in writing prior to the deadline prescribed for bid submission.
- 17.4 No bid shall be withdrawn in the interval between the bid submission deadline and the expiration of the bid validity period specified in ITB **Clause 12**. Withdrawal of a bid during this interval may result in the Bidder’s forfeiture of its bid security, pursuant to ITB **Sub-Clause 11.6**.
- 17.5 Bids together with any modification specified under the clause shall be considered as ‘final’ bid at the time of opening of the bid.

E. OPENING AND EVALUATION OF BIDS

18.0 Opening of Bids by Employer

- 18.1 The Employer may open both Part I and Part II, in the presence of Bidder's designated representatives who choose to attend on the date and the time and at the venue as stipulated in the Bidding Documents. However, Part II will be opened only for those Bidders who would have furnished Cost of bidding document, Bid Security as per stipulations of the IFB. Bidder's authorized representatives may attend the opening and shall sign a register / document prepared by the Employer, as proof of their attendance.
- 18.2 Bidders' names, bids received, the presence of any alternative bids, the presence or absence of requisite bid security and other such details as the Employer, at its discretion, may consider appropriate, will be announced at the opening. No bid will be rejected at bid opening except for bids not accompanied with bid security and late bids, which will not be opened.
- 18.3 Bids that are not opened and read out at bid opening will not be considered for further evaluation, regardless of the circumstances.

19.0 Clarification of Bids

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

Correspondences made through E-mail by the Bidder with the Employer shall be followed preferably by Post Copy.

20.0 Techno-Commercial Evaluation of Bid

- 20.1 The Employer will examine the bids to determine whether each bid is acceptable, documents have been signed, are complete and are 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.
- 20.2 In particular, bids with deviations from, objections to or reservations about critical provisions such as those concerning Bid Security (ITB **Clause 11**), Governing Law (GCC **Clause 5**), Arbitration (GCC **Sub-Clause 6.2**), Taxes and Duties (GCC **Clause 14**), Performance Guarantees (GCC **Clause 27**), Defect Liability (GCC **Clause 30**), Patent Indemnity (GCC **Clause 31**) or Limitation of Liability (GCC **Clause 32**), as well as provisions specified in the **Bid Data Sheet**, if any, that the Bidder is not prepared to withdraw aforesaid deviations, objections or reservations at a withdrawal price, will be treated as non-responsive.
- 20.3 In order to determine whether the technical & commercial aspects are in accordance with the requirements set forth in the Bidding Documents, the Employer will examine and compare the technical and commercial aspects of the bids on the basis of the information supplied by the Bidders, pursuant to **ITB Clause 8**, and other requirements in the Bidding Documents.

21.0 Techno-Commercial Evaluation of Bid - Review of Alternative Bids

- 21.1 The Employer will also review complete alternative bids, if any, offered by the Bidder, pursuant to **ITB Sub-Clause 8.2**, to determine whether such alternatives may constitute an acceptable basis for a further evaluation.

22.0 Qualification

- 22.1 The Employer will ascertain to its satisfaction whether Bidders determined as having submitted responsive bids are qualified to satisfactorily perform the Contract.
- 22.2 The determination will take into account the Bidder's financial, technical and production capabilities, in particular its Contract, work in hand, future commitments, current litigation, if any, and past performance. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, as well as such other information as the Employer deems necessary and appropriate. In case any specific adverse report is received against a Bidder, upon enquiry made by BPSCL, in respect of capabilities and performance of the Bidder, the bid of such Bidder is liable to be rejected.
- 22.3 Determination of eligibility may be done simultaneously with techno-commercial discussions / clarifications. However, affirmative determination of eligibility shall be pre-requisite for opening of On Line Price Bid / finalisation of price through Reverse Auction.
- 22.4 The capabilities of the Sub-Contractor or Vendors proposed in Attachment 4 (as per **ITB Sub-Clause 8.3 (d)**) to the bid will also be evaluated for acceptability. Their participation should be confirmed with a letter of intent between the parties, as needed. Should a Sub-Contractor or Vendor be determined to be unacceptable, the bid will not be rejected, but the Bidder will be required to substitute an acceptable Sub-Contractor / Vendor without any change to bid price.

F. CLARIFICATION MEETING

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

- 23.1 The Employer may conduct clarification meetings with each or any Bidder to clarify any aspects of its bid that require explanation at this stage of the evaluation. During these meetings, the Employer may bring to the attention of the Bidder any matters, technical or otherwise, where for whatever reason, it requires clarification / details about the bid, to be provided to the bid. All such amendments or changes required by the Employer will be listed in the "Record Notes of Discussions".
- 23.2 The Record Notes of Discussion will contain the exceptions or deviations in the bid that are unacceptable and that are to be withdrawn and of such exceptions or deviations that the Employer finds acceptable.
- 23.3 The Bidder shall submit the balance clarifications, confirmations, documentations, etc., as recorded in the Record Notes of Discussion within the time stipulated in the Record Notes of Discussion.
- 23.4 Taking into consideration, the Record Notes of Discussion and the clarifications submitted by Bidder pursuant to **Clause 23.3** above, the Employer will carry out further evaluation of the technical and commercial bid in the manner outlined in **Clause 20** hereof.
- 23.5 The Employer will also advise the Bidder whether the proposed alternative bid, if any, is acceptable, and will identify the degree (if any) to which such an alternative bid may be incorporated in the Bid.

23.6 After holding clarification meetings and at the end of evaluation, the Employer will either:

- i) advise the Bidder to confirm the validity of their original price bids, or
- ii) permit Bidder to submit updated price bid either as incremental / decremental price with respect to the original price bid or as revised price bid, in a sealed cover at a date informed to the Bidder by the Employer, or
Employer at its option can decide for opening of On Line sealed price bid or discover L-1 price through on-line Reverse Auction, even after calling of sealed price bid
Employer may not resort to reverse auction in case of limited response, suspicion of formation of cartel among bidders and other contingencies, or
- iii) invite a Bidder to submit an updated Technical (Part II), Commercial (Part II) and Price Bid on mj portal based on an alternative bid proposed by the Bidder in its bid with the modifications, if any, listed in the Record Notes of Discussion of the Clarification Meetings held with this Bidder, or
- iv) notify the Bidder that its Bid has been rejected on the grounds
 - a) the bid is not responsive
 - b) the Bidder does not meet the minimum eligibility requirements set forth in the bidding document
 - c) the Employer determines that the technical bid and / or alternative bid do not meet his requirements

24.0 Updated Technical, Commercial and Price Bid

- 24.1 In the event, the Employer invites updated bid, the updated Technical, Commercial and Price bid shall be signed, sealed and submitted in the same manner specified for original bids.
- 24.2 The deadline for submission of updated bids and the required validity thereof shall be specified.
- 24.3 The Employer will carry out the technical and commercial evaluation of the updated bid in the manner outlined in **Clause 20** hereof.

25.0 Price Bid Evaluation

- 25.1 The Employer shall inform and communicate the date, time and venue of opening of price bids, to the Bidders whose offers are found to be techno-commercially acceptable.
- 25.2 The Employer shall open the price bid of the Bidders, in the presence of designated representatives of the Bidders who choose to attend, at a date, time and venue communicated to the Bidders by the Employer.
- 25.3 The evaluation shall be done based on the summary price table. L-1 Bidder shall be required to submit detailed price tables within ten (10) days of request from the employer.
In case of a discrepancy between words and figures and / or arithmetic error in totaling, corrected arithmetic total will be considered.
If the Bidder does not accept the correction of errors, its bid will be rejected.
The comparison shall be "at Employer's site" price of the facilities. The Employer's evaluation will also include the costs resulting from application of the evaluation procedures described in ITB **Sub-Clause 25.5** and **Bid Data Sheet**.
- 25.4 The Employer's evaluation of a bid will take into account, in addition to the bid prices indicated in **Appendix-1**, the following costs and factors that will be added to each

Bidder's bid price in the evaluation, using pricing information available to the Employer, in the manner and to the extent indicated in ITB **Sub-Clause 25.5**.

- a) compliance with the time schedule called for in the Bidding Documents.
- b) the Performance Guarantees of the Facilities offered.
- c) the extra cost of work, services, Facilities, etc. required to be provided by the Employer or third parties.
- d) any other relevant factors listed in the **Bid Data Sheet** or in the invitation for the Updated bid, or factors that the Employer deems necessary or prudent to consider.

25.5 Pursuant to **ITB Sub-Clause 25.4**, the following evaluation methods will be followed:

a) Contractual and Commercial Deviations

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

b) Time Schedule (Program of Performance)

The Facilities shall be commissioned within the period mentioned in the **Bid Data Sheet**.

Bidders are required to base their prices on the Time Schedule given in the **Bid Data Sheet**. When the completion date offered by the Bidder is beyond the period specified, it shall be adjusted in the evaluation by adding a factor as specified in the **Bid Data Sheet** to the bid price.

c) Performance Guarantees of the Facilities

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

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

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

e) Specific Additional Criteria

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

- 25.6 The Employer at its own discretion shall have the right to open the initial original price bid submitted by the Bidder.
- 25.7 Any adjustments in price that result from the above procedures shall be added, for the purposes of comparative evaluation only, to arrive at the "Evaluated Bid Price." Bid prices quoted by Bidders shall remain unaltered.

26.0 Conversion to Single Currency

- 26.1 To facilitate evaluation and comparison, the Employer will convert all bid prices expressed in the amounts in various currencies in which the bid price is payable into Indian Rupees based on ITB **Clause 26.2** as supplemented in the **Bid Data Sheet**.
- 26.2 The local currency of the Employers' country, i.e. Indian Rupees (INR) shall be the common base currency for the purpose of evaluation, along with the source and date of exchange rate, as specified in **Bid Data Sheet**.

27.0 Contacting the Employer

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

G. AWARD OF CONTRACT

28.0 Changes in Qualification Status

- 28.1 Prior to proceeding with the award of Contract, if circumstances (in particular adverse report from other SAIL / DVC units), have arisen that would change the Employer's opinion as to whether the Bidder is still qualified to satisfactorily perform the Contract, then Employer may reject the bid.

29.0 Award Criteria

- 29.1 Subject to ITB **Clause 28 & 30**, 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.
- 29.2 Order will be placed in two parts: i) Purchase Order ii) Work Order
- 29.2.1 Purchase Order: As per our internal arrangement for availing CENVAT credit by BSL/SAIL, Purchase Order will be placed by BPSCL with consignee as "**DGM (Stores) / BSL on account BPSCL**" and the same should be written in the invoice of successful tenderer. All other activities will be carried out by BPSCL.

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

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

31.0 Notification of Award

- 31.1 Prior to the expiration of the period of Updated bid validity, the Employer will notify the successful Bidder in writing by registered letter or by telefax or scanned document through e-mail, that its Updated bid has been accepted. If the award is without

qualification / condition the notification of award will constitute the formation of the Contract. If the award is made with some qualification / condition, then upon the Bidder's acceptance of such qualification / condition the Contract will be constituted.

32.0 Signing of Contract Agreement

- 32.1 After the Employer notifies the successful Bidder that its bid has been accepted, the Employer to facilitate signing of contract within 30 days of Letter of Acceptance (LOA), shall provide the draft Contract agreement within 15 days of issue of (LOA).
- 32.2 Within 15 (fifteen) days from the date of receipt of the draft Contract Agreement by the Contractor, the Contract Agreement will be signed. In the case of a consortium becoming the Successful Bidder, all the members of the consortium shall be signatories to the Contract.
- 32.3 The Effective Date of Contract shall be the date of signing of Contract or 30 days from date of Letter of acceptance (LOA), whichever is earlier.

33.0 Performance Security (Performance Bank Guarantee)

- 33.1 Within 30 (thirty) days after the Effective Date of Contract as specified in Article-3 of Contract Agreement, the successful Bidder shall furnish the Performance Security (Performance Bank Guarantee) for the amount given in the **Bid Data Sheet**, and in the form provided in **Annexure – I to GCC** of the Bidding Documents. If the Successful Bidder is a consortium, the Performance Bank Guarantee shall be submitted by any member of the Consortium on behalf of the Consortium or by each individual member of the Consortium in proportion to the price for their respective scope of work as per the Contract.

34.0 Risk Purchase Action

- 34.1 Failure of the successful Bidder to comply with the requirements of **ITB Clause 32 or Clause 33** shall constitute sufficient grounds for the annulment of the award, forfeiture of the bid security and execution of facilities at the risk and cost of the successful bidder.

35.0 Transfer of Bid Document

- 35.1 Any Bidder not permitted to transfer the Bidding Documents to any other party for submitting bids on its behalf. Similarly transfer of bids submitted by one Bidder to another Bidder is not permissible.

36.0 Funding by Bidder

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

37.0 General

- 37.1 The Employer may conduct price negotiations, if required, with L-1 (i.e. lowest evaluated)

bidder only.

37.2 Purchase preference will be given to PSUs as per prevailing guidelines of the Government of India.

37.3 If at any point of time, it was found by the Employer that the bidder has furnished false information; the employer may reject the bid.

37.4 The bidder may download the bidding document from website mentioned in IFB. In case of any discrepancy, the hard copy of the bidding document shall prevail.

38.0 Compliance with Company Law

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

ANNEXURE-1

BID FORM
(ITB CLAUSE - 9)

Bidder's Ref. No. _____

Date: _____

To:

_____*[Name and address of Employer]**[Name of Facilities]*

Ref.: Your Tender no. _____

Dear Sir,

Having examined the bidding documents, including Addenda, the receipt of which is hereby acknowledged, we, the undersigned, offer the above-named Facilities in full conformity with the said bidding documents for the sum as mentioned in Price Bid or such other sums as may be determined in accordance with the terms and conditions of the Contract.

We further undertake, if invited to do so by you, and at our own cost, to attend a clarification meeting at a place of your choice, for the purpose of reviewing our Bid and duly noting all amendments and additions thereto, and noting omissions there from that you may require.

We undertake, if our bid is accepted, to commence execution of work of the Facilities and to achieve completion within the respective times stated in the bidding documents / quoted by us in our bid.

If our bid is accepted, we undertake to provide a Performance Bank Guarantee in the form, in the amount, and within the time specified in the bidding documents.

We agree to abide by this bid, which consists of this letter and Attachments hereto, for a period of 180 (One hundred & eighty) days from the date fixed for submission of bids as stipulated in the bidding documents, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.

Until a formal Contract is prepared and executed between us, this bid, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any bid you may receive and in- turn we will not have any rights to raise any claim, whatsoever it may be, due to or arising out of rejection of our bids.

Dated this _____ day of, 201____. _____ *[signature]*In the capacity of _____ *[position]*Duly authorized to sign this bid for and on behalf of _____ *[name of bidder]*

ANNEXURE-2

BID SECURITY BANK GUARANTEE (On Non-Judicial Stamp Paper of appropriate value)

..... (Name of the Bank)
Address.....
.....
Guarantee No.
A/c Messrs..... (Name of Bidder)
Date of Expiry.....
Limit to liability (currency & amount).....
Invitation For Bid No. dated.....
For..... (Name of Facilities)

Subject: Bid Security Bank Guarantee.

Date 201...

To

.....
BOKARO POWER SUPPLY CO. (P) LTD
.....
.....

[Name and Address of Employer]

Dear Sir,

In consideration of the _____ (Name of Employer) (hereinafter called "**Employer**") which expression shall unless repugnant to the subject or context include his successors and assigns having agreed to exempt M/s _____ (hereinafter called "**Bidder**") from demand under the terms & conditions of the tender (hereinafter called the said "Bidding Document") issued by the Employer vide No. _____ for the works _____ (**Name of the Facilities**) from deposit of Bid Security in the form of Demand draft/ cheque for the due fulfillment by the Bidder of the terms and conditions contained in the said Bidding Document including any amendments thereto on production of Bank Guarantee for Rs. _____ (Rupees / or equivalent amount in any freely convertible foreign currency) (_____ only) (figure in words).

1. We..... (**Name of the Bank**) do hereby expressly irrevocably and unreservedly undertake to unconditionally pay to you merely on your written demand, without referring it to the contractor and without protest and demur an amount not exceeding (**currency and amount**). Any such demand made on us shall be conclusive as regards the amount due and payable by us under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding.....
2. Notwithstanding anything to the contrary we agree that your decision as to whether the Contractor has committed a breach of any terms and conditions of the contract shall be final and binding on us and we shall not be entitled to ask you to establish your claim or claims under this

Guarantee but shall pay the same forthwith without any objection or excuse.

3. We undertake to pay to you any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) / Supplier(s) in any suit or proceeding pending before any court or Tribunal or arbitration relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment there under.

4. This guarantee shall come into force from the date of issue of this guarantee and shall remain irrevocably valid and in force initially up to _____ unless a demand or claim under this guarantee is made on us in writing on or before _____ we shall be discharged from all liability under this guarantee.
5. We _____ Bank Ltd. further agree with you that you shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Bidding Document and we shall not be relieved from our liability by reason of any such variation.
6. It shall not be necessary for the Employer to proceed against the Bidder before proceeding against the Bank and the Guarantee herein contained shall be enforceable against the Bank, notwithstanding any security which Employer may have obtained from the Bidder at this time when proceedings are taken against Bank hereunder be outstanding or unrealized.
7. We _____ Bank Ltd. further undertake to unconditionally pay the amount claimed by the Employer merely on demand and without protest or demur to the extent aforesaid.
8. Notwithstanding anything contained herein before our liability under this guarantee is restricted up to a sum _____ (currency and amount) and shall expire on _____ unless a claim or demand is made on us in writing within the three months of expiry date all your rights shall be forfeited and we shall stand relieved and discharged from our liabilities hereunder.
9. We, the said Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Employer in writing and agree that any change in the constitution of the Employer or the Bidder or the said Bank shall not discharge our liability hereunder dated _____ day of _____ 201__ _____ for _____ Bank Ltd.
10. This bank further undertakes that this guarantee can be operable from our Bokaro Steel City branch and shall remain irrevocably valid and in force initially up to ____/____/____ and the same shall be extended further according to the provisions contained therein above.
11. We, the said Bank lastly confirm that the Signatory(s) of this Guarantee is / are authorized to issue this Guarantee through Board Resolution No.dated.....

Yours faithfully

For.....

(Name of the Bank)

ANNEXURE-3**GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS**

- 1.0 There shall be compulsory registration of agents for all Global (Open) Tender and Limited Tender of BPSCL. An agent who is not registered with BPSCL shall apply for registration in the enclosed format.
- 2.0 Registered agents will file an authenticated Photostat copy of agency agreement giving the status being enjoyed by the agent and the commission / remuneration / salary / retainership being paid by the principal to the agent before the placement of order by BPSCL.

Wherever the Indian representatives have communicated on behalf of their principals and the foreign parties' state that they are not paying any commission to the Indian agents, and the Indian representative is working on the basis of salary or as retainer, a written declaration to this effect shall be submitted by the party (i.e. Principal).

3.0 DISCLOSURE OF PARTICULARS OF AGENTS / REPRESENTATIVES IN INDIA, IF ANY

- 3.1 Tenderers of foreign nationality shall furnish the following details in their offer:
 - 3.1.1 The name and address of the agents / representative in India, if any and the extent of authorization and authority given to commit the Principals. In case the agent / representative are a foreign company, it shall be confirmed whether it is real substantial company and details of the same shall be furnished.
 - 3.1.2 The amount of commission / remuneration included in the quoted price(s) for such agents / representatives in India.
 - 3.1.3 Confirmation of the Tenderer that the commission / remuneration, if any, payable to this agents / representatives in India, if any, may be paid by BPSCL in India in Indian Rupees only.
- 3.2 Tenderers of Indian Nationality shall furnish the following details in their offers:
 - 3.2.1 The name and address of the foreign principals indicating their nationality as well as their status, i.e., whether manufacturer or agent of manufacturer holding the Letter of Authority of the principal specifically authorizing to make an offer in India in response to tender either directly or through the agents / representatives.
 - 3.2.2 The amount of commission / remuneration included in the price(s) quoted by the Tenderer for himself.
 - 3.2.3 Confirmation of the foreign principals of the Tenderer that the commission / remuneration, if any, reserved for the Tenderer in the quoted price(s), may be paid by BPSCL in India in equivalent Indian Rupees on satisfactory completion of the project.
- 3.3 In either case, in the event of Contract materializing, the terms of payment will provide for payment of the commission / remuneration, if any payable to the agents / representatives in India in Indian Rupees about 90 days after the discharge of the obligations under the Contract.
- 3.4 Failure to furnish correct and detailed information as called for in paragraph - 3.1 and paragraph - 3.2 above will render the concerned tender liable to rejection or in the event of a Contract materializing, the same liable to termination by BPSCL.

APPLICATION FORM FOR REGISTRATION

IMPORTANT INSTRUCTION

1. An Indian agent can represent only one foreign bidder in a particular tender.
2. In case you are an Indian agent for a number of foreign principals, you may please submit separate application for each of these principals by taking out additional photo copies of this application form.
3. Wherever postal pin code is desired, it must be given.
4. Full and unambiguous reply to each query must be given or else your application may not be processed at all.
5. Wherever necessary extra sheet can be attached and mention of this may be made against the appropriate column of the application.

APPLICATION FOR REGISTRATION OF INDIAN AGENTS

FILE NO. _____

(Not to be filled in by the Applicant)

PART – I

i) Name of the firm

ii) Date of incorporation

(DD MM YY) _____

iii) Address of the Registered Office

PIN CODE: _____

TELEX ADDRESS: _____

TELEPHONE NO.: _____

EMAIL-ID: _____

iv) Address of the Head Office:

PIN CODE: _____

TELEX ADDRESS: _____

TELEPHONE NO.: _____

EMAIL-ID: _____

v) Address of the Branches

Address	Telex Address	Telephone no.
_____	_____	_____
_____	_____	_____
_____	_____	_____

PART – II

i) Status of firm

(Put a tick mark to whichever is applicable)

1. Proprietorship concern
2. Partnership concern
3. Private Limited
4. Public Limited
5. Central Govt. Undertaking
6. State Govt. Undertaking

(Detailed structure of Contractor's firm may be furnished)

PART – III

i) a) Name of the Principal (whose agent is seeking registration)

b) Address

PIN CODE: _____

TELEX ADDRESS: _____

TELEPHONE NO.: _____

EMAIL-ID: _____

c) STORES FOR WHICH REGISTRATION REQUIRED

Sl. No.	Name of Stores
_____	_____
_____	_____
_____	_____

ii) Are you sole selling agent for the Principal: Y/N

(if yes, furnish copy of valid agreement duly attested)

a) Date of appointment as sole selling agent: _____

b) Date up to which appointment is valid: _____

c) Percentage of commission: _____

d) If the agent has authority to commit and sign on behalf of the Principal: Y/N

iii) Whether you are prepared to quote and receive payment in Indian Rupees: Y/N

iv) Have you facility to offer after sales service: Y/N

(if yes, give details of facilities)

v) Have your firm / partners / proprietors / Director done business in the past with

a) Any other Public Sector Undertakings: Y/N

b) Any other Government Department: Y/N

(if yes, give details)

Signature of the Applicant

Proprietor / Authorized Partner / Director

Place: _____

Date: _____

ANNEXURE-4

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

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

THE COMPANIES:

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

AND

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

AND

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

(hereinafter referred to individually as "PARTY" and collectively as "PARTIES" and as "Consortium") have entered into the following Consortium Agreement (the "AGREEMENT") on thisday of, 201... WHEREAS the Employer has issued to the said Consortium the Document No. dated for the design, engineering work, structures & equipment, fabrication & supply of steel structures, manufacture & supply of plant & equipment and refractories, intermediate storage, insurance & handling, erection work, testing, pre-commissioning, start-up & commissioning and demonstration and establishment of performance guarantee parameters of a..... inclusive of all facilities within the battery limits on divisible turnkey basis for BPSCL (hereinafter referred to as "PROJECT"); and WHEREAS

- a) has proven technology, know-how, design and engineering experience in supply of new / rebuilt and more
- b) has expertise in engineering, supply of equipment and supervision of erection / commissioning of new / rebuilt Plants;
- c) has a proven track record in design and engineering as well as established credentials in supply of equipment and execution of entire civil and structural works, erection and commissioning for new / rebuilt
- d) shall be the Leader of this Consortium for the PROJECT having maximum share of work in value terms / being technology supplier;
- e) The PARTIES meet the eligibility criteria for Package as per Employer's Tender Notice Document No., dated
- f) The PARTIES shall coordinate their offers in such a way that they will jointly fulfill the requirements of the Employer and may be awarded with the contract for execution of the design & engineering work, structures & equipment, fabrication & Supply of steel structures, manufacture & supply of plant & equipment and refractories, intermediate storage, insurance & handling,

erection work, testing, pre-commissioning, start-up & commissioning & demonstration & establishment of performance guarantee parameters for inclusive of all facilities within the battery limits on divisible turnkey basis (hereinafter referred to as "CONTRACT").

NOW THEREFORE, the PARTIES witnessed as follows:

1. The PARTIES, each having his own expertise and each as a separate legal entity, shall join their efforts in order to make the Consortium the successful bidders for award of the CONTRACT and execution of the PROJECT.
2. Leader of the consortium shall be overall responsible for the execution of the Contract. The Leader and other Members of the Consortium shall be jointly and severally responsible for the execution of the Contract, but will be liable for damages in proportion of the respective Contract Price (In case of successful bidding and CONTRACT award) in accordance with the CONTRACT terms.
3. However, the Leader of this Consortium shall be solely responsible for overall co-ordination of the scope of work of the PARTIES and of overall execution of the CONTRACT. However, each PARTY shall remain responsible towards the other PARTY for its respective scope of work for its actions and deficiencies.
4. The PARTIES undertake to co-operate with each other according to the principles of good faith and to refrain from acting in any way that may contravene the aims and objectives of this AGREEMENT and to make every reasonable effort in order to prevent or minimize any possible disadvantages for the other PARTY. The cooperation of the PARTIES under the AGREEMENT is on mutual exclusive basis.

Therefore, no PARTY shall in any way - whether directly or indirectly - cooperate with any new person, company or firm (whether it is a competitor of the PARTIES or not) for the subject matter of this AGREEMENT

5. The respective preliminary scope of work of each PARTY is described in Technical offer(s),
6. Each PARTY shall bear its costs, it incurs for the offer preparation and in case of award each PARTY shall be fully responsible and liable for the complete performance of its respective scope of work according to the CONTRACT and this AGREEMENT. This includes but is not limited to the respective liability of a PARTY under the CONTRACT and under this AGREEMENT and each PARTY's liability for damages from its non-performance, defective faulty or delayed performance, whether of a PARTY itself or its sub-contractors as per the provisions of the CONTRACT.

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

7. Any dispute, which may arise at any time out of this AGREEMENT and any subsequent amendment or in connection with the same shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by an arbitration panel to be appointed according to the said Rules. The venue of the Arbitration shall be in, the language of the proceedings shall be English.
8. This AGREEMENT shall become effective upon signature by the PARTIES and shall remain in full force and effect until all obligations, liabilities and warranties undertaken / given by the PARTIES in connection with the present AGREEMENT have been settled.

In case of CONTRACT award, a separate Consortium Agreement for execution of the PROJECT will be concluded.

9. This AGREEMENT may be terminated by either PARTY with immediate effect by written notice to the other PARTY if:

- the other PARTY is declared insolvent or bankrupt or If a liquidator or receiver Is appointed to that PARTY, or if an event happens that has a similar effect; or
 - the CONTRACT is not awarded to the PARTIES by the Employer or if the Employer abandons the PROJECT or if the Employer awards the contract to a third party other than the PARTIES hereto.
10. Modifications and supplements to this AGREEMENT require mutual agreement between all PARTIES and must be in writing in order to be effective.
11. None of the PARTIES shall have the right to introduce a new party or Consortium member or to assign or in any way transfer any of its rights or obligations under this AGREEMENT to any other company, firm or person without first obtaining the consent in writing of the other PARTIES.
12. The role and responsibility of each member (Division of Work) is enclosed.

Signed on this day ofof the year of by the authorized representatives of

.....

.....

.....

ANNEXURE-5

UNDERTAKING BY LICENSOR

(On Non-Judicial Stamp Paper of appropriate value)

Date:

To,

The BOKARO POWER SUPPLY CO. (P) LTD

.....
.....

Sub: Tender for - Submission of Undertaking by

Ref:

Dear Sirs,

We acknowledge the receipt of your above referred letter no..... dt
Addressed to our Licensee advising an undertaking from us (the Licensor). As desired by you, we would like to furnish our undertaking as per the following:

1. We confirm that we will sign the contract between BPSCL and (**the Licensee**) as witness.
2. We do undertake to assist the (**the Licensee**) in execution of the project complying all the process, performance guarantee and other parameters envisaged in the Contract Agreement / MOU within the fixed time schedule.
3. We will remain bound by the License Agreement signed by us and **The Licensee** till the successful completion of the project being executed by our licensee and shall remain jointly and severally liable along with the licensee for the license agreement, which has been entered between us and (**the Licensee**) till the completion and performance of the project.
4. We undertake and agree with BPSCL that if for any reason we violate the License Agreement or fail to fulfill the contractual obligations undertaken by us in the agreement with the Licensee, we shall be liable to the BPSCL,as well as to its Licensee and we indemnify BPSCL against any and all the losses or damages which are caused by material breach of the License Agreement by us. In no event shall our liability based on contract law, torts, negligence or any other area of law towards BPSCL,exceed scope of services of the Licensee in the contract with BPSCL.....equal to and we shall not be liable or any indirect or consequential harms, losses or damages nor for loss of use or profit, loss of revenues, loss of production, delays in operations, anticipated profit or production.

In this connection, we assure BPSCL that we are the world leader in this technology and have a longstanding image. We are already working for BPSCL along with the same Licensee (.....) in the Plant package and the project is under completion. As desired by you, we have given above undertaking and hope the same meets your requirement.

Yours sincerely

.....

CHECK LIST FOR SUBMISSION OF BID

Tender No.:

Bidder's Ref. No.:

Name of Facilities:

S. N.	Details of document	Remarks (Applicable/Not applicable) (Attached/Not attached) If not attached, reasons
	Part-I	
1.	Cost of Tender document	
2.	Bid Security	
	Part-II (1 original + 05 copies)	
1.	Bid Form	
2.	Attachment-1 – Power of Attorney.	
3.	Attachment-2 – • Bidders Eligibility & qualification. • Undertaking by Licensor (if applicable), as per Annexure-5	
4.	Attachment-3 – Eligibility and conformity of the Facility.	
5.	Attachment-4 – Vendors proposed by the Bidder for Indian component	
6.	Attachment-5 – Deviations, if any, along with softcopy in Microsoft Word format in a CD.	
7.	Attachment-6 – Alternative Bid (If any)	
8.	MoA (as per Annexure-4) between consortium members, if applicable, along with division of work.	
9.	Un-priced copy of price bid with the word 'Quoted' where price is to be quoted.	
10.	Bar Chart	
11.	3-yrs. Audited Balance Sheet (s) and profit and loss account.	
12.	Integrity Pact duly signed (If applicable)	
13.	Others, if any.	
14.	Price Bid: "Sealed Price Bid" through URL: http://www.buyjunction.in	

FORM OF CONTRACT AGREEMENT

THIS CONTRACT NO. _____ made this _____ day of _____, Two thousand _____ at _____.

BETWEEN

BOKARO POWER SUPPLY CO. (P) LTD, a Company incorporated under the Companies Act, 1956 and having its registered office at ISPAT Bhawan, Lodi Road, New Delhi 110 003, India, having its plant at Bokaro (hereinafter referred to as the "**Employer**") which term or expression unless excluded by or repugnant to the context or the meaning thereof, shall be deemed to include its successors and permitted assigns, OF THE ONE PART,

AND

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

AND WHEREAS

- a) The Employer has decided to carry out **Renovation & Modernization of any one of BPSCL Boilers # 1 to 5** at Bokaro Steel City, (hereinafter referred to as the "**Facilities**"), and
- b) The Contractor has declared that the Contractor has valuable and specialized knowledge and expertise for providing and executing the above Facilities and
- c) The Contractor has declared that the Contractor is in a position to disclose, impart, deliver and transfer the requisite engineering data, drawings and documents of those items which are in the scope of the Contractor in this Contract, to the Employer for the engineering of the Facilities and for erection, start-up and commissioning of the Facilities with the aim to manufacture product as specified in the Contract, and
- d) The Contractor has obtained clarifications on technical and commercial aspects, inspected the site and surroundings of Facilities and has examined and considered all other matters, conditions and things, probable contingencies and generally all matters incidental thereto and ancillary thereof, affecting the execution and completion of the Facilities, and
- e) The Contractor has agreed to undertake design & engineering, civil engineering work, dismantling of buildings, structures & equipment, fabrication & supply of steel structures, manufacture & supply of plant and equipment, manufacture & supply of refractories, intermediate storage, insurance & handling, erection work, testing, pre-commissioning, start-up & commissioning and demonstration & establishment of performance guarantee parameters of the Facilities.

NOW IT IS HEREBY AGREED as follows:

Article 1 Contract Documents

- 1.1 **Definitions** (Reference GCC Clause 1)
- 1.2 **Contract Documents** (Reference GCC Clause 2)

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

- a) This Contract Agreement and Appendices hereto
- b) Purchase order & work order and Appendices hereto
- c) Special Conditions of Contract and Annexure hereto
- d) General Conditions of Contract and Annexure hereto

- e) Technical Specifications
- f) General Technical Specifications
- g) Safety code for Contractors
- h) Integrity Pact, if applicable
- i) Any other documents shall be added here

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

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.2 (Contract Documents) above.

Article 2 Contract Price and Terms of Payment

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

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

The minimum amount of CENVAT credit to be passed on to the Employer is Rs (in figures) Rupees (in words)

2.2 **Terms of Payment** (Reference Appendix-3)

The terms of payment are given in Appendix-3.

2.3 **Price Adjustment due to Variation in Price Indices**

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

Article 3 Effective Date

- 3.1 The Effective Date of Contract shall be (The date of signing of Contract or 30 days from LOA whichever is earlier).

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

- 4.1 The Contract is for the execution of Scope of Facilities as specified in the GCC Clause 7 and Technical Specifications, on divisible turnkey basis. The quantities / weights of any item are indicative only for the purpose of making progress payments on pro-rata basis as per Sub-Clause 2.3 of Appendix-3.
- 4.2 Should the actual quantities / weights differ from the indicated ones, neither the Contractor shall be entitled to get any additional price from the Employer nor is the Employer entitled to deduct any amount from the Contract Price due to variation in physical quantities / weight.
- 4.3 The consortium leader shall remain responsible not only for its scope of work but also for the scope of work of other consortium members so that Employer gets the facilities completed in all respects.

The leader and other members of the consortium shall be jointly & severally responsible for execution of the contract, but will be liable for damages in proportion to the respective scope of facilities.

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

- 5.1 The Facilities will be commissioned in 12 months from the Effective Date of the Contract.
- The Performance Bank Guarantee (PBG) shall be submitted by the Contractor within 30 days of signing of Contract.
- The Letter of Credit (LC) shall be opened by Employer within 15 (fifteen) days of receipt of Performance Guarantee (PBG) from the Contractor in the format as per **Annexure 1** of GCC.
- In case, there is delay in opening of Letter of Credit by Employer, then time of completion shall be extended accordingly. However, in case, there is delay in submission of PBG by the Contractor then the time of completion shall remain unchanged, provided LC has been opened within 15 days of PBG submission.

Article 6 Consultant

- 6.1 STEAG Energy Services India Pvt. Ltd. shall be the Consultant for this project. The consultant in relation to the Contract, shall have such functions as are delegated to him or as may be delegated to him by the Employer from time to time. Employer shall keep the Contractor informed of such delegation.

Article 7 Subcontracting (Reference GCC Clause 19)

- 7.1 This shall be as per GCC Clause 19.

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

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

If the Contractor fails to attain "Completion of the Facilities" within the Time for Completion or any extension thereof under **Clause 42** (Extension of Time for Completion) of GCC due to reasons attributable to the Contractor, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account or by encashment of Contractor's Bank Guarantees (as per Sub-Clause 13.1.2 of GCC), at the rate of 0.5% of the Contract Price plus escalation, if any, paid or payable to the Contractor, excluding taxes and duties per complete week of delay up to a maximum of 5% of the Contract Price plus escalation if any, paid or payable to the Contractor excluding taxes and duties, as specified in the Clause 29.2 of GCC.

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

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

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

guarantee parameters during second or third test.

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

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

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

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

- 8.3 The Overall limit of Liquidated Damages with respect to **Articles 8.1 & 8.2** shall be 10% of the Contract Price plus escalation, if any, excluding taxes and duties. However, individual ceiling for delay in completion and non-fulfillment of the PG parameters shall be 5% and 7.5% respectively.
- 8.4 Any Recovery of Liquidated Damages shall be effected from the amount payable to the Contractor against Commissioning, Performance Guarantee Test, Final Acceptance Certificate and Performance Bank Guarantee. LD will not be recovered from the running bills prior to above payments.

Article 9 Arbitration (Reference GCC Clause 6)

- 9.1 [Relevant portions of Clause 6 of GCC to be incorporated].

Article 10 Liability of Govt. of India

- 10.1 It is expressly understood and agreed between the Contractor and the Employer that the Employer is entering into this Contract solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Govt. of India is not a party to this Contract and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that the Employer is an independent legal entity with power and authority to enter into Contracts solely on its own behalf under the applicable laws of India and general principals of contract Law. The Contractor expressly agrees, acknowledges and understands that the Employer is not an agent, representative or delegate of the Govt. of India. It is further understood and agreed that the Govt. of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract.

Accordingly, the Contractor hereby, expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Govt. of India arising out of this Contract and covenants not to sue the Govt. of India as to any manner, claim and cause of action or thing whatsoever arising of or under this Contract.

Article 11 Appendix

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

1. Price Schedule
2. Time Schedule
3. Terms of Payment
4. Price Adjustment due to Variation in Price Indices
5. Performance Guarantees
6. List of Approved Vendors for Indian Component

Article 12

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

IN WITNESS WHEREOF the Employer and the Contractor have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

Signed by for and on behalf of the
Contractor

[Signature]

[Designation]

In the presence of _____

1. _____
[Signature]

[Designation]

2. _____
[Signature]

[Designation]

Signed by for and on behalf of the
Employer

[Signature]

[Designation]

In the presence of _____

1. _____
[Signature]

[Designation]

2. _____
[Signature]

[Designation]

APPENDIX - 1

PRICE SCHEDULE

1.0 Contract Price

- 1.1 The Contract Price for the entire Scope of Facilities including all the contractual obligations of the Contractor together with its Sub-Contractor / Vendors is indicated in the Article-2 of the Contract.

2.0 Contract Price Break-up

- 2.1 The break-up of the Contract Price is indicated in the Summary Price Schedule and detailed break-up of Summary Prices is given in the following Tables, hereafter. (However, in case the Contractor is a Consortium of two or more parties, the break-up of the Contract Price is to be indicated separately for each member of Consortium, in the Tables given hereafter).

Table	Descriptions
-------	--------------

1.0	Summary Price Schedule
------------	-------------------------------

- | | |
|------|--|
| 1.1 | Price Schedule For Indigenous Design and Engineering |
| 1.2 | Price Schedule For Imported Design and Engineering |
| 1.3 | Price Schedule for Supply of Plant & Equipment and Technological Structures (Imported Supplies quoted in foreign currencies) |
| 1.4 | Price Schedule for Supply of Plant & Equipment and Technological Structures (Indigenous Supplies) |
| 1.5 | Price Schedule for Supply of Fabricated Building Steel Structures including Sheeting and Glazing |
| 1.6 | Price Schedule For Supply of Imported Refractories |
| 1.7 | Price Schedule For Supply of Indigenous Refractories |
| 1.8 | Price Schedule for Civil Engineering Works, including all Supplies |
| 1.9 | Price Schedule for Storage, Handling, Erection, Commissioning and Performance Guarantee Tests of Plant & Equipment, Building Steel Structures, Sheeting, Glazing & final Painting and Refractories |
| 1.10 | Format for reconciliation of cenvatable taxes |

2.0	Value of "PO" for Calculation of Price Adjustment due to Variation in Price Indices (Appendix-4)
------------	---

3.0	Price schedule for 2 year O&M spares (GCC clause 7.4.3)
------------	--

- 2.2 The "PO" shall be the prices as on Base Date excluding all duties, taxes, and any other levies. The values of PO for the purpose of Price Adjustment clause stipulated in the Sub-Clause 2.1 to 2.9 of the Appendix 4, are to be given in Table-2 hereof.

Table No. 1

SUMMARY PRICE SCHEDULE

Name of the Plant / Unit: _____

Name of the Package & No.: _____

Name of the Bidders: _____ Bidder's Ref. No.: _____

SUMMARY PRICE SCHEDULE			
Sl. No.	Description	Foreign Supplies & Services (FOB Price)	Indian Supplies & Services (in Rupees)
a	b	c	d
1.	Design & Engineering		
2.	Supply of Plant & Equipment including Technological Structures		
3.	Supply of Building Steel Structures including Sheeting and Glazing		
4.	Supply of Refractories		
5.	Civil Engineering work including all related supplies		
6.	Storage, Handling, Erection of Plant & Equipments, Building Steel Structures & Refractories including Commissioning and PG Tests of the Facilities		
7.	Foreign Supervision charges in India during erection, startup, commissioning & PG test for _____ mandays		
8.	Foreign Training charges for _____ mandays		
9.	For all items quoted in Foreign Currency		
	a) Ocean Freight,		
	b) Customs, Port clearance (excluding duties & cess to be paid by Employer) and Inland transportation		
10.	a) Comprehensive / Transit, Storage cum erection insurance		
	b) Marine insurance for all items quoted in Foreign Currency		
11.	Total Contract Price (1 to 10)		
12.	a) Minimum guaranteed CENVAT credit on account of Excise Duty / CVD & SAD	-	
	b) Minimum guaranteed CENVAT credit on account of Service Tax – NOT APPLICABLE	-	-
	c) Minimum guaranteed Input Tax credit on account of VAT – NOT APPLICABLE	-	-
13.	Sub-Total of 12 (a to c)	-	
14.	Contract Price (net of CENVAT/ VAT) (11-13)		

Value of Supplies, on which Entry Tax has been considered (Refer Note 7) Rs. _____

Contract price (net of CENVAT / VAT as per SI. No. 14):

Indian Currency (In words)

Foreign Currency (In words)

Signature of Authorized signatory
(Official Seal of Company)

Notes:

1. Indian supplies & services are inclusive of all taxes & duties
2. Bidders to quote in summary price schedule only based on which evaluation will be done and successful bidder will be required to submit price break-up in tables 1.1 to 1.9 within ten (10) days of request from the Employer.
3. In case of consortium, each member will indicate the prices for his scope of work. For this purpose, extra columns may be added in the above price format for each consortium member.
4. In case of arithmetic error in totaling, corrected arithmetic total will be considered.
5. In case of a discrepancy between words and figures and / or arithmetic error in totaling, corrected arithmetic total will be considered.
6. If any discrepancy is found in furnishing any Remarks / Footnotes / Comments between Un-priced bids and Priced bids, Remarks / Footnotes / Comments furnished in Un-priced bids will prevail.
7. Bidders have to indicate the value of supplies on which Entry Tax are to be borne by Bidders and not required to be loaded for the evaluation of their Price, failing which Entry Tax will be loaded for the full value of Supplies. (Ref. Bid Data Sheet)

Table No. 1.1

(Sheet no. ____ of ____)

PRICE SCHEDULE FOR INDIGENOUS DESIGN AND ENGINEERING

Sl. No.	Description	Price in Indian Rupees
1.	Basic Price	
2.	Service Tax including Cess	
3.	Any other taxes, duties, levies (Bidder to specify)	
	Total	
	Total Price (in Words)	
	Signature and Seal	

Table No. 1.2

(Sheet no. ____ of ____)

PRICE SCHEDULE FOR IMPORTED DESIGN AND ENGINEERING

Sl. No.	Item	FOB Price (Currency ____)
1.	Imported Design & Engineering	
2.		
	Total	
	Total Price (in Words)	
	Signature and Seal	

Table No. 1.3

(Sheet ____ of ____)

**PRICE SCHEDULE FOR SUPPLY OF PLANT & EQUIPMENT AND TECHNOLOGICAL
STRUCTURES (Imported Supplies quoted in Foreign Currencies)**

Name of items / facilities _____

Sl. No.	Description	Weight (t)	UNIT	Qty	Rate	FOB price (Currency ____)
	Supply of Imported Plant & Equipment					
1.	Mechanical Equipment					
a)						
b)						
2.	Electrical Equipment / systems					
a)						
b)						
3.	Instrumentation, Automation, Telecommunication Systems					
4.	Others including Commissioning Spares					
a)						
b)						
	Total					
		Total price (in Words)				
		Signature and Seal				

Table No. 1.4

(Sheet No. ____ of ____)

PRICE SCHEDULE FOR SUPPLY OF PLANT & EQUIPMENT AND TECHNOLOGICAL STRUCTURES
(Indigenous Supplies)

Name of items / facilities _____

Sl. No.	Description	Weight (t)	Unit	Qty	Basic Price (Rupees)	Excise Duty incl. Cess	CST	VAT	Entry Tax / Octroi / TOT / Others	Total FOR Price
a	b	c	d	e	f	g	h	i	j	k
	Supply of Plant & Equipment									
1.	Mechanical Equipment including Technological Structures									
a)										
b)										
2.	Electrical Equipment									
a)										
b)										
3.	Instrumentation, Automation, Cabling, etc.									
a)										
b)										
4.	Others incl. Commissioning Spares, Special Tools & Tackles, Initial Fills etc.									
	Sub Total									

Sl. No.	Description	Weight (t)	Unit	Qty	Basic Price (Rupees)	Excise Duty incl. Cess	CST	VAT	Entry Tax / Octroi / TOT / Others	Total FOR Price
a	b	c	d	e	f	g	h	i	j	k
5.	Inland Freight									
	Total									
Total price in words										
Signature and Seal										

Table No. 1.5

(Sheet no. ____ of ____)

PRICE SCHEDULE FOR SUPPLY OF FABRICATED BUILDING STEEL STRUCTURES INCLUDING SHEETING AND GLAZING

Name of the facilities: _____

(In Rupees)

Sl. No.	Item	Unit	Qty.	Basic Price (Rupees)	Excise Duty incl. Cess	CST	VAT	Entry Tax / Octroi / TOT / others	Total FOR price
a	b	c	d	e	f	g	h	i	J
I	Supply of Building Steel Structures								
	a) Fabricated at Employer's Site	t							
	b) Fabricated at Contractor's Site	t							
	Sub Total								
II	Sheeting Materials								
	a) CGI								
	b) AC								
	c) Glazing								
	d) Other								
	Sub Total								
	Total								
	Total price in words								
Signature and Seal									

Table No. 1.6

(Sheet no. ____ of ____)

PRICE SCHEDULE FOR SUPPLY OF IMPORTED REFRACTORIES

Sl. No.	Item	Weight (t)	Unit	Qty.	Rate	FOB Price (Currency ____)
a	b	c	d	e		F
	Supply of Imported Refractories					
1.						
2.						
3.						
4.						
5.						
	Total					
	Total price in words					
						Signature and Seal

Table No. 1.7

Sheet no. ____ of ____

PRICE SCHEDULE FOR SUPPLY OF INDIGENOUS REFRACTORIES

Name of the facilities: _____

(In Rupees)

Sl. No.	Description	Weight (t)	Unit	Qty.	Basic Price (Rupees)	Excise Duty incl. Cess	CST	VAT	Entry Tax / Octroi / TOT / others	Total FOR price
a	b	c	d	e	f	g	h	i	j	k
	Supply of Indigenous Refractories									
1										
a										
b										
2										
a										
b										
3										
a										
b										
4										
5										
	Total									
	Total price in words									

Sl. No.	Description	Weight (t)	Unit	Qty.	Basic Price (Rupees)	Excise Duty incl. Cess	CST	VAT	Entry Tax / Octroi / TOT / others	Total FOR price
a	b	c	d	e	f	g	h	i	j	k
<div>Signature and Seal</div>										

Table No. 1.8

(Sheet no. ____ of ____)

PACKAGE: _____

PACKAGE NO.: _____

PRICE SCHEDULE FOR CIVIL ENGINEERING WORKS INCLUDING ALL SUPPLIES

Sl. No.	Description	Volume of work		Rate / Unit	Price in Rs. Lakhs				Total Price
		Unit	Qty.		Basic Price	Service Tax	Applicable Cess on Service Tax	Any other taxes & levies (Bidder to specify)	
a	b	c	d	e	f	g	h	i	J
I	Dismantling work (Plant & Equipment, Buildings, Structures, Foundations, etc.)								
II	Civil Work								
1.	Excavation	m ³							
2.	Piling (Diameter & capacity wise)	Nos.							
	• Average Length	m							
3.	Plain Cement Concrete	m ³							
4.	Heat Resistant Concrete	m ³							
5.	Reinforced Cement Concrete								
	a) Below Ground Level	m ³							
	b) At Ground Floor	m ³							
	c) In Superstructure	m ³							
6.	Reinforcement Steel Works	T							
7.	Brick work	m ³							
8.	Doors, Windows & Ventilators	m ²							
9.	Flooring	m ²							
10.	Plastering	m ²							
11.	Road and Paved Areas	m ²							
12.	Railway Tracks	m							
13.	Any other items not mentioned above								

Sl. No.	Description	Volume of work		Rate / Unit	Price in Rs. Lakhs				Total Price
		Unit	Qty.		Basic Price	Service Tax	Applicable Cess on Service Tax	Any other taxes & levies (Bidder to specify)	
a	b	c	d	e	f	g	h	i	J
	(Bidder to specify)								
	Sub-total – II:								
	Total Price (I + II)								
	Total price in words:								
									Signature and Seal

Table No. 1.9

(Sheet no. ____ of ____)

**PRICE SCHEDULE FOR STORAGE, HANDLING, ERECTION, COMMISSIONING AND
PERFORMANCE GUARANTEE TESTS OF PLANT & EQUIPMENT, BUILDING STEEL
STRUCTURES, SHEETING, GLAZING & FINAL PAINTING AND REFRACTORIES**

Name of Facilities: _____

Sl. No.	Description	Weight (t)	Basic Price (In Rupees)	Service Tax incl. applicable cess	Any other taxes & levies (Bidder to specify)	Total
A	Plant & Equipment (Refer items at Table 1.3 & 1.4)					
1.	Mechanical Plant & Equipment					
	Technological Structures					
	Others					
2.	Electrical Equipment					
3.	Instrumentation, Automation, Cabling, etc.					
	Sub-total of A items					
B	Building Steel Structures including sheeting (Refer Table 1.5 items)					
C	Refractories					
D	Any other					
	Total (A to D)					
	Total price in words:					
Signature and Seal						

Table No. 1.10

(Sheet no. ____ of ____)

FORMAT FOR RECONCILIATION OF CENVATABLE TAXES

Base Date – xx/xx/xx (dd/mm/yy)

Rates of Taxes & Duties prevailing on Base Date	Unit	Value
Excise Duty	%	xxxx
CST	%	xxxx
Service Tax	%	xxxx

Price in Rupees

Item Head	Ref. no. of Price Schedules of Form of Contract Agreement	Basic	ED	CST	VAT	Service Tax	Inland Freight	Total
Design & Engineering		xxxx	-	-	-	xxxx	-	xxxx
Supply of Plant & Equipment		xxxx	xxxx	xxxx	xxxx	-	xxxx	xxxx
Supply of Building & Structure		xxxx	xxxx	xxxx	xxxx	-	xxxx	xxxx
Supply of Refractory		xxxx	xxxx	xxxx	xxxx	-	xxxx	xxxx
Civil works		xxxx	-	-	-	xxxx	-	xxxx
Customs & Port clearance		xxxx	-	-	-	xxxx	-	xxxx
Inland transportation for Imported items		xxxx	-	-	-	-	-	xxxx
Storage cum Erection Insurance		xxxx	-	-	-	-	-	xxxx
Erection of Plant & Equipment		xxxx	-	-	-	xxxx	-	xxxx
Erection of Building Structure		xxxx	-	-	-	xxxx	-	xxxx
Erection of Refractory		xxxx	-	-	-	xxxx	-	xxxx
Total		xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx
Minimum guaranteed CENVAT credit on account of Excise Duty		-	xxxx	-	-	-	-	xxxx
Minimum guaranteed CENVAT credit on account of Service Tax - NA		-	-	-	-	-	-	-
Minimum input VAT – NA		-	-	-	-	-	-	-



PROJECT NO.: ETRM012

PROJECT NAME:
BPSCL UNIT 1 TO 5 BOILER (220 TPH)

PACKAGE / SYSTEM: COMMERCIAL

Item Head	Ref. no. of Price Schedules of Form of Contract Agreement	Basic	ED	CST	VAT	Service Tax	Inland Freight	Total
Total minimum guaranteed CENVAT		-	xxxx	-	-	-	-	xxxx
Contract Price (Net of CENVAT)		xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx

Table No. 2

(Sheet no. ____ of ____)

**VALUE OF “PO” FOR CALCULATION OF PRICE ADJUSTMENT DUE TO VARIATION IN PRICE
INDICES IN ACCORDANCE TO PROVISIONS OF APPENDIX – 4**

Sl. No.	Description	Value of “PO”
1.	Supply of Indigenous Mechanical Plant & Equipment including Technological Structure	
	(Reference Sub-Clause 2.3 of Appendix 4)	
2.	Supply of Indigenous Electrical Plant & Equipment including Instrumentation & Telecommunication	
	(Reference Sub-Clause 2.4 of Appendix 4)	
3.	Erection of Mechanical & Electrical Plant & Equipment	
	(Reference Sub-Clause 2.5 of Appendix 4)	
4.	Supply of Building Steel Structures & Sheeting	
	a) When Steel is issued by Employer on cost recovery basis	
	(Reference Sub-Clause 2.6.1 of Appendix 4)	
	b) When Steel is procured by the Contractor	
	(Reference Sub-Clause 2.6.2 of Appendix 4)	
5.	Erection of Building Steel Structures including Sheeting	
	(Reference Sub-Clause 2.7 of Appendix 4)	
6.	Civil Engineering works including all necessary supplies	
	(Reference Sub-Clause 2.8 of Appendix 4)	
7.	Erection of Refractories	
	(Reference Sub-Clause 2.9 of Appendix 4)	

Signature and Seal

Table No. 3

(Sheet no. ____ of ____)

PRICE SCHEDULE FOR SUPPLY OF 2 YEARS O&M SPARES*

Sl. No.	Item	Quantity		FOB Price (for imported spares)	Price (in Indian Rupees) (for indigenous spares)				
		Nos.	Tonne	Foreign Currency	Basic	ED	ST	Others (to be specified)	Total
A	Supply of Imported 2 years O&M Spares				-	-	-	-	-
1.					-	-	-	-	-
2.					-	-	-	-	-
3.					-	-	-	-	-
4.					-	-	-	-	-
5.					-	-	-	-	-
6.					-	-	-	-	-
	Total (A)								
B.I	Supply of Indigenous 2 years O&M Spares								
1.									
2.									
3.									
4.									
5.									
6.									
	Total (B.I)								
B.II	Inland Transportation								
	Total (B = B.I + B.II)								

Note:

- Refer ITB Clause 10.4(d) & GCC Sub-Clause 7.4.3, the price schedule is to be submitted 6 months prior to scheduled commissioning
 - The prices shall remain firm for a period of 12 months.
- * Not for evaluation purpose

APPENDIX - 2

TIME SCHEDULE

1.0 Time Schedule for Completion of the Facilities

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

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

2.0 Time Schedule for Feedback Data, Drawings and Documents

- 2.1 Within _____ weeks from the Effective Date of Contract, the Contractor shall submit to the Engineer / Consultant preliminary list of all drawings and documents by title using the approved numbering system and indicating the schedule of submission of drawings in conformity with the time schedule given in Clause 2.2 and 2.3 hereof. This list shall be updated and submitted by the Contractor at the end of every quarter of the year.

2.2 Drawing / Documents for Approval

2.2.1 The Contractor shall submit the various drawings and documents to the Engineer / Consultant for approval, as per the following schedule.

S. No.	Description	No. of copies	Time of submission in weeks from the Effective Date of Contract	
			Imported	Indigenous
A	Basic Engineering:			
1.	Name Plate and Numbering System	10		
2.	Inspection procedures	5		
3.	Site plan / layout drawing showing battery limits and coordinated plans of all units and facilities including requirements of utilities and other parameters at battery limits (in 1:500 scale).	10		
4.	Process Engineering Assumption / Basic Data	10		
5.	Process flow sheets and P&I Diagram for equipment and services	10		
6.	Material balance sheet	10		
7.	Utilities / energy balance sheets and heat load calculations for air-conditioning, ventilation and cooling water systems, Design calculations for stack.	10		
8.	General arrangement & shop layout drawings including cross-sections for shops / systems / services including equipment disposition and facilities.	10		
9.	GA drawings and design criteria for steel structures	10		
10.	Civil Engineering & Structural design criteria	10		
11.	Design criteria for cable selection, number of feeders, motor ratings, lighting, earthing, etc. and electrical consumer arrangement plans	10		
12.	Single line diagrams, block diagrams, GA and layout drawings for electricals.	10		
13.	Instrumentation and control schemes and sequence logic diagrams, List of Instruments and Instruments data sheets, Panels and desk front view diagrams, Control room layout drawings	10		
14.	Design criteria, general arrangement and layout drawings for pipe work and ductwork.	10		

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

2.2.2 After approval by the Employer / Consultant, the Contractor shall submit approved drawings and documents in 10 copies, to the Employer.

2.3 Drawings / Documents for Information / Review

2.3.1 The Contractor shall submit to the Engineer / Consultant for information / review of the drawings and documents as per the Schedule given below:

S. No.	Description	No. of copies	Time of submission in weeks from the Effective Date of Contract	
			Imported	Indigenous
1.	Soil Investigation Report	5		
2.	Preliminary foundation outline drawings	5		
3.	Certified foundation drawing including load data	6		
4.	Excavation outline drawings	10		
5.	Civil working drawing including bar bending schedules	10		
6.	Locations, schedules, fixing details, details, loadings etc. for foundation / anchor bolts, inserts & embedments	10		

S. No.	Description	No. of copies	Time of submission in weeks from the Effective Date of Contract	
			Imported	Indigenous
7.	Design calculations for all civil and structural work.	5		
8.	Design calculations for all electrical work	5		
9.	Design calculations for all pipework and ductwork	5		
10.	Structural fabrication drawings with bill of materials	5		
11.	Performance data, characteristic including duty points	10		
12.	Assignment from Contractor for number of feeders to be provided by the Employer	10		
13.	List of electro-magnetic valves, limit switches etc.	5		
14.	Control description and schematic including PLC input / output chart.	5		
15.	Cable tray arrangement, cable and instrument pipe schedule and routings	10		
16.	Lighting earthing and lightening protection drawings.	10		
17.	Terminal plans and interconnection diagrams for electrical works	10		
18.	Conduit drawings and cut out details	10		
19.	Loop schemes, power supply and distribution schemes and panels and desk internal wiring diagrams external connection including terminal wiring diagrams for power control and instrumentation cables	10		
20.	Detailed drawings for pipe & duct work	10		
21.	Detailed drawings for underground and over ground services and utilities (including water system).	10		
22.	Drawings for approval of Statutory Authorities	10		
23.	Instructions for storage& re-conservation including those for electrical, instrumentation and communication items.	6		
24.	Erection drawings, erection specifications and Erection Instructions.	6		

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

2.3.2 After "no comment" clearance by the Engineer / Consultant, the Contractor shall submit the final drawings and documents in 10 copies, to the Employer.

2.4 As-Built Drawings and Documents

2.4.1 The Contractor shall submit As-built drawings & documents after Performance Guarantee Test, but before release of payment for PG Test certificate as per Clause 27 of GCC, as per the Schedule given below:

S. No.	Description	No. of copies	Time of submission in weeks from the Effective Date of Contract	
			Imported	Indigenous
1.	General arrangement, assembly and sub-assembly drawings	5		
2.	Performance data	10		
3.	Test charts and inspection certificates in bound volumes	10		
4.	All design calculations with respective approved design criteria in bound volumes	10		
5.	Flow diagrams and material balance sheets	10		
6.	Electrical & instrumentation drawings	10		

S. No.	Description	No. of copies	Time of submission in weeks from the Effective Date of Contract	
			Imported	Indigenous
7.	Civil working drawings	10		
8.	Steel structures drawings	10		
9.	Utilities and services drawings	10		
10.	Refractories work drawings	10		
11.	Operation and safety manuals	10		
12.	Maintenance manuals	10		
13.	List of spares (Operation, Maintenance)	10		
14.	Drawings & bill of materials for Operation & Maintenance Spares	10		
15.	Ordering Specifications including catalogues & details for Operation & Maintenance Spares	10		
16.	Drawings / ordering specifications for operating consumables / supplies	10		
17.	One set of all documents as listed above, on CD / Pen Drive	1 set		

- 2.5 Equipment drawings and Erection Instructions drawings for the Plant and Equipment shall be supplied by the Contractor at least one month before the shipment / dispatch of the Plant & Equipment.

APPENDIX – 3**TERMS OF PAYMENT****1.0 General**

- 1.1 In accordance with the provisions of Clause 12 of GCC (Terms of Payment), the Employer shall pay the Contractor for the Scope of Facilities detailed under Clause 7 of GCC & Technical Specifications, on the basis of the price break-up given in the Price Schedule (Appendix-1) and Billing Schedule as per Sub-Clause 11.7.1 of GCC.
- 1.2 The payments to be made in the Foreign currencies to the Contractor shall be made through Irrevocable Letter of Credit to be established by the Employer. The Letter of Credit shall be established for value covering 100% of the Price payable in foreign currencies.
 - 1.2.1 The Letter of Credit (LC) will be opened within 15 days from the date of receipt of correct Performance Bank Guarantee.

The validity of Letter of Credit will be agreed upon between the Contractor and the Employer.
 - 1.2.2 If extension of validity of Letter of Credit becomes necessary due to reasons attributable to employer, all Bank charges in India for such extension of validity of Letter of Credit, shall be borne by the Employer.
 - 1.2.3 The Employer shall establish Letter of Credit and advice through the Overseas Branch to be specified by the Contractor. Should the Contractor need confirmation of Letter of Credit, charges for the same are to be borne by the Contractor. All Bank charges outside India, related to Letter of Credit, shall be borne by the Contractor. The Employer shall bear all the Bank charges in India, in establishing Letter of Credit.

The Contractor shall intimate the name of Beneficiary's Bank while submitting the request for opening of LC to the Employer.
- 1.3 The Contract is a Divisible Contract. The Contractor shall submit complete and correct separate invoices and documents for supplies and services both for payments to be made in foreign currencies and / or Indian currency.
- 1.4 The Contractor shall reimburse the Employer all costs, charges, damages or expenses which the Employer may have paid or incurred, if and to the extent to which the Contractor is liable under this Contract to pay upon written request of the Engineer, failing which such costs, charges, damages or expenses shall be deducted by the Employer from any money due or becoming due by the Employer to the Contractor under this Contract or any other Contract failing which such amounts shall be considered as debt from the Contractor to the Employer and shall be recoverable accordingly.
- 1.5 **INCOME TAX**

Any Indian Income Tax which Employer may be required to deduct by law or statute, shall be deducted at the source under relevant Chapter of Income Tax Act and the same shall be paid to Income Tax Authorities on account of the Contractor. Employer shall provide the Contractor a certificate for such deduction of Tax. The Contractor shall indicate their Permanent Account Number with the relevant Income Tax Authority to Employer. Contractors shall maintain books of account and shall get the account audited as per relevant Section of Income Tax Act.

If the Contractor is exempted from the deduction / recovery of Income Tax, no such recovery shall be made by Employer. Contractor shall furnish valid exemption Certificate issued by Income Tax Department to this effect
- 1.6 Service Tax & Applicable Cess shall be paid to the Contractor as per invoice. The Invoice for the service portion shall separately indicate the Service Tax & Applicable Cess claimed by

the Contractor along with their relevant Service Tax Registration Number obtained by the Contractor.

- 1.7 Other than payment through LC, the payment to the Contractor shall be released within thirty (30) days from the date of receipt of the complete and correct invoices & relevant documents along with price adjustment statement.

2.0 Terms of Payment

2.1 Terms of Payment other than training (This is standard payment term)

- 2.1.1 Five per cent (5%) of the total Contract price specified in Appendix-1 excluding taxes, duties (except service tax) and training charges shall be released on submission of basic engineering drawings & the basic engineering data (to be finalized during technical discussion); submission & approval of general layout drawings of the Shop and submission of L-2 Network (**GCC Sub Clause -18.1.4**) for each unit of the facilities.
- 2.1.2 Eighty percent (80%) of the Contract Price specified in the **Appendix-1**, excluding taxes, duties (except service tax) and training charges shall be released towards progress payments and 100% of the taxes and duties on submission of documentary evidence along with release of progress payment of 82.5% as per **Sub-Clause 2.3**.
- 2.1.3 Two and a half percent (2.5%) of the Contract Price excluding taxes, duties. Service Tax & Applicable Cess and training charges specified in the **Appendix-1** shall be released upon issue of the Preliminary Acceptance Certificate.
- 2.1.4 Two and a half percent (2.5%) of the Contract Price excluding taxes, duties, Service Tax & Applicable Cess and training charges specified in the **Appendix-1** shall be released upon issue of the Commissioning Certificate.
- 2.1.5 Five percent (5%) of the Contract Price excluding taxes, duties, Service Tax & Applicable Cess and training charges specified in the **Appendix -1** shall be released after establishment of Performance Guarantee parameters and issue of performance guarantee certificate.
- 2.1.6 Five percent (5%) of the Contract Price excluding taxes, duties, Service Tax & Applicable Cess and training charges specified in the **Appendix-1** shall be released upon issue of the Final Acceptance Certificate.
- 2.1.7 All interim / progress payments shall be regarded as payments by way of advance against the final payment only and not as payment for work completed and shall not preclude defective / imperfect / incomplete Facilities to be removed. It will not be considered as an admission by the Employer of the due performance of the Contract, or any part thereof by the Contractor nor shall it preclude, determine or affect in any way the powers of the Employer under these conditions or in any way vary or affect the Contract.

2.2 Terms of Payment for Training Charges

- 2.2.1 Ninety five (95%) of the Price specified in the **Appendix-1** shall be released on pro-rata basis upon completion of each quarter on actual training man-days utilized during the quarter.
- 2.2.2 Five percent (5%) of the Price specified in the **Appendix-1** shall be released upon issue of the Final Acceptance Certificate.

Service Tax & Cess shall be paid to the Contractor at actual. The Invoice for the service portion shall separately indicate the Service Tax & Applicable Cess claimed by the Contractor along with their relevant Service Tax Registration Number obtained by

the Contractor.

2.3 Progress Payments [Eighty percent (80%) of Price]

2.3.1 Design & Engineering

2.3.1.1 Eighty percent (80%) of the Price specified in the **Appendix – 1** shall be released on pro-rata basis and as per progress of submission & approval of design & engineering in accordance with the approved Billing Schedule.

2.3.2 Civil Engineering Work including all related Supplies

2.3.2.1 Eighty percent (80%) of the Price specified in the **Appendix – 1** shall be released on monthly pro-rata basis subject to satisfactory progress of work as per the approved Billing Schedule.

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

2.3.3.1 Eighty percent (80%) of the Price specified in the **Appendix – 1**, along with 100% taxes and duties shall be released on pro-rata basis on receipt of steel structures and plant & equipment at Site, in full and good condition, in case of indigenous steel structures and plant & equipment and for imported steel structures and plant & equipment for which prices indicated in the Contract are in Foreign currencies, on receipt of Shipping Documents specified in the **Sub-Clause 21.4.5 of GCC**.

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

2.3.4.1 Eighty percent (80%) of the Price specified in the **Appendix – 1** shall be released on pro-rata basis upon satisfactory progress of receipt of imported supplies for which the prices indicated in the Contract are in Foreign currencies, at site and against submission of necessary document along with invoices duly certified by the Employer.

2.3.4.2 Eighty percent (80%) of the price specified in the **Appendix – 1** shall be released for comprehensive transit, storage cum erection insurance on pro-rata progress of delivery of indigenous equipment & erection.

2.3.5 Erection of Building Steel Structures including Sheeting

2.3.5.1 Eighty percent (80%) of the Price specified in the **Appendix – 1** shall be released on pro-rata basis upon satisfactory progress of work as per approved billing schedule.

2.3.6 Erection of Refractories

2.3.6.1 Eighty percent (80%) of the Price specified in the **Appendix – 1** shall be released on actual Tonnage basis when the refractories are erected in position & checked.

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

2.3.7.1 Twenty percent (20%) of the Price specified in the **Appendix – 1** shall be released on pro-rata basis when the plant & equipment are placed on the foundation / in position.

2.3.7.2 Forty percent (40%) of the Price specified in the **Appendix – 1** shall be released on pro-rata basis when the plant & equipment are completely erected, aligned, welded / grouted and checked.

2.3.7.3 Twenty percent (20%) of the Price specified in the **Appendix – 1** shall be released on pro-rata basis when plant & equipment have been connected with all the auxiliaries, utilities and after trial runs of the individual plant & equipment / unit.

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

2.3.8.1 Eighty percent (80%) of the Price specified in the **Appendix – 1**, shall be released at the end of every month on pro-rata basis of utilization of mandays in that particular month duly certified by the Employer subject to the total price payable for supervision not being in excess of the provisions made in the Contract.

Attachment – 1 to Appendix – 3

Format of Letter of Credit

Type of L/C	Irrevocable
Date & Place of L/C	
Name & Address of Applicant	Bokaro Power Supply Company (P) Ltd.
Name & Address of the Beneficiary	
Currency& Amount of Credit (in Figures & Words)	
Variation in L/C amount or additional amount permitted	
Usance of the Drafts	
Credit available with / by	Advising Bank / Payment
Drafts to be drawn on	_____, India
Validity of Letter of Credit	
Partial Shipment:	
Transshipment:	
Shipment from:	----- Air / Sea Port
Shipment to:	----- Air / Sea port
Latest Shipment Date	
Description of Goods	
Documents Required	As per Separate Annexure enclosed.
Specify, if any charges are to beneficiary's account	All Charges outside India to beneficiary's account.
Documents to be presented	Within 7 days / 21 days in case of Air / Sea shipment as the case may be.
Confirmation Instructions	If beneficiary wishes to be confirmed, at their cost
Credit to be advised to the beneficiary through (Bank)	Bank Name A/c No..... Swift Code.....

Annexure forming part of Letter of Credit Application

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

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

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

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

1. i) 5% of the Contract value excluding Training i.e. shall be released against submission of Certificate from _____ stating that the beneficiary has submitted basic engineering drawings and the basic engineering data (to be finalized during technical discussion), submission & approval of general layout drawings of the Shop and submission of L-2 network for each unit of the facility as per Appendix-3 (Terms of payment clause 2.1.1 of Contract) and indicating there in the value of payment to be claimed by beneficiary. (Original)
- ii) Beneficiary's invoice signed in ink indicating therein each activity separately and indicating the Gross Value, less amounts already claimed and the Present Claim of the each activity. (One original and 5 Copies)
- iii) Copy of Courier receipt along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____ (Three Copies)
2. i) **80%** of the Price of Design & Engineering i.e. shall be released at the end of each quarter, on pro-rata basis as per clause 2.3.1 of Appendix-3 of the Contract on submission of Certificate from _____ stating that the progress of submission and approval of Design & Engineering & indicating there in the value of progress payment to be claimed by beneficiary. (Original)
- ii) Beneficiary's invoice signed in ink indicating the gross value, less amount already claimed and the present claim against this activity. Invoice should carry the certificate stating that "FEE FOR DESIGN & ENGINEERING AS MENTIONED IN TABLE – 1 OF PRICE SCHEDULE (APPENDIX – 1) OF THE CONTRACT NO. _____ DATED _____ IS FOR THE WORK CARRIED OUT / SERVICES RENDERED IN _____ (OUTSIDE INDIA) ONLY AND NO WORK IS REQUIRED / HAS BEEN PERFORMED IN INDIA IN RESPECT OF DESIGN & ENGINEERING. (One original and 5 Copies)
- iii) Clean Airway Bill made out in the name of marked freight to pay. (One Original and 5 copies)
- iv) Packing list: Packing list should indicate the details of goods supplied and Gross weight & Net weight for the goods supplied & each packets and it should also contained a certificate thereof that the material are suitable and securely packed for dispatch by Air / Road, which is necessary in accordance with standard practice and procedure. (One original and 5 copies)

- v) Copy of Courier receipt along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____. (Three Copies)
3. **80%** of Price of Plant and Equipment and Commissioning Spares i.e. shall be released on pro-rata basis as per Sub-Clause 2.3.3.1 of Appendix-3 of the Contract against Shipping Documents as detailed below:
- i) **On Board Bill of Lading / Air Way Bill** made out in the name of _____ marked freight to pay. Notify party – Bokaro Power Supply Company (P) Ltd., Bokaro. (Three Original and 6 copies in case of Sea Shipment and Three Original and 3 copies in case of Air Shipment)
 - ii) **Beneficiary's invoice** signed in ink for the value of goods supplied indicating gross value of the goods less amount already drawn and the present claim. (One original and 5 copies)
 - iii) **Certificate of Country of Origin** issued / certified by the Chamber of Commerce / Industries of Contractor's country. (One original and 5 copies)
 - iv) **Packing list:** Packing list should indicate the details of goods supplied and Gross weight & Net weight for the goods supplied & each Container / palates / packets and it should also contained a certificate thereof that the material are suitable and securely packed for dispatch by Air / Sea / Road, which is necessary in accordance with standard practice and procedure. (One original and 5 copies)
 - v) **Phitosanitary Certificate:** In case of wooden packing only. (One original and 5 copies)
 - vi) **Manufacturer's Test / Quality certificate** certifying that the material shipped is as per relevant Technical Specifications. (One original and 5 copies)
 - vii) **Guarantee / Warranty Certificate** issued by the manufacturer. (One original and 5 copies)
 - viii) **Inspection Certificate / Dispatch Clearance Certificate issued by** _____. (Original)
 - ix) **Insurance declaration** issued by the beneficiary to the Insurance Company for insurance cover of the consignment. The declaration should indicate the name of the vessel, the estimated date of departure, the estimated date of arrival, the name of the departure sea port, the name of discharge sea port, total gross weight, Total no. of Container / Pallets, FOB value of supplies, Ocean / Air Freight Charges the number of letter of credit, and Contract No and date. (One original and 5 copies)
 - x) **Certificate** from the beneficiary to the effect that drawings and catalogues for Customs Clearance purpose have been kept with the packages for shipment. (One original and 5 copies)
 - xi) **Certificate** from beneficiary certifying that materials dispatched are guaranteed as new and as per relevant Technical Specifications and also in line with quantity of materials as stated in the packing list. (One original and 5 copies)
 - xii) **Copy of Courier receipt along with a Certificate** from the beneficiary stating that one set of non-negotiable documents each has been sent to _____. (Three Copies)
4. **80%** of Price of Refractory i.e. shall be released on pro-rata basis as per Sub- Clause 2.3.3.1 of Appendix-3 of the Contract against Shipping Documents as detailed below:
- i) **On Board Bill of Lading / Air Way Bill** made out in the name of _____ marked freight to pay. Notify party – Bokaro Power Supply Company (P) Ltd., Bokaro (Three Original and 6 copies in case of Sea Shipment and Three Original and 3 copies in case of Air Shipment)

- ii) **Beneficiary's invoice** signed in ink for the value of goods supplied indicating gross value of the goods less amount already drawn and the present claim. (One original and 5 copies)
 - iii) **Certificate of Country of Origin** issued / certified by the Chamber of Commerce / Industries of Contractor's country. (One original and 5 copies)
 - iv) **Packing list:** Packing list should indicate the details of goods supplied and Gross weight & Net weight for the goods supplied & each Container / pallets / packets and it should also contained a certificate thereof that the material are suitable and securely packed for dispatch by Air / Sea / Road, which is necessary in accordance with standard practice and procedure. (One original and 5 copies)
 - v) **Phitosanitary Certificate:** In case of wooden packing only. (One original and 5 copies)
 - vi) **Manufacturer's Test / Quality certificate** certifying that the material shipped is as per relevant Technical Specifications. (One original and 5 copies)
 - vii) **Guarantee / Warranty Certificate** issued by the manufacturer. (One original and 5 copies)
 - viii) **Inspection Certificate / Dispatch clearance Certificate** issued by _____. (Original)
 - ix) **Insurance declaration** issued by the beneficiary to the Insurance Company for insurance cover of the consignment. The declaration should indicate the name of the vessel, the estimated date of departure, the estimated date of arrival, the name of the departure sea port, the name of arrival sea port, total gross weight, Total no. of Container/ Pallets, FOB value of supplies, Ocean / Air Freight Charges the number of letter of credit, and Contract no. and date. (One original and 5 copies)
 - x) **Certificate** from the beneficiary to the effect that drawings and catalogues for Customs Clearance purpose have been kept with the packages for shipment. (One original and 5 copies)
 - xi) **Certificate** from beneficiary certifying that materials dispatched are guaranteed as new and as per relevant Technical Specifications and also in line with quantity of materials as stated in the packing list. (One original and 5 copies)
 - xii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to _____. (Three Copies)
5. i) **80%** of value of Ocean Freight & Marine Insurance i.e. shall be released on monthly pro-rata basis on the basis of **certificate** issued by _____ indicating the value of materials received at **BPSCL** and the amount payable against Freight and other charges as per **Clause 2.3.4.1** of **Appendix – 3** of the Contract. (Original)
 - ii) **Beneficiary's invoice** signed in ink indicating the gross value, less amount already claimed and the present claim against this activity. (One original and 5 copies)
 - iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to BPSCL (Three Copies)
 6. i) **80%** of Foreign Supervision charges i.e. shall be released on pro-rata basis as per **Clause 2.3.8.1** of **Appendix-3** of the Contract against on submission of **certificate** issued by _____ certifying the **number of mandays utilized in the particular month** and indicating there in the amount payable to beneficiary. (Original)
 - ii) **Beneficiary's invoice** signed in ink indicating the gross value, less amount already

- claimed and the present claim against this activity. (One original and 5 copies)
- iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to BPSCL. (Three Copies)
 7. i) **95%** of value of Training Charges i.e..... shall be released on pro-rata basis upon completion of each quarter for the actual training mandays / mandays utilized during the quarter as per **Clause no. 2.2 of Appendix-3** of the Contract on the submission of **certificate** issued by _____ certifying the number of mandays utilized in the particulars quarter and indicating there in the amount payable to beneficiary. (Original)
 - ii) **Beneficiary's invoice** signed in ink indicating the gross value, less amount already claimed and the present claim against this activity. (One original and 5 copies)
 - iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to BPSCL (Three Copies)
 8. i) **2.5%** of Contract Price excluding Training i.e..... shall be released as per **Clause 2.1.3 of Appendix-3** of the Contract on submission of **Preliminary Acceptance Certificate** issued by BPSCL and indicating there in the amount payable to beneficiary (Original)
 - ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value less amount already claimed and the Present Claim for each activity. (One original and 5 copies)
 - iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to BPSCL (Three Copies)
 9. i) **2.5%** of the Contract Price excluding Training i.e.....shall be released as per **Clause 2.1.4 of Appendix-3** of the Contract on submission of **Commissioning Certificate or a certificate stating that the Commissioning Test could not be conducted due to reasons attributable to BPSCL and the beneficiary has submitted the requisite Bank Guarantee** issued by _____ and indicating therein the amount payable to beneficiary. (Original)
 - ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value less amount already claimed and the Present Claim for each activity. (One original and 5 copies)
 - iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to BPSCL (Three Copies)
 10. i) **5%** of the Contract Price excluding Training i.e..... shall be released as per **Clause 2.1.5 of Appendix – 3** of the Contract on submission of **Performance Guarantee Certificate or a Certificate stating that the Performance Guarantee Test could not be conducted due to reasons attributable to BPSCL and the beneficiary has submitted the requisite Bank Guarantee** issued by _____ and indicating therein the amount payable to beneficiary. (Original)
 - ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value less amount already claimed and the Present Claim for each activity. (One original and 5 copies)
 - iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to BPSCL (Three Copies)
 11. i) **5%** of the Contract Price including Training i.e.....shall be released as per **Clause 2.1.6 of Appendix-3** of the Contract on submission of the **Final Acceptance Certificate** issued by BPSCL and indicating therein the amount payable to beneficiary. (Original)

- ii) **Beneficiary's invoice** signed in ink indicating therein each activity separately and indicating the Gross Value less amount already claimed and the Present Claim for each activity. (One original and 5 copies)
- iii) **Copy of Courier receipt** along with a Certificate from the beneficiary stating that one set of non-negotiable documents each has been sent to BPSCL. (Three Copies)

Note:

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

APPENDIX – 4

PRICE ADJUSTMENT DUE TO VARIATION IN PRICE INDICES

- 1.0 The prices for the items for which the prices indicated in the Contract are in foreign currencies, shall not be subject to any price adjustment / escalation.
- 1.1 Applicability of price adjustment shall be governed by **Clause-11.3, 11.4 & 11.5** of GCC. Price adjustment, if any, if required to be made in terms of Contract then the same shall be paid every six (6) months.

- 2.0 The Base Date of the Contract Price is _____. [Base date of the Contract for the purpose of price adjustment shall be the date seven (7) days before last date of submission of price bid / updated price bid]

- 2.1 The 'Original Price' as on Base Date shall be referred to as "Po" and the 'Revised Price' after price adjustment, if any, shall be referred to as "P" in the formulae given hereunder. "Po" and "P" are exclusive of taxes & duties. If, price adjustment becomes applicable in terms of the Contract, "P" minus "Po" shall be the net price adjustment to be made.

- 2.2 The terms LTR and LTO have been defined below under the different heads, wherever applicable. The values for LTR & LTO shall be taken based on either Gazette Notification or Tripartite Agreement as applicable. In no case LTR for Gazette Notification and LTO for Tripartite Agreement or vice-versa shall be taken. This shall be applicable for calculating the price adjustment under **Clause 2.5 to 2.9** hereunder.

- 2.3 **For Supply of Indigenous Mechanical Plant & Equipment including Technological Structures**

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

$$P = Po \left[0.20 + 0.80 \frac{RBli}{RBlo} \right]$$

where:

P = Revised price after adjustment.

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

RBli = RBI Index for **industrial machinery – Commodity no.1.3.11.2** of Index Number of wholesale price in India, prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

RBlo = RBI Index for **industrial machinery – Commodity no.1.3.11.2** of Index Number of wholesale price in India, prevailing on Base Date.

- 2.4 **For Supply of Indigenous Electrical Plant & Equipment including Instrumentation & Telecommunication**

Unless otherwise specified, the Price for supply of indigenous electrical plant & equipment including Instrumentation & Telecommunication shall be subject to adjustment as per the formula of Indian Electrical and Electronic Manufacturers' Association (IEEMA) including base date given in **IEEMA formula**.

For items of Facilities for which IEEMA formulae do not exist, the formula given under

Sub-Clause 2.3 hereof, shall be applicable for the purpose of calculation of the Price Adjustment. However, instead of **Commodity no. 1.3.11.2, Commodity no. 1.3.11.7** for Electrical Machinery, Equipment and Batteries of Index Number of wholesale price in India will be applicable.

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

2.5 For Erection of Mechanical and Electrical Plant & Equipment

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

$$P = P_o \left[0.50 + 0.50 \frac{LTR}{LTO} \right]$$

Where:

P = Revised price after adjustment.

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

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

or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of erection or schedule date of erection, whichever is earlier.

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

or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

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

2.6 For Supply of Building Steel Structures and Sheeting

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

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

$$P = P_o \left[0.70 + 0.30 \frac{LTR}{LTO} \right]$$

Where:

P = Revised price after adjustment.

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

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

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

$$P = P_o \left[0.30 + 0.40 \frac{RB_{li}}{RB_{lo}} + 0.30 \frac{LTR}{LTO} \right]$$

Where:

P = Revised price after adjustment.

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

RB_{li} = Wholesale price Index for iron & steel-long- **Commodity no. 1.3.10.1.2** as per RBI Bulletin prevailing one month prior to actual month of delivery or one month prior to end scheduled completion month of delivery, whichever is lower.

RB_{lo} = Wholesale price Index for iron & steel-long- **Commodity no. 1.3.10.1.2** as per RBI Bulletin prevailing on Base Date.

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

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

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

or
The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of supply or schedule date of supply, whichever is earlier.

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

or
The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

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

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

or
The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of supply or schedule date of supply, whichever is earlier.

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

or
The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

2.7 For Erection of Building Steel Structures and Sheeting

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

$$P = P_o \left[0.60 + 0.40 \frac{LTR}{LTO} \right]$$

Where:

- P = Revised price after adjustment.
- P_o = Original Price for Erection of Steel Structures and Sheeting as on Base Date.
- LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of erection or scheduled date of erection, whichever is earlier.
- or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of erection or schedule date of erection, whichever is earlier.
- LTO = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on the base date.
- or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

2.8 For Civil Engineering Works including all necessary Supplies*

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

$$P = P_o \left[0.35 + 0.25 \frac{RBli \text{ (cement)}}{RBlo \text{ (cement)}} + 0.10 \frac{RBli \text{ (steel)}}{RBlo \text{ (steel)}} + 0.30 \frac{LTR}{LTO} \right]$$

Where:

- P = Revised price after adjustment.
- P_o = Original Price for Civil Engineering works as on Base Date.
- RBli(cement) = Wholesale price Index for cement & lime - **Commodity no. 1.3.9.3** as per RBI Bulletin prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.
- RBlo(cement) = Wholesale price Index for cement & lime – **Commodity no. 1.3.9.3** as per RBI Bulletin prevailing on Base Date.
- LTR = Minimum wage payable to the minimum rated unskilled worker within the Plant premises (as per the Gazette Notification for minimum wages issued by the State Government) on actual date of execution or scheduled date of completion, whichever is earlier.
- or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's

workers within the plant premises on actual date of execution or schedule date of completion, whichever is earlier.

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

or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

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

RBli(steel) = Wholesale price Index for steel – long, **Commodity no. 1.3.10.1.2** as per RBI Bulletin prevailing one month prior to actual month of execution or one month prior to end scheduled completion month, whichever is lower.

RBlo(steel) = Wholesale price Index for steel – long, **Commodity no. 1.3.10.1.2** as per RBI Bulletin prevailing on Base Date.

2.9 For Erection of Refractories

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

$$P = P_o \left[0.50 + 0.50 \frac{LTR}{LTO} \right]$$

Where:

P = Revised price after adjustment.

P_o = Original Price for Refractories as on Base Date.

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

or The revised Labour Rate of minimum rated worker applicable as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises on actual date of erection or schedule date of erection, whichever is earlier.

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

or The original Labour Rate of minimum rated worker as applicable on the Base Date as per Tripartite agreement covering the payment of the Contractor's workers within the plant premises.

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

APPENDIX – 5

PERFORMANCE GUARANTEES

1.0 This Appendix sets out

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

2.0 Preconditions

The Contractor gives the performance guarantees (specified herein) for the Facilities:

3.0 Performance Guarantee Parameters

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

3.1 Guaranteed Production Capacity

Sl. No.	Required functional Guarantees	Required Guaranteed parameter	Acceptable shortfall limit with LD
1	2	3	4
1.	Steaming capacity of Min 210 TPH with firing design coal & gas (BFG & COG) & Min 185 TPH steaming capacity by firing only design coal.	Min 210 TPH with firing design coal & gas (BFG & COG) and 185 TPH steaming capacity by firing only design coal.	Not more than 5 TPH steam capacity decrease in the case of firing design coal & gas (BFG & COG) and 5 TPH steam capacity decrease by firing only design coal.
2.	Minimum Stable load without Oil firing in terms of percentage of design steaming capacity.	40% of design steaming capacity Or guaranteed figure given by the Bidder, whichever is better.	(+) 10 % of the guaranteed figure.
3.	Maximum Flue Gas Temperature at APH top block inlet shall be 384°C Max while firing design performance coal.	Max 384°C or guaranteed figure given by the Bidder.	(+) 5°C of the guaranteed figure.

4.0 Failure in Guarantees and Liquidated Damages

4.1 Failure to Attain Guaranteed Parameters

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

Sl. No.	Condition of Performance Shortfall	Rate of Liquidated Damages payable
1.	Min 210 TPH with firing design coal & gas (BFG & COG) and 185 TPH steaming capacity by firing only design coal.	INR 05.00 million for every 1 TPH decrease in steaming capacity in either case, such decrease, however, being limited in either case to not more than 5 TPH
2.	Minimum Stable load without Oil firing in terms of percentage of design steaming capacity	INR 04.00 million @ for 10 percent increase in minimum stable load without oil firing
3.	Maximum Flue Gas Temperature at APH top block inlet.	INR 10 million for complete 5°C increase in the Inlet Temperature of the Facilities, or at a proportionately increased rate for any increase, or part thereof, of more than a complete 5°C.

4.2 Limitation of Liability

- 4.2.1 The Contractor's aggregate liability to pay liquidated damages for failure to attain the performance guarantees parameters above the minimum levels of performance guarantee parameters specified shall not exceed seven and half percent (7.5%) of the Contract Price plus escalations, if any, excluding taxes & duties.
- 4.2.2 However, in case the Contractor expresses its inability to achieve a maximum level of performance guarantee parameters and reduce consumption of raw materials and Utilities below the maximum level of guaranteed maximum level of consumption of raw materials and Utilities, the Employer shall not reject the plant and equipment after commissioning and achievement of minimum Performance Guarantee parameters. After successful commissioning and achievement of minimum Performance Guarantee parameters, the total liability of the Contractor on account of delay and non-achievement of maximum PG parameters will not be more than LD.
- 4.2.3 In case, even after all possible repairs and replacements the Facilities fail to attain the minimum level of performance guarantee parameters, the Employer may reject the Facility and recover the entire cost paid to the Contractor or alternatively the Employer may proceed for commercial settlement with the Contractor for acceptance of the Facilities at the negotiated Price.

APPENDIX – 6

LIST OF APPROVED VENDORS
(Applicable for Indian Component only)

- 1.0 The following Vendors are approved for carrying out the item of the Facilities indicated against each of them. Where more than one Vendor is listed, the Contractor is free to choose between them, but it must notify the Employer of its choice well in advance time prior to appointing any selected Vendor. In accordance with the **Sub-Clause 19.1** of GCC, the Contractor is free to submit proposals for Vendor for additional items from time to time. No Vendors shall be placed with any such Vendors for additional items until the Vendors have been approved in writing by the Employer and their names have been added to this list of approved Vendors.

(List of Approved vendors shall be issued / displayed in website separately)

GENERAL CONDITIONS OF CONTRACT

GENERAL CONDITIONS OF CONTRACT (GCC)

TABLE OF CONTENTS

A.	CONTRACT & INTERPRETATION	114
1.0	Definitions	114
2.0	Contract Documents	116
3.0	Interpretation	116
4.0	Notices	118
5.0	Governing Law	118
6.0	Settlement of Disputes	119
B.	SUBJECT MATTER OF CONTRACT	119
7.0	Scope of Facilities	119
8.0	Time for Completion	124
9.0	Contractor's Responsibilities	124
10.0	Employer's Responsibilities	125
C.	PAYMENT	126
11.0	Contract Price	126
12.0	Terms of Payment	129
13.0	Securities	130
14.0	Taxes & Duties	132
D.	CONFIDENTIAL INFORMATION	135
15.0	Copyright	135
16.0	Confidential Information	135
E.	WORK EXECUTION	136
17.0	Representatives	136
18.0	Work Program	137
19.0	Subcontracting	140
20.0	Design and Engineering	141
21.0	Procurement	144
22.0	Installation	149
23.0	Test and Inspection	153
24.0	Preliminary Acceptance	154
25.0	Commissioning	155
26.0	Taking Over	155
27.0	Performance Guarantee Test	156
28.0	Final Acceptance	157

F. GUARANTEES AND LIABILITIES	157
29.0 Completion Time Guarantee	157
30.0 Defect Liability	158
31.0 Patent Indemnity	159
32.0 Limitation of Liability	160
G. RISK DISTRIBUTION	160
33.0 Transfer of Ownership	160
34.0 Care of Facilities	161
35.0 Loss of or Damage to Property; Accident or Injury to Workers; Indemnification	161
36.0 Insurance	162
37.0 Negligence	164
38.0 Change in Laws and Regulations	164
39.0 Force Majeure	164
40.0 War Risks	165
H. CHANGE IN CONTRACT ELEMENT	166
41.0 Change in the Facilities	166
42.0 Extension of Time for Completion	167
43.0 Suspension	168
44.0 Termination	168
45.0 Assignment	171
46.0 Surplus Materials	171
47.0 The Employer shall allow the Contractor to take out construction equipment, tools & tackles and instruments brought by the Contractor on draw back basis provided the contractor has carried out necessary documentation at the time of taking such items inside the Plant.	171

GENERAL CONDITIONS OF CONTRACT

A. CONTRACT & INTERPRETATION

1.0 Definitions

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

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

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

“GCC” means the General Conditions of Contract hereof.

“SCC” means the Special Conditions of Contract.

“Technical Specifications / Contract Technical Specifications” mean the technical specifications, schedules, detailed designs, statements of technical data, performance characteristics value and all other technical particulars of the Contract.

“GTS” means the General Technical Specifications. “Day” means calendar day of the Gregorian Calendar. “Month” means calendar month of the Gregorian Calendar.

“Mandays” means all working days.

“Employer” means BOKARO POWER SUPPLY CO. (P) LTD and includes the legal successors or permitted assigns of the Employer.

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

“Consultant” means the person(s) named as such in the **Clause 1.4** of SCC to perform the duties delegated by the Employer as specified in the **Article 6** of the Contract Agreement.

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

“Contractor’s Representative” means any person nominated by the Contractor and approved by the Employer in the manner provided in **Sub-Clause 17.2** (Contractor’s Representative) hereof to perform the duties delegated by the Contractor. For site work Contractor’s Representative shall also mean the representative of Sub-Contractors and Sub-Contractor’s Sub-Contractors.

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

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

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

2.3 to 2.9 of **Appendix-4** of Contract Agreement.

“Facilities” mean the work specified in **Clause 7** hereof, Technical Specification, including General Technical Specification and all supply & services to be carried out by the Contractor under the Contract.

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

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

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

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

“Effective Date of Contract” means the date of signing of Contract or 30 days from date of Letter of acceptance (LOA), whichever is earlier.

“Time for Completion” means the time specified in **Article 5.1** of the Contract Agreement within which Completion of the Facilities as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) is to be attained in accordance with the stipulations made in the Contract Agreement and the relevant provisions of the Contract.

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

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

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

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

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

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

Specifications.

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

“Completion of the Facilities” means the Facilities have been completed and accepted when commissioned as per **Clause 25** (Commissioning).

The Facilities will be considered completed in all respects and accepted when Performance Guarantee Parameters are established as per **Clause 27** and Final Acceptance Certificate has been issued as per **Clause 28** hereof”

“Taking Over” means, taking over of the facilities by the Employer upon the date of commissioning mentioned in the commissioning certificate. The Employer shall be responsible for the care & custody of the Facilities together with the risk of loss or damage thereto.

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

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

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

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

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

2.0 Contract Documents

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

3.0 Interpretation

3.1 Language

- 3.1.1 All correspondence and communications to be given and all other documentation to be prepared and supplied under the Contract shall be written in English, and the Contract shall be construed and interpreted in accordance with English language.

3.2 Singular and Plural

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

3.3 Headings

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

3.4 Persons

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

3.5 Incoterms

3.5.1 Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by **Incoterms 2010 with amendments, if any**.

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

3.6 Entire Agreement

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

3.7 Amendment

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

3.8 Contractor

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

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

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

3.9 Consortium

3.9.1 If the Contractor is a consortium of two or more parties, all such parties shall be jointly and severally bound to the Employer for the fulfillment of the obligations of the Contractor as per provisions of the Contract and shall designate one of such party to act as a leader with authority to bind the consortium. The composition or the constitution of the consortium, which have become eligible, may be permitted to alter only with the prior consent of the Employer in writing.

The consortium leader shall remain responsible not only for its scope of work but also for the scope of work of other consortium members so that Employer gets the facilities completed in all respects.

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

3.10 Waiver

- 3.10.1 Subject to **Sub-Clause 3.10.2** below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- 3.10.2 Any waiver of a party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

3.11 Severability

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

4.0 Notices

- 4.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, post / airmail post, special courier, telefax, or signed & scanned copy of Notice through email to the address of the relevant party set out in the Special Conditions of Contract, with the following provisions.
- 4.1.1 Any notice sent by telefax, email shall be confirmed within two (2) days after dispatch by notice sent by airmail post or special courier, except as otherwise specified in the Contract.
- 4.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and conveyed to the postal authorities or courier service for transmission by airmail or special courier.
- 4.1.3 Any notice delivered personally or sent by facsimile, email shall be deemed to have been delivered on date of its dispatch.
- 4.1.4 Either party may change its postal, telefax, email address or addressee for receipt of such notices by 10 (ten) days' notice to the other party in writing.
- 4.2 Notices shall be deemed to include any approvals, consents, instructions, orders and certificates to be given under the Contract.

5.0 Governing Law

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

6.0 Settlement of Disputes

6.1 Conciliation

Any disputes, differences, whatsoever, arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this Contract shall be settled between the Employer and the Contractor amicably. If however, the Employer and the Contractor are not able to resolve their disputes / differences amicably as aforesaid the said disputes / differences shall be settled by Conciliation, failing which, through Arbitration.

Conciliation shall be resorted to prior to invoking Arbitration. The Arbitration Clause is to be invoked by the parties to the Contract only on failure of conciliation proceedings to amicably settle the disputes.

6.2 Arbitration

The arbitration shall be governed in accordance with The Arbitration and Conciliation Act 1996 (hereinafter referred to as the "Act") of India. The language of Arbitration shall be English.

6.2.1 Subject to the stipulations made hereinabove, Arbitration shall be conducted as per forum specified below:

- a) All Contracts, whose value is Indian Rs. 5 crore and below (for both Indian and Foreign Contractors), Arbitrator shall be appointed by the Chief Executive Officer, BPSCL (whatever designation he may be holding) and the Arbitration shall be held at Administrative Building / Power Plant of BPSCL. The Court of India (with exclusion of all other Courts) shall have exclusive jurisdiction over all matters of disputes.
- b) Arbitration of contracts, with Indian parties, where contract value is more than Indian Rs. 5 crore and the contracts with foreign parties for value of more than Indian Rs. 5 crore and up to Indian Rs. 20 crore shall be governed by the Rules of Indian Council of Arbitration (ICA) / "SCOPE Forum of Conciliation and Arbitration" (SCFA) / Ranchi High Court Arbitration Centre, as agreed by the party. The venue shall be Ranchi.
- c) Arbitration with foreign contractor or in Consortium contracts (including foreign contractor), where the contract value is more than Indian Rs. 20 crore shall be governed by the Rules of Arbitration of International Chamber of Commerce (ICC), Paris. The venue of the arbitral proceedings shall be Ranchi.

6.2.2 During the pendency of the Conciliation or Arbitration proceedings both the parties (i.e. the Contractor and the Employer) shall continue to perform their contractual obligations.

The arbitral tribunal shall give reasons for its award. The tribunal shall apportion the cost of arbitration between the parties; the award rendered in any arbitration hereunder shall be final and binding upon the parties. The parties agree that neither party shall have any right to commence or maintain any suit or legal proceeding concerning any dispute under this agreement until the dispute has been determined in accordance with the arbitration proceeding provided for herein and then only to enforce or facilitate the execution of an award rendered in such arbitration.

B. SUBJECT MATTER OF CONTRACT

7.0 Scope of Facilities

7.1 Scope of Supplies and Services

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

7.2 Design, Drawings & Technical Documents

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

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

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

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

7.4.1 Plant and Equipment

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

- 7.4.1.1 The Contractor shall furnish a copy of the priced / unpriced Orders / Contracts for all the bought out items.

7.4.2 Commissioning Spares

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

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

7.4.3 Initial Fill and Lubricants

7.4.3.1 The Contractor shall supply along with the Plant & Equipment the oils, grease & lubricants required for the initial fill including flushing liquor and also chemicals for pickling, etc., well in advance, for commissioning of the Plant & Equipment.

7.4.3.2 The cost of such initial fill of oils including hydraulic oils, grease and other lubricants is included in the Contract Price. Should the oil, grease & lubricants found to be inadequate, the Contractor shall supply without any extra cost to the Employer, additional required oil, grease & lubricants, within the time schedule to ensure commissioning is not held-up. The unused oil, grease & lubricants shall be the property of the Employer.

7.4.3.3 The Contractor shall be responsible for supply of adequate quantities of such oils, grease & lubricants as may be required for this purpose till commissioning as per **Clause 25** hereof.

7.4.3.4 These oils, grease & lubricants should be preferably of Indian origin. In the case of imported oil, grease & lubricant, specification for the same shall be furnished by the Contractor for procurement in future.

7.4.3.5 The Contractor shall also furnish consumption rates of all the consumables along with estimated annual requirement and ordering specification for timely procurement by the Employer for future requirements.

7.4.4 Special Tools & Tackles

The Contractor shall supply along with the Plant & Equipment special tools & tackles, instruments and appliances which will be required for erection, commissioning, operation and maintenance of the Facilities.

The Contractor shall provide ordering specification including the names of suppliers giving sufficient details to enable the Employer to procure such special tools, tackles, instruments and appliances, at a later date when necessary, after successful commissioning.

7.5 Civil Engineering Work (As specified in Technical Specifications)

7.5.1 Unless otherwise expressly limited and / or excluded elsewhere in the Contract from Contractor's scope, the Contractor shall be responsible for the construction of all civil foundation for structures and equipment, construction of super structures, buildings and all other connected civil construction works included in the scope of work as per Technical Specifications in accordance with **Sub-Clause 20.4** hereof.

7.5.2 It is presumed that the Contractor has already inspected the site and satisfied itself about the actual site conditions and has collected any other information which may be required by the Contractor. All necessary soil tests over and above those carried out by the Employer are to be undertaken by the Contractor and no extra claim on this account shall be admitted.

7.5.3 The Contractor shall be held responsible for proper performance for buildings and structures including all other civil work for a period of 12 months after

commissioning of the Facilities. Any defect found during this period will be made good by the Contractor at its own cost failing which the Employer reserves the right to take remedial measures at the Contractor's risk and cost.

7.5.4 All excavated materials shall remain the property of the Employer.

7.5.4.1 All fossils, coins, articles of value of antiquity and structure and other remains or things of geological and archaeological interest discovered on the site of works shall be the absolute property of the Employer and the Contractor shall take all precautions to prevent his workmen or any other person removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal inform the Employer of such discovery and carry out the removal under the supervision of the Employer of the same and hand it over to the Employer.

7.6 Scope of work for Erection of Structures, Plant & Equipment and Refractories

7.6.1 The scope of work of the Contractor amongst others shall be complete erection of the Plant and Equipment, steel structures, refractories, etc., as given in the Technical Specifications.

7.6.2 The Contractor shall intimate the Employer in writing well in advance about the requirement of shutdown of any of the existing units / facilities for inter-connection / incorporation of additional facilities. The shutdown period shall be mutually discussed and finalized. The work to be undertaken during the shutdown period shall be planned meticulously by the Contractor to reduce the shutdown period to the minimum.

7.6.3 The Contractor shall use permanent pipe and clamps scaffolding for working at heights.

7.7 Technical Services

7.7.1 Technical Services to be provided by the Contractor shall include the following amongst others:

- a) Raw material testing, if necessary.
- b) Basic design, layout, engineering & drawings.
- c) Detailed design, layout, engineering & drawings.
- d) Drawings / data for carrying out Plant Engineering and detailed design / drawings of civil, structural and services.
- e) Technical services relating to planning, procurement, manufacturing, inspection, expediting, packing, shipping, storage, etc.
- f) Supervision of civil & structural engineering work & erection work including specialized erection services.
- g) Technical consultation / liaison / guidance relating to detail design and plant engineering by Contractor's Sub-Contractors, Co-ordination relating to site work and other engineering work, feedback data and information to the Employer / Consultant for the Contractor's scope of supply and services.
- h) Project Management Services including co-ordination relating to customs clearance, transportation, insurance, claim settlement, inspection of supplies, construction planning and scheduling, erection planning, field construction engineering, trial runs, start up, commissioning and performance guarantee tests.
- i) Training of Employer's Personnel.

- j) Deputation of Foreign Experts for supervision of design and manufacture of Plant and Equipment as well as for supervision of erection, cold tests, commissioning, guarantee tests, etc.
- k) Quality control and adherence to time schedule, control of site work and other Indian works.
- l) Clearance of installations from the statutory and other concerned authorities on behalf of Employer. The Contractor shall also assist in preparing application forms, providing necessary drawings, documents, test certificates etc., including necessary co-ordination with statutory and other concerned authorities.
- m) Post Commissioning services in accordance with terms and conditions stipulated under the Contract, if so specified in **SCC**.

7.8 Training of Employer's Personnel

Subject to stipulations of the Contract, the Contractor shall arrange for training in India & abroad of the Employer's personnel for operation, maintenance and other services of the facilities under the Contractor's scope of supply. The contractor shall furnish the details of the training to be provided to the employer's personnel for the approval of the employer. Employer may indicate the field of training and man-days to the contractor for compliance.

- 7.8.1 The travelling and living expenses of the Employer's trainees shall be borne by the Employer. The Employer shall also arrange necessary travel documents for its trainees. The Contractor shall, however, assist in arranging visa and medical insurance for such trainees, wherever necessary.

7.9 Deputation of Foreign Experts for Supervision of Erection, Commissioning & Performance Guarantee Tests.

- 7.9.1 The Contractor shall depute at site its Foreign Experts to supervise the erection, commissioning and conducting of performance guarantee tests of the Plant & Equipment with its auxiliaries as contracted herein so as to establish to the Employer that the guarantees as agreed by the Contractor in accordance with the **Appendix-5** of Contract Agreement, are fully met.
- 7.9.2 Bio-data of the Foreign Engineers / Experts shall be furnished by the Contractor to the Employer / Engineer / Consultant for approval sufficiently in advance before their deputation. The Contractor shall obtain at its own cost, necessary work permits, passports, visas, police permits and expenses for customs duty related to personal and other effects of any Experts / personnel who are non-residents of India, employed or engaged by him for work.
- 7.9.3 The Contractor further guarantees that, in case the number of mandays for foreign Experts actually utilized exceeds the quantum indicated in **Appendix-1** of the Contract Agreement, such additional Foreign Experts mandays shall be deputed by the Contractor for completing its scope of work, but no extra payment for deputing such extra mandays shall be payable by the Employer unless additional deputation is required for the reasons attributable to the employer.
- 7.9.4 If some of the Experts deputed for supervision of erection, commissioning and Performance Guarantee Tests are required by the Employer beyond the Final Acceptance of the Facilities (Post commissioning services) after fulfillment of all the Contractual obligations by the Contractor, the Contractor shall provide such services in accordance with the terms and rates stipulated in the Contract or to be mutually agreed upon between the Employer and the Contractor if not already

provided for in the Contract.

- 7.9.5 All the facilities required by the Overseas Experts / Specialists, deputed for supervision of erection, commissioning, performance guarantee tests, etc., shall be provided by the Contractor to the Overseas Experts / Specialists.
- 7.9.6 In the event, Expert is not found of required skill / expertise, then the Employer will have the right to send the Expert back at the cost of the Contractor.
- 7.9.7 The Contractor shall bear and pay all the cost / expenses for deputation of foreign experts required as per Contract including all costs / expenses towards remuneration, air travels from their Country to India / at site and back to their country as well as any other places to be visited in connection with the supervision of design & manufacture of Plant & Equipment, surface travel, local transport, accommodations, food & incidentals, communication system, medical, insurance, personal Indian Income Tax, etc.

7.10 Demonstration of Performance Guarantee

- 7.10.1 The Contractor guarantees the equipment for its workmanship, materials, design and satisfactory performance in accordance with the relevant specifications & provisions of this Contract. The guarantee for performance includes individual items and systems for the ratings / output as well as for the integrated operation of the Plant. The Contractor's responsibility under this guarantee shall not in any way be reduced, diminished or absolved for any reason whatsoever in respect of supplies, materials and equipment not manufactured by the Contractor. The Contractor, upon successful commissioning of each equipment / system will conduct performance guarantee tests to demonstrate the integrated operation of all equipment / systems.
- 7.10.2 The details of the performance guarantee tests, test procedures, test schedules, for the demonstration of the performance guarantees shall be submitted to the Employer which will be mutually agreed upon. Any subsequent deviation / modification in the agreed schedule, if considered necessary, at a later date shall be mutually discussed and agreed upon.
- 7.10.3 After commencing a test, it shall be completed unless in the opinion of either Employer or Contractor a safety hazard exists which necessitates shutdown.
- 7.10.4 The Contractor shall undertake to demonstrate the Performance Guarantee Tests and achieve the guaranteed production capacity in a sustained manner and also the other parameters as specified in **Appendix-5** of the Contract Agreement.

7.11 Division of Scope of Facilities among members of Joint Venture or Consortium

- 7.11.1 In case, the Contractor is a Joint Venture or Consortium of two or more firms, the division of Scope of Facilities indicated at **Sub-Clauses 7.2 to 7.10** hereof, shall be given by the Contractor.

8.0 Time for Completion

- 8.1 The Contractor shall attain Completion of the Facilities as defined at **Clause 1** hereof within the time stated in the **Article-5** of Contract Agreement or within such extended time to which the Contractor shall be entitled under **Clause 42** (Extension of Time for Completion) hereof.

9.0 Contractor's Responsibilities

- 9.1 The Contractor shall carryout Scope of Facilities as specified in **Clause-7** hereof

including design & engineering; civil engineering work; dismantling, if any, of existing building, structures & equipment; modification / diversion, if any, of utility/ services; fabrication & supply of steel structures; manufacture (including associated purchases and / or sub-contracting) & supply of plant & equipment and refractories; Customs & Port clearances (excluding Customs Duty, CVD and other taxes & duties as per **Sub-clause 14.2 & 14.3** and Service Tax / Applicable Cess on items for which prices are quoted in Foreign currency); inland transportation; intermediate storage; insurance & handling; erection work; testing; pre-commissioning; start-up & commissioning and demonstration & establishment of performance guarantee parameters of the Facilities with due care and diligence in accordance with the Contract.

- 9.2 The Contractor shall be deemed to have entered into this Contract on the basis of a proper examination of the data relating to the Facilities (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 prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities. The Contractor shall satisfy himself regarding the accessibility to site by existing roads, feasibility of taking materials / equipment to site and availability of Labour and local conditions.
- 9.3 The Contractor shall at its own expenses obtain all permits and licenses from Indian and Foreign Government required for the performance of work under this Contract and the Contractor shall bear any fee payable to the Government or local licensing authority for obtaining permits and licenses at their own cost (except where the Employer is statutorily required as per Indian laws, rules, statutory notifications to pay the fees and/or file applications for the permits/licenses in which case the Contractor shall render assistance to the Employer). The Contractor shall perform the work in accordance with the conditions of all applicable permits and license. The Contractor shall provide evidence of license granted and any restriction contained therein.

The necessary Statutory Fees for such permits, approvals and / or licenses payable by the Contractor, are included in the Contract Price.
- 9.4 The Contractor shall comply with the Indian Laws that may be in vogue as on Base Date of the Contract or may come into force during currency of the Contract, that binds upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Sub-Contractors and their personnel.

10.0 Employer's Responsibilities

- 10.1 The Employer shall ensure the accuracy of information and / or data to be supplied by the Employer, except when otherwise expressly stated in the Contract.
- 10.2 The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way. The Employer shall give full possession of and accord all rights of access thereto on or before the mutually agreed date(s).
- 10.3 If requested by the Contractor, the Employer shall use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and / or licenses necessary for the execution of the Contract from State or Central Government

Authorities.

- 10.4 To the extent specified in the Contract or agreed upon by the Employer and the Contractor, the Employer shall provide to the Contractor sufficient, properly qualified operating & maintenance personnel; shall supply & make available all raw materials & utilities, and shall perform all work and services of whatsoever nature, for properly carrying out pre-commissioning, commissioning and performance guarantee tests by the Contractor at or before the time specified in the Program of Performance hereof and in the manner thereupon specified or as otherwise agreed upon by the Employer and the Contractor.
- 10.5 The Employer shall be responsible for the continued operation of the Facilities after Commissioning and shall facilitate the Contractor in performing the Performance Guarantee Test(s) for the Facilities.
- 10.6 All costs and expenses involved in the performance of the obligations under this **Clause 10** hereof, shall be the responsibility of the Employer, save those to be incurred by the Contractor with respect to the performance of Performance Guarantee Tests.

C. PAYMENT

11.0 Contract Price

- 11.1 The Contract Price as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement shall be for the entire Scope of the Facilities including spares, oils, grease, lubricants, flushing liquor, chemicals for pickling etc. required during Start up and Commissioning and scrap in any form generated inside the plant premises. The break-up of the Contract Price is given in the **Appendix-1** to the Contract Agreement.

11.2 Price Basis

- 11.2.1 The Contract Price quoted in Indian Rupees shall comprise of basic price and all duties, taxes and levies, as may be applicable and prevailing on base date of the Contract. While the basic price will constitute the consideration under the Contract, the payment of service tax and applicable cess, thereon, will be reimbursed on actual against documentary evidence. Other taxes and duties shall be reimbursed on actual against documentary evidence, subject to a ceiling indicated in Price Schedule given in **Appendix-1** except on account of impact due to price variation, if applicable.
- 11.2.2 The Contract Price does not include Customs Duty, Counter Veiling Duty, Cess and Additional Duty of Customs, if any, on the imported plant & equipment specified in the Contract, for which prices indicated in the Contract are in Foreign Currencies. However, Contract Price includes Customs Duty & Counter Veiling Duty, Cess and Additional Duty of Customs, if any, on the imported plant & equipment for which prices indicated in the Contract are in Indian Rupees.
Customs Duty, Counter Veiling Duty, Cess and Additional Duty of Customs, if any, for replacement against short supply, damaged, defective items, of such imported Plant & Equipment for which prices indicated in the Contract are in Foreign Currencies shall be borne by the Contractor.
- 11.2.3 The Contract Price does not include Income Tax & Research & Development (R&D) Cess and Service Tax on imported Engineering / Technical Services / Foreign Supervision & Training by overseas experts for which prices indicated in the Contract are in foreign currencies.
- 11.2.4 The Contract Price includes price towards supervision by Foreign Experts for a

number of mandays specified in Appendix-1. Should the actual mandays deployed is more than the number indicated in Appendix – 1, the Employer shall not pay any extra price to the Contractor for extra mandays unless additional deputation is required for the reasons attributable to the employer.

- 11.2.5 The prices for imported supplies for which prices are quoted in foreign currency, are for delivery on F.O.B. (Free on Board) Port of shipment basis. However, the Contract price shall include the prices towards ocean freight, Customs & Port clearances (excluding Customs, Counter Veiling Duty, Cess and Additional Duty of Customs, if any) handling including loading & unloading, inland freight & insurance up to plant site for items for which prices are quoted in Foreign currencies. The prices for indigenous supplies for which prices are quoted in Indian Rupees, are for delivery at plant site basis.
- 11.2.6 As per provisions of VAT Act, TDS towards VAT will be deducted on the value of civil work, erection of plant & equipment, structures and refractories and fabrication of structures at site from the running account bills of the Contractor.
- 11.2.7 Raw Water & Electrical Power required for Construction & Erection Work at site, shall be supplied by the Employer free of cost as per **Sub- Clause 20.4.2 & 20.4.3** hereof. However, Electrical Power for fabrication work, if any, envisaged at site, shall be supplied metered & charged at the rates prevailing from time to time.

11.3 Firm Contract Price

- 11.3.1 The Price for items for which the price indicated in the Contract is in Foreign currencies, shall be firm and not subject to any escalation, except in the event of a change in the scope of work or specification or as otherwise provided in the Contract. However, scope of work in pursuance of **Sub-Clause 7.1.2**, hereof, shall not be taken as change in the scope of work or specification.
- 11.3.2 The Price for items for which the price indicated in the Contract is in Indian Rupees, except as provided in the **Sub-Clause 11.3.3** hereof, shall be firm, not subject to any escalation except in the event of a change in the scope of work or specification or as otherwise provided in the Contract. However, scope of work in pursuance of **Sub-Clause 7.1.2**, hereof, shall not be taken as change in the scope of work or specification.
- 11.3.3 Where the contractual “Time for Completion” exceeds twelve (12) months, unless otherwise specifically indicated in the Contract, the Price for the following heads shall be subject to price adjustment due to variation in price indices as per **Appendix-4** (Price Adjustment due to variation in Price Indices):
 - Supply of Indigenous Mechanical Plant & Equipment including Technological Structures.
 - Supply of Indigenous Electrical Plant & Equipment including Instrumentation & Telecommunications.
 - Erection of Mechanical & Electrical Plant & Equipment including Technological Structures.
 - Supply of Building Steel Structures & Sheetting. Erection of Building Steel Structures & Sheetting. Civil Engineering works including all necessary supplies. Erection of Refractories.

11.4 Ceiling of Price Variation

- 11.4.1 The Price Variation (plus or minus) as per **Appendix-4** shall be subject to a ceiling amount of 15% of Price (excluding duties, taxes, levies, etc.) for respective

heads indicated in **Sub-Clause 11.3.3**.

- 11.4.2 For the purpose of calculation of ceiling on Price variation, the taxes & duties included in the Contract Price as on Base Date, the advance payments as per **Appendix-3** and price for raw steel items if supplied by the Employer on cost recovery basis shall be deducted from the Contract Price.
- 11.4.3 The statutory variation in Taxes, Duties being reimbursed at actuals as per **Sub-Clause 14.6** hereof, shall not be included in fifteen percent (15%) ceiling on Price Adjustment.

11.5 Validity of Price Variation

- 11.5.1 No price variation is applicable for contracts with contractual "Time for Completion" up to twelve (12) months.
- 11.5.2 When contractual "Time for Completion" of the Contract is up to twelve (12) months and if completion of Facilities is delayed beyond scheduled "Time for Completion" due to reasons attributable to the Employer and extension to the "Time for Completion" is granted, the extent of price adjustment, if any, shall be allowed in the Contract Price, for the upward variations arising between the scheduled "Time for Completion" and actual date of completion of the respective item of work within the "Extended Time for Completion" of the Contract.
- 11.5.3 When contractual "Time for Completion" of the Contract is for more than twelve (12) months, price adjustment shall be allowed in the Contract Price for the variations, as follows:
- 11.5.3.1 Price adjustment, if any, shall be allowed only for that part of the Facilities, which are executed within the scheduled Time for Completion of respective items of work and the price adjustment will be limited to the price adjustment arising from the Base date of the Contract to the scheduled completion of respective items of work as indicated in **Appendix-2** of Contract Agreement or actual completion period of the respective items of work whichever is lower.
- 11.5.3.2 If completion of facilities is achieved within the scheduled 'Time for Completion' (as per **Sub-Clause 1.1**) but beyond scheduled period of completion of respective items of work as indicated in **Appendix-2** of Contract Agreement, the price adjustment shall be calculated on the basis of the lower of the following two RBI Indices:
1. RBI Index as on the scheduled date of completion; or
 2. RBI Index as on the Actual date of completion.
- 11.5.3.3 If completion of the Facilities is delayed beyond scheduled "Time for Completion", due to the reasons not attributable to the Employer, notwithstanding the extension to the "Time for Completion" is granted, no price adjustment shall be allowed in the Contract Price for the portion of work executed beyond scheduled "Time for Completion". However, in case the RBI indices during the extended completion time are lower, the same will be applicable for calculating the price adjustment.
- 11.5.3.4 If completion of Facilities is delayed beyond scheduled "Time for Completion" due to reasons attributable to the Employer and extension to the "Time for Completion" is granted, price adjustment, if any, shall be paid in the Contract Price, for the variations arising between the base date and actual date of completion of the respective

item of work within the “Extended Time for Completion” of the Contract.

However, if the completion of facilities is delayed beyond scheduled date of the “Time for Completion” due to reasons attributable to both the parties, then the period for delay attributable to the Employer will be considered as initial delay and the price adjustment shall be applicable during this period as well.

- 11.5.4 The Contractor shall submit its first Statements for Price Adjustment, if any, after completion of six months from Effective Date of Contract with all break-up and supporting documents to justify Price Adjustment. Subsequent Price Adjustment Statements shall be submitted by the Contractor after every six months. The payable escalation amount shall be paid as per Payment Terms.

11.6 Adjustment of Price for Weights and Physical Quantities of Work

- 11.6.1 The Contract is for Turnkey Completion of Scope of Facilities as specified in the **Clause 7** hereof and Technical Specifications. The physical quantities and weights as given in the contract / billing schedule, are indicative only for the purpose of making progress payments on pro-rata basis as per **Clause 2.3** of **Appendix-3** of Contract Agreement. Neither the Contractor shall be entitled to get any additional price from the Employer nor is the Employer entitled to deduct any amount from the Contract Price due to variation in physical quantities and weights.

11.7 Billing and Dispatch Schedule

- 11.7.1 The Contractor within 90 (ninety) days of the Effective Date of the Contract shall submit detailed Billing Schedules (breakup of the Price Schedule contained in the **Appendix-1**) for the purpose of giving the value of Po for the consideration of Price Adjustment, if applicable, in accordance to the **Appendix-4** and release of progress payments in accordance to **Appendix-3**, which will be scrutinized and approved by the Employer. The detailed Billing Schedules shall be based on Time Schedule included in **Appendix-2** (Time Schedule) to the Contract Agreement and Network as per **Sub-Clause 18.1.1** hereof, for respective progress payment terms in accordance with **Clause 2.3** of Appendix-3.
- 11.7.2 Within 6 (six) months from the Effective Date of Contract, a detailed shipping schedule matching to billing schedule & **time schedule**, shall be submitted by the Contractor, indicating the break-up of the complete Plant & Equipment, structures and refractories into shipment units with approximate weights and dimensions and the respective dates upon which such units will be dispatched from the Contractor's and / or its Sub-Contractor's works. The Contractor shall arrange for supplies of the Plant & Equipment, structures and refractories in the logical sequence required for erection at site within the overall Time for Completion of the Facilities unless otherwise agreed to by the Employer. The Contractor shall promptly give written notice to the Employer of any anticipated delay in maintaining such schedule stating reasons and remedial measures, thereof. This shall not, however, in any way absolve the Contractor from his responsibility of timely delivery of plant & equipment as per Contractual time schedule.

12.0 Terms of Payment

12.1 General

- 12.1.1 No advance will be provided to the Contractor, unless specified in IFB/ BDS and

the payments will be linked with the progress.

- 12.1.2 All payments shall be made as specified in **Appendix-3** (Terms of Payment), directly by the Employer to the Contractor unless otherwise provided in the Contract or agreed between the Parties.

In case the Contractor is a Consortium of two or more parties, as indicated in the **Sub-Clause 3.9** of GCC, the Employer shall make direct payment to all such parties on certification of the Leader.

However, certification of the leader will not be required for each Invoice, provided the Leader of the consortium submits a general authorization document, authorizing the Employer to release payment to its consortium members directly.

- 12.1.3 If as per provisions of Contract any payment is made directly by the Employer to the Sub-Contractors, such payments shall constitute a proper discharge of Employer's obligations for such payments to the Contractor.
- 12.1.4 The payments will be made in the currencies quoted by the Contractor and included in the Contract unless otherwise agreed to between the Parties.
- 12.1.5 The Contractor shall furnish the detailed Billing Schedule as per **Sub-Clause 11.7.1** hereof, for each item under the scope of work of the Contract, for the approval of Employer / Consultant, which after the approval only, will be the basis for submission of invoices for progress payments.
- 12.1.6 The Employer shall release the payment to the Contractor within thirty (30) days from the date of receipt of the complete and correct invoices & relevant documents.
- 12.1.7 All interim / progress payments shall be regarded as payments by way of advance against the final payment only and not as payment for work completed and shall not preclude defective / imperfect / incomplete Facilities to be removed. It will not be considered as an admission by the Employer of the due performance of the Contract, or any part thereof by the Contractor nor shall it preclude, determine or affect in any way the powers of the Employer under these conditions or in any way vary or affect the Contract.

13.0 Securities

13.1 Issuance of Securities (Bank Guarantees)

- 13.1.1 The Contractor shall provide the Securities in the form of Bank Guarantees specified below in favor of the Employer at the times, and in the amount, manner and form specified below.
- 13.1.2 The Bank Guarantee shall be in the form provided in **Annexure I** hereof or in another form acceptable to the Employer.
- 13.1.3 The Bank Guarantee for Indian Rupee payments shall be issued and be payable / operable by State Bank of India (SBI), B. S. City Branch or a Scheduled Commercial Bank in India having its branch at B. S. City.
- 13.1.4 The Bank Guarantee for Foreign Currency payments shall be issued by Scheduled Commercial Bank based on counter Bank Guarantee to be issued by Overseas Bank acceptable to Scheduled Indian Bank and be payable by Scheduled Commercial Bank or State Bank of India (SBI).
- 13.1.5 In case the project gets delayed then the BG shall be extended by the contractor for such delayed period. However, if the delay is due to reasons not attributable to Contractor, the BG extension charges shall be reimbursed by the Employer.

13.2 Performance Bank Guarantee

13.2.1 The Contractor shall, within 30 (thirty) days after signing of Contract Agreement, provide a Bank Guarantee (as per **Annexure-I** hereof) for the due performance of the Contract in amount equivalent to 5% of the Contract Price (including taxes and duties as included in the Price Schedules) in the same currency or currencies. This should be valid up to defect Liability period. In case the contractor is a consortium, the Performance Bank Guarantee shall be submitted by any member of the Consortium on behalf of the Consortium or by each individual member of the Consortium in proportion to the price for their respective scope of work as per the Contract.

In case the contractor submits the foreign portion of the BG in Indian Rupees then the BG amount shall be 10% more than the equivalent Rupee value to take care of the exchange rate variation.

13.2.1.1 If the Contractor fails to provide the Performance Bank Guarantee, the Employer shall have the right to take risk purchase action including forfeiting the bid security, and get the Facilities executed by any other party at the risk and cost of the Contractor, after expiry of the notice for terminating the Contract for such default by the Contractor.

13.2.2 The Bank Guarantee shall automatically become null and void after twelve (12) months after issue of Commissioning Certificate, provided, however, that if the Defects Liability Period has been extended on any part of the Facilities pursuant to **Sub-Clause 30** hereof, the Contractor shall extend the Bank Guarantee. The Bank Guarantee shall be returned to the Contractor immediately after its expiration, provided, however, that if the Contractor, pursuant to **Sub-Clause 30.5** hereof, is liable for an extended warranty obligation, the performance Bank Guarantee shall be extended for the period of 12 months from date of its restoration.

13.3 Bank Guarantee for release of payments towards Commissioning

13.3.1 The Contractor shall provide Bank Guarantee (as per **Annexure-II** hereof) to the Employer for an amount equivalent to the payment under **Sub-Clause 25.4** hereof, in the same currency or currencies valid for a period of 12 months.

13.3.2 The Bank Guarantee shall be returned to the Contractor as soon as Commissioning Certificate has been issued, at the latest, however, on the expiry of 12 months from the date of release of payment against Bank Guarantee.

13.4 Bank Guarantee for release of payments towards Performance Guarantee Certificate

13.4.1 The Contractor shall provide Bank Guarantee (as per **Annexure-II** hereof) to the Employer for an amount equivalent to the payment under **Clause 27** hereof, in the same currency or currencies for a period of 12 months.

13.4.2 The Bank Guarantee shall be returned to the Contractor as soon as the Performance Guarantee Test is successfully completed and the guaranteed output and other parameters are met, at the latest, however, on expiry of 12 months from the date of release of payment against Commissioning Certificate.

13.5 Bank Guarantee for release of payments towards Final Acceptance Certificate

13.5.1 The Contractor shall provide Bank Guarantee (as per **Annexure-II** hereof) to the Employer for an amount equivalent to the payment under **Clause 28** hereof, in the same currency or currencies valid for a period of 12 months.

13.6 Claims under Security (Bank Guarantee)

If the Employer considers itself entitled to any claim under any Bank Guarantee, it shall so notify the Contractor, specifying the default of the Contractor upon which it bases its claim, and it shall require the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen days of receipt of such notice, then the Employer shall be entitled to call Security.

The actual expenditure incurred by the Contractor for extension of BG / Additional Insurance Premium shall be reimbursed to the Contractor in case delay in completion of project is not attributable to the Contractor.

14.0 Taxes & Duties

- 14.1 Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its Sub-Contractors or their employees by Municipal, State or Central Government Authorities.

However, subject to stipulations of the Contract, the payment of duties, taxes, levies, etc., will be reimbursed (on actual) against documentary evidence to be produced by the Contractor, subject to a ceiling indicated in price schedule(s) of the Contract. In no case the reimbursement towards duties and taxes, etc., shall exceed the amount indicated in price schedule(s) of the Contract towards duties, taxes, levies, etc. except on account of statutory variation in Taxes & Duties and / or imposition of new taxes and duties.

All taxes & duties payable outside India in respect of performance of the Contract shall be borne & paid by the Contractor. The Employer shall have no liability whatsoever on this account.

- 14.1.1 The Employer shall issue necessary Concessional Sales Tax Declaration Form 'C' and other Concessional Sales Tax Declaration Form as applicable for State Sales Tax. The deduction of VAT at source (TDS) shall be made by the Employer on the value of the Contract price, subject to the provisions of the State VAT Act applicable in the State, after excluding the value of supplies covered by Central Sales Tax, value of all items for which prices are indicated in foreign currencies and value of Design, engineering, Supervision and Technical Services.

- 14.1.2 The Contractor shall bear and pay all the liabilities in respect of non-observance of all legal formalities as per various statutory provisions.

- 14.1.3 The Contractor shall make "Sale in Transit" as per Section 6(2) of Central Sales Tax Act 1956 and all formalities required shall have to be observed by the Contractor.

- 14.2 Notwithstanding **Sub-Clause 14.1** hereof, the Employer shall bear and pay Customs Duty & Counter Veiling Duty, Cess and Special Additional Duty, if any, on imported Plant & Equipment for which prices indicated in the Contract are in Foreign Currencies.

Customs Duty, Counter Veiling Duty, Cess and Additional Duty of Customs, if any, for replacement against short supply, damaged, defective items, of such imported Plant & Equipment for which prices indicated in the Contract are in Foreign Currencies shall be borne by the Contractor.

- 14.2.1 The Contractor shall bear and pay Customs Duty & Counter Veiling Duty, Cess, and Additional Duty of Customs, if any, on imported plant & equipment for which prices indicated in the Contract are in Indian Rupees.

- 14.3 Notwithstanding **Sub-Clause 14.1** here, the Employer shall bear and pay Income Tax, R&D Cess (if applicable), Service Tax and Applicable Cess on imported engineering/ Technical Services, supervision services by Overseas Contractor's experts & training, for which prices indicated in the Contract are in Foreign currencies, directly to the authorities,

for which required documents will be furnished by the Contractor to the Employer.

14.3.1 The personnel Income Tax of Overseas Contractor's experts, if payable, shall be paid by the Overseas Contractor's experts directly and the Employer shall neither be liable to pay the Income Tax nor for filing the tax return for Overseas Contractor's experts.

14.3.2 The Employer will furnish to the Overseas Contractor, the original tax receipts in connection with payments made under the Contract.

14.4 Avoidance of Double Taxation

14.4.1 In case the Overseas Contractor becomes entitled to receive or receives any tax exemptions, reductions, allowances or privileges in the foreign country on account of taxes & duties paid by the Employer in India, on behalf of the Overseas Contractor for imported supplies & services or due to Avoidance of Double Taxation Treaty between Governments of Overseas Contractor's Country & India then the same shall have to be reimbursed by the Overseas Contractor to the Employer.

14.4.2 A certificate from an independent Chartered Accountant stating as given thereunder, shall be furnished by the Contractor to the Employer, as soon as possible:

- i) Refund / Reimbursement due on account of tax paid by the Employer in India, where available under said treaty, has been claimed by the Contractor, and
- ii) Refund / Reimbursement obtained, has been paid by the Contractor to the Employer.

14.4.3 The Overseas Contractor shall provide to the Employer expeditiously all details, information, clarifications & documents, to the extent that such disclosure is reasonable, as may be required to file the requisite return with the Indian Income Tax Authorities to permit the Employer to get the same assessed in the most economical manner as per the provisions of the Income Tax Act / Agreement for Avoidance of Double Taxation.

14.5 CENVAT

14.5.1 The Contractor shall submit all Documents required by the Employer to avail the CENVAT credit. In case, the Contractor fails to submit the required document for availing the CENVAT credit by the Employer in respect of supplies, the amount of Excise Duty on such indigenous plant & equipment and countervailing duty & special additional duty on imported plant & equipment may be recovered by the Employer from the Contractor.

14.5.2 For supply of all imported plant & equipment by overseas suppliers, the Contractor shall furnish all required Documents including bill of entry in original etc. to enable the Employer to avail the CENVAT Credit.

14.5.3 Contractors to indicate Minimum Guaranteed CENVAT Credit that can be availed by the Employer against materials supplies for subject work. In case of any shortfall in CENVAT Credit from that Guaranteed by the Contractor the shortfall shall not be reimbursed. However, in case the actual CENVAT benefit without considering the variation as per **Clause 14.6** is more than the quoted amount then 50% of the additional benefit will be passed on to the contractor.

14.5.4 The Employer will issue way bills as required for dispatch of materials to the Contractor on request. Advance intimation in this regard is to be given by the Contractor to the Employer. The Contractor shall comply with the requirement of

relevant Sales Tax rules regarding utilization of the way bills and submission of the counter foils to the employer. In case of failure to do so, the Contractor will be responsible for all consequential actions and penalties, if any.

14.6 Variations in Taxes & Duties

14.6.1 For the purpose of the Contract, it is agreed that the 'Contract Price' specified in **Article 2** ("Contract Price" & "Terms of Payment") of the Contract Agreement is based on the taxes, duties, levies etc. and charges prevailing on Base date (hereinafter called "**Tax**" in this **Sub-Clause 14.6** hereof). If any rate of tax is increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of Contract, which was or will be assessed on the Contractor, Sub-Contractors or their employees in connection with performance of the Contract, an adjustment of the Contract Price shall be made as per **Sub-Clauses 14.6.2 & 14.6.3**, hereof, by addition to the Contract Price or deduction there from, as the case may be.

14.6.1.1 For Cenvatable taxes & duties such as excise duty, service tax and applicable cess, the adjustment in the Contract Price towards variations in taxes, imposition of new taxes or abrogation of existing taxes shall be applicable.

For other taxes & duties, the variations in the taxes, enactment of new taxes or abrogation of existing taxes, which takes place within the scheduled Contractual delivery / execution period shall be applicable. Whereas the variations in the taxes, enactment of new taxes or abrogation of existing taxes, which takes place during the extended period shall be applicable only if the reasons for delay is attributable to employer.

14.6.2 The adjustment in the Contract Price towards variation in the taxes shall be made by the Employer on production of the documentary evidences by the Contractor.

14.6.3 The Contract Price shall be adjusted towards variations in taxes in respect of only finished equipment supplied by the Contractor to the Employer. No adjustment in the Contract price shall be made for variations in the taxes on raw-materials, parts, component / intermediate components, assemblies / sub-assemblies, etc.

14.6.4 For the purpose of adjustment in the Contract Price towards variation in taxes, the Contract Price shall be the price including price adjustment due to variation in price indices, as payable in accordance with **Appendix-4**.

14.6.5 In case any steel structure is fabricated at Employer's site after approval of the Employer as specified in the **Sub-Clause 21.1.1**, hereof, beyond the items and quantities indicated in the **Table-1.3** of the **Appendix-1** and there is saving in payment of duties, taxes, levies, etc. on this account then such saving will be recovered by the Employer from the Contractor's bills.

14.7 Service Tax & Applicable Cess

14.7.1 Service Tax and Applicable Cess shall be applicable as per prevalent rules.

Invoices for all Taxable Input Services shall be made to "BOKARO POWER SUPPLY CO. (P) LTD" under relevant Rules and shall be furnished by the Contractor to the Employer.

14.8 The Contractor shall submit all other relevant Documents required by the Employer.

14.9 Income Tax

Any Indian Income Tax which Employer may be required to deduct by law or statute, shall be deducted at the source under Indian Income Tax Act on account of the Contractor. Employer shall provide the Contractor a certificate for such deduction of Tax. The Contractor shall indicate their Permanent Account Number with the relevant Income Tax Authority to Employer.

D. CONFIDENTIAL INFORMATION

15.0 Copyright

15.1 The copyrights in all drawings, documents and other materials containing data and information including drawings / ordering specifications / catalogues for fast wearing parts furnished by the Contractor to the Employer shall remain vested in the Contractor; however the Employer shall have the right to use all such drawings, documents and other material, data and information for execution of the Contract and operation and maintenance of the Facilities being subject of the Contract.

16.0 Confidential Information

- 16.1 The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any document, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Sub-Contractor(s) such documents, data & other information it receives from the Employer to the extent required for Sub-Contractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Sub-Contractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this clause.
- 16.2 The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement of Plant and Equipment, construction or such other work and services as are required for the performance of the Contract.
- 16.3 The obligation of a party under **Sub-Clauses 16.1 and 16.2** hereof, however, shall not apply to that information which
- Now or hereafter enters the public domain through no fault of that party.
 - 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.
 - Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 16.4 The above provisions of this clause (**Clause 16** hereof) shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.
- 16.5 The provisions of this clause (**Clause 16** hereof) shall survive termination, for whatever reason, of the Contract.

E. WORK EXECUTION

17.0 Representatives

17.1 Engineer

17.1.1 If the Engineer is not named in the Contract, then within fourteen (14) days of the Effective Date, the Employer shall notify the Contractor in writing the name of the Engineer. The Employer may from time to time appoint some other person as the Engineer in place of the person previously so appointed. The Engineer shall represent and act for the Employer at all times during the currency of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Engineer, except as herein otherwise provided.

17.2 Contractor's Representative

17.2.1 If the Contractor's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the Contractor's Representative with the consent of Employer.

17.2.2 The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent.

17.2.3 The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Engineer all the Contractor's notices, instructions, information and all other communications under the Contract. All notices, instructions, information and all other communications given by the Employer or the Engineer to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.

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

17.2.4 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under **Sub-Clause 22.3** hereof. The Contractor on receipt of such notice shall remove such person from the Facilities. If any representative or person employed by the Contractor is removed in accordance with **Sub-Clause 17.2.4** hereof, the Contractor shall promptly appoint a replacement.

17.3 Co-operation with Other Contractors

17.3.1 The Contractor shall, upon written request from the Engineer, provide all relevant technical information to the other Contractors employed by the Employer on or near the Site for any associated Plant & Equipment to enable the Employer to obtain the efficient & economical design of the associated Plant & Equipment.

If required by the Contractor, the other contractors of the Employer will enter into a confidentiality agreement to ensure the technical information is not unlawfully disclosed.

17.3.2 The Contractor shall, upon written request from the Engineer, give all reasonable opportunities for carrying out the work to any other Contractors employed by the Employer on or near the Site and shall co-ordinate with the other Contractors for any interface activity under its Scope of Facilities.

17.3.3 The Contractor shall also so arrange to perform its work as to minimize, to the

extent possible, interference with the work of other Contractors. The Engineer shall determine the resolution of any difference or conflict that may arise between the Contractor & other Contractors in regard to their work.

18.0 Work Program

18.1 Program of Performance

- 18.1.1 Within three (3) weeks after the effective date of signing the Contract Agreement, the Contractor shall prepare and submit to the Engineer the Master Network (Hard & Soft) for the performance of the Contract, showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commission the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract as per **Clause 10** hereof, so as to enable the Contractor to execute the Contract in accordance with the programme and to achieve Acceptance of the Facilities in accordance with the Contract.
- 18.1.2 The Master Network so submitted by the Contractor shall accord with the Time Schedule included in **Appendix-2** (Time Schedule) to the Contract Agreement and any other dates and periods specified in the Contract.
- 18.1.3 The Engineer shall approve the Master Network after scrutiny and discussions with the Contractor within one (1) week of submission of Master Network. The Contractor shall submit finalized Master Network in number of copies as required by the Employer.
- 18.1.4 Based on the finalized Master Network as per **Clause 18.1.3** hereof, the Contractor shall submit Detailed Works Programme (L-1 & L-2 Network) in the form of soft copy for each unit of the Facilities progressively within four (4) to eight (8) weeks from the Effective Date of the Contract. These Networks shall be approved by the Engineer within three (3) weeks of the submission.
- 18.1.5 The Contractor shall update and revise the finalized Master Network and Detailed Works Programme as and when appropriate or when required by the Engineer, but without modification in the Times for Completion given in the **Clause 1.1** of **Appendix-2** and any extension granted in accordance with **Clause 42** hereof, and shall submit all such revisions to the Engineer.
- 18.1.6 The Contractor shall intimate the Employer / Engineer, in writing well in advance, about the requirement of shutdown of any of the existing Units / facilities for inter-connection / incorporation of additional units / facilities. The shutdown period shall be mutually discussed and finalized. The work to be undertaken round the clock during the shutdown period shall be planned meticulously by the Contractor to reduce the shutdown period to the minimum.

18.2 Detailed Works Programme

- 18.2.1 The Detailed Works Programme shall be compiled utilizing critical path method programming software that permits total electronic data transfer compatibility with the **"Primavera Software"** or on notice, any modification, substitution, replacement of the same. The Detailed Works Programme shall show or include, but not be limited to, the following:
 - a) Time for Completion for each activity;
 - b) The order in which the Contractor intends to design and execute the Contract (including the anticipated timing of each stage of design, procurement, manufacture, inspection, delivery to Project Site, construction,

- erection, installation and testing) consistent with the Contractor's Obligations under the Contract;
- c) Define in detail all of the Contractor's work on the Project Site, including the delivery, construction and / or installation, commissioning, testing and completion of Facilities;
 - d) Details of any Temporary Works which, in the Contractor's opinion, are critical to the satisfactory completion of the Facilities;
 - e) The critical path(s) which shall be printed in colour unless otherwise agreed with the Engineer;
 - f) A unique identification / reference number and revision status, indicating clearly the changes incorporated therein; and
 - g) The detail of any Works Executed in that period of time between the Notification of Award and Effective Date of Contract.
- 18.2.2 Provided always that the Works Programme submitted in accordance with **Clause 18.1** shall be compiled to satisfy, without limitation, the following requirements :
- a) no activity shown on the Works Programme shall be longer than forty-five (45) days duration;
 - b) the Works Programme shall clearly identify all Milestone Events;
 - c) the Contractor shall incorporate activity codes and / or a Work Breakdown Structure in the Works Programme such that activities can be sorted and / or filtered by any or all of the following:
 - i) the whole of the Facilities;
 - ii) individual sections and interface areas;
 - iii) the various floor levels of the Facilities;
 - iv) the various areas within the Facilities as agreed with the Engineer;
 - v) the various areas within the Project Site;
 - vi) various disciplines, including the design, manufacture, supply and installation of civil & structural works, electrical & mechanical works (further broken down into electrical, mechanical, plumbing and drainage etc.), finishes (further broken down into screeding, flooring and floor finishes, false ceilings, raised floors and painting) and special systems / sub-systems;
 - vii) it shall be possible to clearly identify each phase of each activity or group of related activities from the design, procurement, installation, execution and testing and commissioning and trials stages.
- 18.2.3 The Contractor warrants that the Works Programme submitted in accordance with **Clause 18.1** shall be achievable and in compliance with the requirements of the Contract and that it shall permit effective monitoring of progress and allow reasonable periods of time for the provision of any information required from the Employer or the Employer's Representative or any third party.
- 18.2.4 The Works Programme shall be the programme submitted in accordance with **Clause 18.1** (including any programme resubmitted by the Contractor) that is endorsed.
- 18.2.5 The Contractor shall design and execute the Facilities regularly and diligently and in accordance with the Works Programme

- 18.2.6 If at any time the Contractor's actual progress falls behind the Program of Performance hereof, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Engineer, prepare and submit to the Engineer a revised program, taking into account the prevailing circumstances, and shall notify the Engineer of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under **Sub-Clause 8.1** (Time for Completion) hereof, any extension thereof entitled under **Sub-Clause 42.1** (Extension of Time for Completion) hereof, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.
- 18.2.7 Throughout the progress of the Works, the Contractor shall submit to the Employer's Representative monthly updates of the Works Programme and any documents which are included in or form part of the Works Programme. Each Works Programme shall show progress for the thirty (30) days immediately prior to the data date and proposed works for the sixty (60) days following the data date (the "data date" being the date on which progress is updated on the programme).
- 18.2.8 Throughout the progress of the Works, the Contractor shall submit to the Engineer a Report in a format stipulated by the Engineer:
- a summary weekly report on the progress of the Works in such detail and providing such information as required by the Engineer or as otherwise directed from time to time by the Engineer;
 - a detailed monthly report on the progress of the Works.
 - Employer shall arrange progress review meeting periodically (not exceeding 3 months) to monitor the progress of the work. It will be mandatory on the part of the Leader of the Consortium to attend such meetings with their Consortium Members.
- 18.2.9 The Contractor hereby acknowledges and accepts that any programme, monthly report, schedule, plan and daily report to be prepared in consultation with Engineer and submitted, shall not constitute any of the notices which it is required to give under any provision of the Contract.
- 18.2.10 The Employer's Representative's comment or failure to comment upon any document submitted in accordance with this **Clause 18.2** (Detailed Works Programme) signifies merely the understanding of the proposed order, sequence and method of working and shall not:
- relieve the Contractor of any of its obligations under the Contract;
 - create any obligation or liability on the part of the Employer; nor
 - Establish the Detailed Works Programme or any programme as part of the Contract.
- 18.2.11 In addition to the reports required under this **Clause 18.2** (Detailed Works Programme), the Contractor shall supply to the Engineer at such times as the Engineer may reasonably direct during the progress of the Works such further or special written particulars and information as are reasonably required by the Engineer to enable proper and detailed progress records to be maintained in respect of the Works.
- 18.2.12 It shall be a condition precedent to any payment under the Contract that the programme submitted pursuant to **Clause 18.2** (Detailed Works Programme) and monthly updates of the same have been discussed with and endorsed by

Engineer.

- 18.3 Subject to the foregoing, unless expressly stipulated or described in the Contract, the choice of methods of working, construction methods and Temporary Works, programming the Works and deployment of the Contractor's Equipment and employees on the Project Site shall be the sole responsibility of the Contractor.

18.4 Work Procedures

18.4.1 The Contract shall be executed in accordance with the Contract Documents including Appendices to the Contract Agreement and Annexure hereof.

18.4.2 The Contractor may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with provisions contained in the Contract.

18.5 Manpower Requirement for Operation & Maintenance of Facilities

18.5.1 The Contractor shall submit to the Employer within a reasonable period but not later than six (6) months from the Effective Date of the Contract, the recommended manpower requirement category wise and unit wise for the regular operation of the Facilities at the Guaranteed Production Capacity as per Contract. The manpower requirement shall include the requirement for the maintenance of the Facilities. The Contractor shall also submit job specifications for each category of personnel particularly in the critical positions to enable the Employer to deploy / recruit such personnel.

18.6 Training

18.6.1 The Contractor shall identify the key positions and number of persons, both in maintenance and operations department, to be trained for efficient running of the plant.

18.6.2 The Contractor shall arrange for training of the personnel of the Employer, abroad / in India for the man-days indicated in **Table-1** of **Appendix-1** of Contract Agreement.

18.6.3 The Contractor shall submit Schedule for Training of personnel of the Employer within a reasonable period but not later than six (6) months from the Effective Date of Contract. The schedule shall be mutually agreed upon between the Employer and the Contractor.

18.6.4 The Contractor shall supply five (5) copies of Training Manuals, Instructions and other connected literature to the Employer in English Language. In addition, each trainee shall be provided the necessary manuals, literatures etc.

19.0 Subcontracting

- 19.1 List of Approved Vendors (**Appendix-6**) forming a part of the Contract Agreement, specifies major items of supply or services and indicates name of approved Vendors against each item. Insofar as no Vendor is listed against any such item, the Contractor shall prepare a list of Vendors for such item for inclusion in approved list given in **Appendix-6** of the Contract Agreement.

Any change / addition in the vendor list shall require prior approval of the employer.

The contractor may engage sub-contractors with the prior approval of employer as per stipulated procedures of the employer.

Such approval, by the Employer for any of the Sub-Contractors / Vendors shall not relieve the Contractor from any of its obligations, duties or responsibilities under the Contract.

- 19.2 On the request of the Contractor, the Employer may make direct payment in respect of equipment supply / work to the Sub-contractor / Vendor on certification by the Contractor.

20.0 Design and Engineering

20.1 Specifications and Drawings

- 20.1.1 The Contractor shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good engineering practice.

- 20.1.1.1 The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Engineer / Consultant or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.

20.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the Engineer / Consultant & shall be treated in accordance with **Clause 41** hereof.

20.3 Approval / Review of Technical Documents by Engineer / Consultant

- 20.3.1 The Contractor shall prepare (or cause its Subcontractors to prepare) and furnish to the Engineer / Consultant the drawings / documents listed at **Sub-Clause 2.2** of **Appendix-2** to the Contract Agreement for approval or review as specified and in accordance with the requirements of **Sub-Clause 18.1** (Program of Performance) hereof.
- 20.3.2 Any part of the Facilities covered by or related to the drawings / documents to be approved by the Engineer / Consultant shall be executed only after the Engineer / Consultant's approval thereof.
- 20.3.3 **Sub-Clauses 20.3.5 through 20.3.9** hereof, shall apply to those drawings / documents requiring the Engineer / Consultant's approval, but not to those furnished to the Engineer / Consultant for its reference only.
- 20.3.4 To enable the Employer to accord approval and to review documents the Contractor shall submit back-up data / drawings / basic calculations / assumptions as may be required by the Employer / Consultant except for proprietary items.
- 20.3.5 Within fourteen (14) days after receipt by the Engineer / Consultant of any drawings / document requiring the Engineer / Consultant's approval in accordance with **Sub-Clause 20.3.1 to 20.3.3** hereof, the Engineer / Consultant 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 therefore and the modifications that the Engineer / Consultant proposes.
- 20.3.6 The Engineer / Consultant shall not disapprove any document, except on the grounds that the document does not comply with some specified provision of the Contractor that it is contrary to good engineering practice.

- 20.3.7 If the Engineer / Consultant disapproves the drawing / document, the Contractor shall modify the drawing / document and resubmit it for the Engineer / Consultant's approval in accordance with **Sub-Clause 20.3.5** hereof. The Engineer / Consultant will not give any new comment on the revised drawing, wherein all comments have been incorporated by the Contractor in the revised drawing. If the Engineer / Consultant approve the drawing / document subject to modification(s), the Contractor shall make the required modification(s), whereupon the document shall be deemed to have been approved.
- 20.3.8 The Engineer / Consultant's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract.
- 20.3.9 The Contractor shall not depart from any approved drawing / document unless the Contractor has first submitted to the Engineer / Consultant an amended drawing / document and obtained the Engineer / Consultant's approval thereof, pursuant to the provisions of this **Sub-Clause 20.3** hereof.

20.4 Civil Engineering Work

- 20.4.1 The Contractor shall carry out Civil Engineering Work as per the Technical Specification in accordance with conditions given below:
- 20.4.1.1 The Contractor shall make its own arrangement for all labour, construction, tools & tackles & construction materials. All temporary approach roads to the site for carrying out construction work shall be constructed and maintained by the Contractor at its own cost.
- 20.4.1.2 The Contractor shall make arrangement at its own cost for drawing and distributing water and power from a single point each, where water and power will be provided by the Employer. The Contractor should have adequate water storage capacity to meet its requirements.
- 20.4.1.3 The Contractor shall take all necessary precautions to avoid damage to any property of the Employer or any third party. The Contractor shall also ensure that the progress of work of other Contractors in the adjoining areas is not hindered.
- 20.4.1.4 Subject to provisions of **Clause 22.6.8**, the Contractor shall take all precautions during execution, especially while excavating to avoid interference with or damage to underground works, such as cables, pipe lines, drains, etc. and provide all possible protection to these works and in case they are damaged, rebuild / divert them at its own cost.
- 20.4.1.5 The Contractor shall carry out, at its own cost, necessary precision survey to set out and check the setting of all works including foundation & anchor bolts, etc., to the required tolerances using the grid reference points available in the plant site.
- 20.4.1.6 Materials brought to the site shall not be removed from the site without the written consent of the Employer. The Contractor shall submit well in advance for approval of all samples, specimens as the Employer may demand from time to time. Any material brought to site and rejected by the Employer shall be removed by the Contractor from the site of work immediately.
- 20.4.1.7 The Employer may during the progress of work, order the removal of

- part or whole of the work executed, found not in accordance with the approved drawings / specifications / written instructions. No extra claims shall be entertained for removal & re-execution of such work.
- 20.4.1.8 No work shall be covered up or put out of view without the clearance of the Employer. In the event of failing to do so, the Contractor shall uncover any part of the work or make openings in or through the works as the Employer may direct and they shall be made good with materials approved by the Employer and should match with workmanship of the surrounding work.
- 20.4.1.9 The Contractor shall provide sufficient strong and stable stagings so as to ensure safety of the labour & structures.
- 20.4.1.10 The Contractor shall dismantle and remove the stagings and other temporary facilities like stores, offices, labour camp, etc., on completion of work, clear and clean the site where such temporary facilities were built and restore the same to original condition.
- 20.4.1.11 After completion of work, the Contractor shall carry out microlevelling of the site within battery limit ensuring proper grades and slopes to achieve efficient drainage of the site. The Contractor shall remove all debris, surplus earth, etc., and dump the same at place(s) as directed by the Employer within a distance of 10 km from the site.
- 20.4.1.12
- a) The cost of testing of concrete and any other material; shall be borne by the Contractor.
 - b) The Contractor shall install its own testing facilities at site for testing of construction materials like cement, aggregates, concrete cubes, soil etc.
 - c) Testing shall be carried out by the Contractor in the presence of Employer's representative. However, the Contractor shall arrange for such testing, in case of exigencies on the Employer's instructions, at any other testing laboratory as approved by the Employer without any extra cost to the Employer. All test results shall be submitted by the Contractor to the Employer for his approval.
 - d) Any special measures or techniques which may be necessary for construction of structures, e.g., dewatering, sheet piling, diaphragm walls, well sinking, well point system, continuous pouring of concrete, etc., shall be deemed to have been taken into account by the Contractor and no extra claim, whatsoever, shall be entertained.
- 20.4.1.13 In respect of any portion of works which is to be embedded or covered up by other works, the Contractor shall submit them to Employer for technical inspection and have the necessary clearance certificates duly signed by the Employer and Contractor before letting such portion to be embedded or covered.
- 20.4.1.14 Wherever works are to be carried out in proximity or within existing facilities, Contractor may have to adopt special methodology of construction suited to prevailing conditions. The Contractor shall make necessary schemes in advance and finalize the same with the

approval of the Engineer / Consultant.

20.4.2 Construction Water

- 20.4.2.1 Construction & Drinking water shall be supplied free of cost by the Employer to the Contractor at a single point within a distance of 300 m from the battery limit. The Contractor shall make its own arrangements to lay and maintain necessary distribution lines, valves, etc., from this point at its own cost.
- 20.4.2.2 The Contractor shall be responsible to store water in sufficient quantities to meet its requirements and ensure that there is no wastage of water. Quantum of supply will depend on availability and no claim for shortfall shall be allowed by the Employer.

20.4.3 Construction Power

- 20.4.3.1 The Employer will supply 415V, 3-Phase four wire AC power in bulk at one point within 300 meters of battery limit, for construction & erection free of charge. The Contractor shall make its own arrangements to lay and maintain necessary distribution lines and wiring at its own cost. Electrical power for fabrication work, if any, envisaged at site shall be supplied, metered and charged at the rate prevailing from time to time.
- 20.4.3.2 The Contractor shall ensure that the electrical equipment employed by the Contractor will be such that the aggregate power factor does not fall below 0.8 at the Employer's terminal point.
- 20.4.3.3 The electrical installations for construction power shall conform to Indian Electricity Rules.
- 20.4.3.4 The Contractor will employ Electricians having valid Electrical License for carrying out the installations as well as for maintenance.
- 20.4.3.5 The Contractor shall be responsible for all damages, losses, etc., if it is due to the Contractors negligence, improper installation, operation and / or maintenance of Contractors part of installations.

20.4.4 Structural Load Test

The Contractor shall carry out structural load test on any part of the building / structure at its own cost if such structural load test is warranted due to unsatisfactory test results of concrete cubes and if so directed by the Employer.

20.4.5 Royalties for the Construction Materials

- 20.4.5.1 Royalties for the construction materials, e.g., sand, stone aggregates, boulders, moorum etc. as prescribed from time to time by the State Government shall be recovered from the bills of the Contractor and paid to the State Government by the Employer if there is a demand from statutory authorities in this regard. The Contractor shall submit necessary documentary evidence that the Contractor has paid the royalties directly to the statutory authorities at source.

20.4.6 Explosives

- 20.4.6.1 In case explosives are required for blasting of hard rock, the same shall be arranged by the Contractor at its own cost. Fulfillment of statutory obligations shall be the responsibility of the Contractor.

21.0 Procurement

21.1 Plant & Equipment, Structures, Refractories, etc.

21.1.1 The Contractor shall not carry out fabrication work at Employer's site without necessary prior approval from the Employer.

21.2 Import License & Export License

21.2.1 Import License

In case of requirement of any import license, the same shall be arranged by the Employer and the Contractor shall provide necessary assistance.

21.2.2 Export License

The Contractor, if required for execution of Contract, shall obtain and maintain the necessary Export License from the competent authorities and shall pay at his cost any fee connected therewith. Failure to obtain and maintain Export Licenses shall not be considered as Force Majeure.

21.3 Packing

21.3.1 The Contractor shall include and provide for securely protecting and packing the materials so as to avoid loss or damage during handling & transport by air, sea, rail and road.

21.3.2 All packing cases, packing and other similar materials shall be new and supplied free by the Contractor and same will not be returned.

21.3.3 Notwithstanding anything stated in this clause, the Contractor shall be entirely responsible for loss, damage or depreciation or deterioration to the materials & supplies due to faulty and / or insecure packing.

21.4 Transportation

The Contractor shall be entitled to select any safe mode of transport operated by any person to carry the Plant & Equipment, Structures, Refractories, Spares, Tools & Tackles, First fill of Lubricants, etc.

21.4.1 Transportation by Ship / Air

21.4.1.1 The Indian Contractor shall be free to transport the material through any reputed shipping agency.

21.4.1.2 The Bills of Lading should be drawn so as to show:

SHIPPER: Any shipping agency of international repute

CONSIGNEE: **DGM (STORES), BOKARO STEEL PLANT ON A/C OF BPSCL (ref. 1.1 of SCC).**

PORT OF DISCHARGE: **[Contractor to indicate]**

21.4.1.3 The Contractor shall forward the non-negotiable copies of the shipping documents to the employer indicating the freight and insurance value of the consignment immediately after shipment of each consignment.

21.4.2 Transportation by Wagons

21.4.2.1 In case of dispatch of consignment in Railway wagons, the Contractor shall ensure that the following is observed by the Contractor and their Sub-contractors:

- i) Identify, place necessary indents on the Railways and obtain at the appropriate time the correct type of wagons required, keeping in view the consignments to be dispatched.
- ii) In case of over dimensioned (O.D.) consignments, the Contractor shall obtain the sanction for movement of the O.D. Consignment

from the Railways.

- iii) Non-availability of special wagon or handling the consignments shall not be an excuse for payment of demurrage and if so shall be to the Contractor's account.
- iv) Care being taken to avoid all possible chances of damages during transit and to ensure that all packages are firmly secured.
- v) The destination shall be indicated in SCC.

21.4.2.2 The RR / Challan duly endorsed by the Engineer or Authorized representative of the Employer, will be handed over to the Contractor for taking delivery of consignments from Railway unloading the same from wagons and subsequent handling, transportation and storage at site after submission of custody-cum-indemnity bond in the form provided in the Bidding Document or in another form acceptable to the Employer. The demurrage charges, if any, will be payable by the Contractor.

21.4.2.3 The consignee for rail dispatches shall be clearly marked as **DGM (STORES), BOKARO STEEL PLANT ON A/C OF BPSCL (ref. 1.1 of SCC)**,

21.4.3 Transportation by Road

21.4.3.1 In case of the consignments dispatched by road, the Contractor shall ensure that the following is observed by the Contractor and the Sub-contractors:

- i) Identify and obtain the correct type of trucks / trailers, keeping in view the nature of consignments to be dispatched.
- ii) Care being taken to avoid all possible chances of damages during transit to ensure that all packages are firmly secured.
- iii) All consignments dispatched by road shall be on "Door Delivery" and freight paid basis.

21.4.3.2 The RR / Challan duly endorsed by the Engineer or Authorized representative of the Employer, will be handed over to the Contractor for taking delivery of consignments from Trucks, unloading the same from Trucks and subsequent handling, transportation & storage at site after submission of Custody-cum-Indemnity Bond in the form provided in the Bidding Document or in another form acceptable to the Employer. The demurrage charges, if any, will be payable by the Contractor.

21.4.3.3 The consignee for road dispatches shall be clearly marked as **DGM (STORES), BOKARO STEEL PLANT ON A/C OF BPSCL (ref. 1.1 of SCC)**,

21.4.4 Shipping Documents for imported Plant & Equipment, Structures, Refractories, etc.

21.4.4.1 The Overseas associates of the Contractor shall send the following shipping documents through Banks to the Employer:

- a) Three (3) original and 3 (three) copies of clean Bill of Lading or one (1) clean Airway Bill / House Airway Bill & 3 (three) copies, in case of air freight.
- b) One (1) original & three (3) copies of Contractor's signed

Invoices.

- c) Four (4) copies of Packing List.
- d) Four (4) copies of Certificate of Country of Origin.
- e) Four (4) copies of Inspection Certificate / **Dispatch Clearance Certificate** issued by the Engineer / Employer's Authorized Representative
- f) Four (4) copies of certificate from the Contractor to the effect that drawings and catalogues for Customs clearance purpose have been kept with the packages for shipment.
- g) Four (4) copies of Manufacturer's Guarantee / Warranty / Quality Test Certificate.
- h) Proof of Insurance.
- i) Four (4) copies of Certificate from the Overseas Contractor to the effect that the contents in each case are not less than that entered in the Invoices and Packing Lists and the Quality are guaranteed as new and as per the relevant Technical Specifications.

21.4.4.2 The Overseas associates of the Contractor shall send the documents as listed above, in one set, to the Employer at the address given in the **SCC** and Letter of Credit.

21.4.4.3 The Contractor shall send the following documents with the cargo:

- Quality Certificate (one copy)
- Packing List six (6) copies comprises two (2) copies in Case No. 1 of each consignment and four (4) copies in each case (three inside the Box and one copy in a special packet at the outer side of the Box).

21.4.5 **Dispatch Documents for Transportation of Plant & Equipment, Structures, Refractories, etc. by Wagon & Road**

21.4.5.1 The Contractor shall arrange to dispatch the following documents to the Employer at the address given in the SCC.

- a) Four (4) photo copies of the clean rail / lorry receipt.
- b) Four (4) copies of Contractor's signed invoice.
- c) Four (4) copies of Challan and Packing List.
- d) Four (4) copies of Inspection Certificate / Dispatch Clearance Certificate issued by the Engineer / Employer's Authorized Representative
- e) Four (4) copies of manufacturer's test certificate.

21.5 The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the Plant and Equipment. The Employer shall use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining such approvals, if requested by the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the Plant and Equipment to the Site.

21.6 **Customs Clearance**

21.6.1 The original shipping documents shall be handed over to the Contractor by the

Employer for Port clearance and Customs clearance and taking delivery of consignments from Port, subsequent handling, transportation and storage at site, against submission of the Custody-cum-Indemnity Bond for full value of supplies in the form provided in the Bidding Document or in another form acceptable to the Employer.

- 21.6.2 The cheque / Demand Draft (DD) will be handed over to Contractor by the Employer for payment of custom duty, CVD, ADC, etc.
- 21.6.3 For the demurrage / Port charges, if any, on account of the delay in Custom / Port clearance, the party responsible for such delay shall bear the charges.
- 21.6.4 The Contractor shall assist in registration of the Contract under Project Import Regulations with Customs Authorities

21.7 Processing / Assembly

- 21.7.1 Some imported equipment / components under this Contract included in the scope of Foreign Contractor (for which prices are quoted in Foreign Currency) as listed in Annexure hereto may be required by other Indian Consortium Member for further processing / assembly. The Indian Contractor (Consortium member) shall clear such equipment / components from Indian port and shall arrange to dispatch them to other Consortium Member after giving Custody-cum Indemnity Bond for the landed cost of such imported equipment / components to indemnify the Employer. These equipment / components shall be considered as free supply by Employer. The Consortium member receiving the equipment / components for further processing / assembly, shall avail CENVAT benefit on account of Countervailing Duty on such imported equipment components and shall include the cost of such imported equipment / components in assessable value for payment of Excise Duty and provide necessary documents so as to enable Employer to avail CENVAT benefit on total assembly including the imported equipment / components. Excise Duty shall be reimbursed on actual against documentary evidence to be produced by the Contractor, subject to a ceiling indicated in Price Schedule given in **Appendix-1**. All taxes and duties shall be included in the Contract Price quoted. Employer shall have no additional liability whatsoever including taxes and duties and minimum CENVAT commitments.
- 21.7.2 Some equipment / components under this Contract included in the scope of Indian Contractor (for which prices are quoted in Indian Rupees) as listed in Annexure hereto may be required by other Indian Consortium Member for further processing / assembly. These equipment / components shall be directly dispatched by the concerned Contractor to the other Consortium Member. The Consortium Member receiving the equipment / components for further processing / assembly, shall avail CENVAT benefit on account of Excise Duty on such equipment / components and shall include the cost of such equipment / components in assessable value for payment of Excise Duty and provide necessary documents so as to enable Employer to avail CENVAT benefit on total assembly including the said equipment / components. Excise Duty shall be reimbursed on actual against documentary evidence to be produced by the Contractor, subject to a ceiling indicated in Price schedule given in **Appendix-1**. All taxes and duties shall be included in the Contract Price quoted. Employer shall have no additional liability whatsoever including taxes and duties and minimum CENVAT commitments. Payment shall be released to the Contractors only after receipt of material at Employer's site.
- 21.7.3 Any item / part of the existing equipment required to be taken out of plant

premises for job work shall be issued to the Contractor on submission of Bank Guarantee for equal value of the item / part. The value of the item of the part shall be indicated by Employer. The Bank Guarantee shall be issued and payable at Place, where site is located and shall be kept initially valid for a suitable period to be mutually agreed. However, in case value of such items is less than 20% of the respective Performance Bank Guarantee, no additional Bank Guarantee is required to be submitted and the materials can be taken out against Indemnity Bond.

- 21.7.4 After job work, the items / parts shall be returned immediately but not later than 180 days from the date of removal. The scrap if any, generated during job work shall be the property of the Contractor. The Contractor shall be required to submit the documentary evidence in support of payment of excise duty on the scrap generated, if any, during job work. The relevant portion of Excise Rule 4(5) (a) shall be applicable.

22.0 Installation

22.1 Setting out

22.1.1 Benchmark:

The Contractor shall be responsible for the true and proper setting-out of the Facilities periodically in relation to bench marks, reference marks, check lines and levels provided to it in writing by or on behalf of the Employer.

22.2 Contractor's Supervision:

The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Contractor's Representative(s) shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective discipline and supervisory staff who are competent to adequately supervise the work at hand.

22.3 Labour

- 22.3.1 The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution of the Contract.

- 22.3.2 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 behavior by or amongst its employees & labour and labour of its Sub-Contractors / Vendors.

22.3.3 Labour Rules

- 22.3.3.1 In respect of all labour directly or indirectly employed on the works by the Contractor, the Contractor shall comply with and implement all the Provisions of the Contract Labour (Regulation and Abolition) Act 1970, or any amendment thereof, and all legislations and Rules of the State and / or Central Government or other local authority formed from time to time governing the protection of health, sanitary arrangements, wages, welfare and safety of labour employed on the works and the Contractor shall be deemed to the Principal Employer for this purpose. The rules and other statutory obligations with regard to fair wages, welfare and safety measures, maintenance of register, etc., will be deemed to be part of the Contract. The Contractor will get itself registered with the concerned statutory authorities as provided in the

Act and shall be directly responsible of the authorities there under for compliance with the provisions thereof.

22.3.3.2 **Reporting of Accidents**

The Contractor shall be responsible for the safety of its own and its Sub-Contractors' workmen and employees. All accidents at site are to be immediately reported to the required authorities. The Contractor shall be responsible for all such accidents.

22.3.3.3 **Preservation of Peace**

The Contractor shall take requisite precautions and use its best endeavor to prevent riotous or unlawful behaviors by, or amongst his workmen and / or others employed on the works, by the Contractor its Sub-Contractors and for the preservation of peace and protection of the inhabitants and security of the property in the neighborhood of the works / site.

22.3.3.4 **Use of Intoxicants**

The use or sale of ardent spirits or other intoxicating beverages, upon the works or in any of the buildings, boarding houses, encampments or other tenements owned, occupied by or within the control of the Contractor or any of its employees or its Sub-Contractor is strictly forbidden and the Contractor shall secure strict compliance.

22.3.3.5 **Observance by Sub-Contractors**

The Contractor shall also be responsible for the compliance of all the rules & regulations by his Sub-Contractor(s).

22.3.4 **Contract Labour Rules**

22.3.4.1 The Contractor will get himself registered with the concerned statutory authorities as provided in the Act and shall be directly responsible to the authorities for compliance with the provisions thereof and BPSCL shall have no relation of Employer and Employee for contractual worker / labour.

22.3.4.2 The Contractor shall also maintain all records / register / return / cards such as:

- a) Register of workmen employed by Contractor
- b) Employment Card
- c) Muster Roll
- d) Register of wages-cum-muster roll
- e) Submission of Return

22.3.5 **Compliance with Statutory Laws and Other Regulations of Govt. / Local Authority**

All statutory / labour rules of Government / local authorities as applicable at, BPSCL site shall be strictly followed by Contractor. Contractor shall indemnify Employer against any such implication.

The Statutory laws shall inter alia include the following:

- a) Employee Provident Fund & Misc. Provision Act, 1952.
- b) Contract Labour Act (Regulation and Abolition Act, 1970
- c) Minimum Wages Act, 1948

- d) Payment of Wages Act, 1936
- e) Factories Act, 1948 / Building and Other Construction Workers (BOWC) and Cess Act, 1996
- f) Family Pension Act, 1952
- g) ESI Act / Workmen Compensation Act, 1923
- h) Shops & Establishments Act
- i) Environment, health & safety clause : As per Annexure-1F
- j) Any other statutory Act relevant to in this regard

22.4 Contractor's Equipment

22.4.1 The Contractor shall mobilize all construction equipment, tools, tackles & consumables to ensure timely completion of work and quality of workmanship. On request, the Employer may provide the Contractor any special handling / construction equipment needed in the interest of work subject to availability and on payment of hire charges and other conditions of Employer. However, overhead crane may be provided depending on availability, free of charge.

22.5 Site Regulations and Safety

22.5.1 The Contractor shall comply with the Site regulations, during the execution of the Contract at the Site, as given under the Chapter "Safety in Contract Works".

22.5.2 The employees / labour of the Contractor / Sub-Contractor and Plant & Equipment brought to Site shall be subject to gate pass to be issued by Security Department or the respective Department.

22.5.2.1 Preparation of gate passes normally takes around 10 days' time. The Contractor / Sub-Contractor shall plan their programme in advance accordingly.

22.5.2.2 Employer shall have the right to refuse the gate pass to any workers / representatives without assigning any reason. The contractor shall ensure that gate pass issued to their workers / representatives / Sub-contractors are not misused. All representatives / workers of the Contractors / Sub-contractors shall possess admit pass.

22.6 Erection

22.6.1 The Contractor shall provide all temporary ladders; scaffolding materials; platforms, supports and other necessary facilities required for handling, erection, testing and visual inspection of supplies at the point of installation and shall also provide necessary packing plates, wedges, shims, leveling screws etc., required for erection of equipment and structures.

22.6.2 The Contractor shall return to the Employer all crates, packing cases and packing materials and all returnable supplies at a place and manner designated by the Employer.

22.6.3 The Contractor shall provide erection consumables like oxygen and acetylene gas, welding rods, solder lugs, oil, grease, kerosene, cotton waste, etc., required for erection of plant equipment and steel structures.

22.6.4 The Contractor shall construct and maintain its own site offices and stores as required for the work and arrange for maintaining in neat manner of the area placed at the Contractor's disposal. The temporary allotment of land for the purpose of site office, stores and temporary works for execution of Contract, shall be on the following terms:

- 22.6.4.1 Land will be allotted free of charge for the purpose of site office & stores
- 22.6.4.2 The allotment shall remain valid till the period of Contract and shall automatically cease after expiry of the Defect Liability period of the Contract. The validity shall also automatically cease on termination of Contract due to any reason whatsoever.
- 22.6.4.3 On completion of the work and expiry of the Defect Liability period, the Contractor shall remove all structures built by the Contractor and restore the land to its original condition.
- 22.6.5 The Contractor shall provide sufficient fencing, notice boards and lights to protect and warn others as may be considered necessary by the Employer / Consultant.
- 22.6.6 All guarantees and test certificates obtained by the Contractor during the execution of work shall be transferred to the Employer before issue of Preliminary Acceptance Certificate.
- 22.6.7 The plant & equipment and structures will be erected by contractors as per the instructions of equipment suppliers and the contractor shall use to the maximum extent, pre-assembly and mechanization in order to fulfill the erection and construction targets.
- 22.6.8 The Contractor shall be responsible for protection and / or diversion of underground and all existing over ground services, wherever required and / or diversion of the underground services which are indicated in the drawing made available to the Contractor. In case there are underground services which need to be protected and / or diverted but are not shown in the drawing, the Contractor shall be responsible to execute the same at extra price, if any, to be mutually agreed between Contractor & Employer.

22.7 Emergency Work

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Contractor shall immediately carry out such work. If the Contractor is unable or unwilling to do such work immediately, the Employer may do or because such work to be done as the Employer may determine that it is necessary in order to prevent damage to the Facilities.

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

22.8 Site Clearance

- 22.8.1 In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.
- 22.8.2 After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish, debris and surplus material of any kind from the Site, and shall leave the Site and Facilities clean and safe.

22.9 Lighting, Fencing and Watching

The Contractor shall provide and maintain at its own expense all lighting, fencing and watching when and where necessary within battery limit for the proper execution and the protection of the Facilities and for the safety of the public.

22.10 Work at Night and on Holidays

As and when the Engineer considers it necessary to carry out work on extended hours / three shift basis or on Public Holidays so as to meet the Time for Completion and request the Contractor to carry out work on extended hours / three shifts or on Public Holidays, the Contractor shall carry out the work accordingly to meet the Time of Completion.

23.0 Test and Inspection

23.1 After finalization of billing schedule, the equipment / items to be inspected shall be identified jointly by Employer and Consultant. Inspection of all such items shall be carried out at manufacturers' sites as per approved QAP. For rest of the equipment / items, dispatch clearance shall be issued by the "Engineer" after receipt of test guarantee certificates / internal inspection report from the Contractor or its sub-contractors / manufacturer.

23.1.1 The Contractor shall at its own expense carry out at the place of manufacture and / or on the Site all such tests and / or inspections of the Plant and Equipment and any part of the Facilities as are specified in the Contract or as per approved QAP.

23.2 The Engineer or his designated representative(s) shall be entitled to attend the aforesaid test and / or inspection, provided that the Employer shall bear costs and expenses incurred in connection with such attendance including, but limited to, all travelling and board and lodging expenses of Engineer or his designated representative.

23.3 Whenever the Contractor is ready to carry out any such test and / or inspection, the Contractor shall give a fourteen (14) days advance notice of such test and / or inspection and of the place and time thereof to the Engineer along with relevant test certificates. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Engineer or its designated representative(s) to attend the test and / or inspection.

23.4 The Contractor shall provide the Engineer with a certified report of the results of any such test and / or inspection.

If the Engineer or his designated representative(s) fails to attend the test and / or inspection within 14 days, or if it is agreed between the parties that such persons shall not do so, then the Contractor may proceed with the test and / or inspection in the absence of such persons, and will provide the Engineer with a certified report of the results thereof, based on which the employer will issue the dispatch clearance.

23.5 If any Plant and Equipment or any part of the Facilities fails to pass any test and / or inspection, the Contractor shall either rectify or replace such Plant and Equipment or part of the Facilities and shall repeat the test and / or inspection upon giving a notice under **Sub-Clause 23.3** hereof.

23.6 The Contractor shall afford the Engineer, at the Employer's expense, access at any reasonable time to any place where the Plant and Equipment are being manufactured or the Facilities are being installed to inspect the progress and the manner of manufacture or installation, provided that the Engineer shall give the Contractor a reasonable prior notice.

23.7 No equipment / material shall be dispatched without inspection as per approved Quality Assurance Plan (QAP) unless waived / dispatch clearance issued by the Employer. Inspection may be carried out by the Employer's authorized representative / third party

agency (to be appointed by Employer).

Inspection certificates / dispatch clearance so issued shall form the part of valid documents for claiming progress payments by the Contractor.

- 23.8 The execution of a test and / or inspection of Plant and Equipment or any part of the Facilities, or the attendance by the Employer or the Engineer, or the issue of any test certificate or waiver certificate pursuant to **Sub-Clause 23.4** hereof, shall not relieve the Contractor from any of its responsibilities under the Contract.

24.0 Preliminary Acceptance

- 24.1 On completion of erection of the Facilities by the Contractor, trial runs for individual equipment / units shall be conducted by the Contractor to prove that the Facilities have been supplied and erected as per Contract and after erection, Facilities are fit for startup and commissioning.

Trial runs shall be so designed to conduct the systematic check of the components and of the functional operation thereof. Trial runs shall comprise idle, no-load and part-load trial runs, as applicable.

Trial runs shall be conducted by the Contractor under its sole responsibility and employing its own personnel. The Employer's supervisory personnel and skilled operating personnel shall, however, witness the trial runs.

On successful completion of trial runs and liquidation of the defects and / or deficiencies, indicated / listed by the Employer to the Contractor during trial runs (except minor defects and / or deficiencies which in the opinion of the Employer will not affect the operation, safety & commissioning of the Facilities), the Contractor shall so notify the Employer in writing for conducting integrated trial runs.

- 24.2 On receipt of the notice from the Contractor for conducting integrated trial runs, the Employer, if required, shall deploy the necessary operating personnel, and provide raw materials, utilities & services as per **Clause 7** hereof.

- 24.3 As mutually agreed between the Contractor and the Employer after the operating personnel have been deployed by the Employer and raw materials, utilities & services have been provided by the Employer in accordance with **Sub-Clause 24.2** hereof, the Contractor shall conduct Pre-Commissioning including integrated trial runs of the Facilities, in preparation for Commissioning.

24.3.1 In case of Facilities involving operation at high temperature, trial runs on individual equipment / units and integrated trial runs shall be conducted in cold condition.

- 24.4 As soon as all works in respect of integrated Pre-Commissioning are completed and the Facilities are ready for Commissioning, the Contractor shall so notify the Engineer in writing.

- 24.5 The Engineer shall, within seven (7) days after receipt of the Contractor's notice either issue a Preliminary Acceptance Certificate (PAC) stating that the Facilities are fit for start-up and commissioning, as at the date of the Contractor's notice or notify the Contractor in writing of any defects and / or deficiencies.

If the Engineer notifies the Contractor of any defects and / or deficiencies, the Contractor shall then correct such defects and / or deficiencies, and shall repeat the procedure described in **Sub-Clause 24.4** hereof.

If the Engineer is satisfied that the defects and / or deficiencies, indicated / listed by the Employer to the Contractor have been liquidated and the Facilities are fit for start-up and

commissioning, the Engineer shall, within seven (7) days after receipt of the Contractor's notice, issue a Preliminary Acceptance Certificate stating that the Facilities are fit for start-up and commissioning, as at the date of the Contractor's repeated notice.

If the Engineer is not so satisfied, then the Employer shall notify the Contractor in writing of any defects and / or deficiencies within seven (7) days after receipt of the Contractor's repeated notice, and the above procedure shall be repeated.

- 24.6 As soon as possible, after issue of Preliminary Acceptance Certificate, the Contractor shall complete outstanding defects and / or deficiencies, if any, so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Employer will undertake such completion and deduct the costs thereof from any money owing to the Contractor.

25.0 Commissioning

- 25.1 After the issue of Preliminary Acceptance Certificates, the Contractor shall start-up and commission the Facilities in accordance with provisions and terms of Contract Technical specification.

The Employer shall provide the operating and maintenance personnel and all raw materials, utilities & services required for commissioning. The contractor shall supply the commissioning spares and oil, grease, lubricants & chemical etc. required for commissioning as per **Clause 7.4.2 & 7.4.4** hereof.

- 25.2 The Contractor shall conduct commissioning test as specified in Technical Specifications for a continuous period of 72 hours.

- 25.3 The Commissioning Certificate shall be issued by the Employer subject to the following:

- Commissioning test as per **Sub-Clause 25.2** has been successfully completed and the quality of materials produced and other parameters are as per Technical Specifications.
- The Contractor to the satisfaction of the Employer; has met all the objections/ observations, if any, contained in the Preliminary Acceptance Certificate.
- Upon fulfillment of above condition, the Contractor will apply to the Employer to issue the Commissioning Certificate. Within 7 days of receipt of Contractor's application, Employer will issue the Commissioning Certificate.

- 25.4 In the event of delay in conducting the commissioning test for reasons attributable to the Employer for more than **60 (sixty)** days after issue of PAC, the Contractor shall receive payment towards commissioning against Bank Guarantee of equal value valid for 12 months.

In case of delay beyond six months for conducting the commissioning test for reasons attributable to the Employer, the conducting of commissioning test and its commercial implication, if any, shall be mutually finalized between the parties.

26.0 Taking Over

- 26.1 Taking over of the Plant will be carried out from the **date of commissioning**. After the taking over, the Employer shall provide consumables and shall be responsible for the care & custody of the Facilities together with the risk of loss or damage thereto.

- 26.2 The Employer shall have the right to take possession or use any completed or partially completed work. Such possession or use shall not be deemed to be an acceptance of any work done not in accordance with the Contract. However, any damage to such work solely due to such provision or uses shall be to the Employer's account.

27.0 Performance Guarantee Test

- 27.1 The Contractor shall guarantee that during the performance guarantee test, the Facilities and all parts thereof shall attain the performance guarantee parameters specified in **Appendix-5** to the Contract Agreement, subject to and upon the conditions specified therein.
- 27.2 If, for reasons attributable to the Contractor, the performance guarantee parameters specified in **Appendix-5** to the Contract Agreement, are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and / or additions to the Facilities or any part thereof as may be necessary to meet performance guarantee parameters. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and / or additions, and shall request the Employer to allow the Contractor to repeat the performance guarantee test so as to establish the performance guarantee parameters.
- 27.3 If, for reasons attributable to the contractor, the performance guarantee parameters specified in **Appendix-5** to the Contract Agreement are not attained either in whole or in part, after first campaign of performance guarantee test as per **Sub-Clause 27.2** hereof, the Contractor shall at its own cost make good any deficiencies and the Contractor shall be allowed by the Employer to repeat the performance guarantee tests twice after first campaign of guarantee test and the Contractor must establish the performance guarantee parameters.
- 27.4 In case the Contractor expresses its inability to achieve the performance guarantee parameters but attains above the minimum acceptance level of performance guarantee parameters, as specified in **Appendix-5** to the Contract Agreement, either in whole or in part in spite of repeated performance guarantee tests conducted by the Contractor, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account or as a last resort by encashment of Contractor's Bank Guarantee(s) at the rate specified in **Appendix-5** to the Contract Agreement for the respective items, subject to a maximum of seven and half percent (7.5%) of the Contract Price plus escalation, if any, excluding taxes and duties, in respect of the failure to meet the minimum level of performance guarantees in accordance with the provisions in **Appendix-5** to Contract Agreement.

The Employer shall not reject the plant & equipment after commissioning and achievement of minimum acceptance level of performance guarantee parameters. After successful commissioning and achievement of the minimum acceptance level of performance guarantee parameters, the total liability of the contractor on account of delay and demonstration of maximum PG parameters shall not be more than Liquidated Damages.

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

- 27.4.1 In case, the Contractor is a Consortium, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the account of each member of Consortium, or by encashment of their Bank Guarantees, subject to a maximum of seven and half percent (7.5%) of the Contract Price plus escalation, if any, excluding taxes and duties of the respective Scope of Facilities. However, each member of Consortium, will be liable for

damages in the ratio of the respective Contract price.

- 27.5 In case, the performance guarantee test has not been carried out for reasons attributable to the Employer within a period of six months from the date of commissioning mentioned in Commissioning Certificate, the Contractor shall receive payment towards Performance Guarantee, against Bank Guarantee of equal value to be valid for a period of 12 (twelve) months beyond aforesaid six (6) months period and conducting of the Performance Guarantee Tests and its commercial implications, if any, shall be mutually finalized between the parties.
- 27.6 In case Bank Guarantee is submitted as per **Sub-Clause 27.5** hereof, by the Contractor then the same shall be returned to the Contractor as soon as the performance guarantee test is successfully completed and the guaranteed output and other parameters are met, at the latest, however, on expiry of twelve (12) months from the date of release of payment against Commissioning Certificate.

28.0 Final Acceptance

- 28.1 Final Acceptance shall occur in respect of the Facilities when:
- a) The performance guarantee tests have been successfully completed or the amount of Liquidated Damages, if recoverable, has been recovered by the Employer from the Contractor.
 - b) The Contractor has submitted all final drawings & documents for the respective Facilities in accordance with the provisions of this Contract as given in **Appendix-2**.
 - c) The Contractor has fulfilled all the obligations under the Contract.
- 28.2 At any time after the events set out in **Sub-Clause 28.1** hereof, have occurred, the Contractor may give a notice to the Engineer requesting for the issue of Final Acceptance Certificate (FAC) in respect of the Facilities specified in such notice as at the date of such notice.
- 28.3 The Engineer shall, within seven (7) days after receipt of the Contractor's notice, issue a Final Acceptance Certificate.
- 28.4 Payment for Final Acceptance may be released against BG of equal value valid for 12 months after fulfillment of **Clause-28.1 a & b**.

F. GUARANTEES AND LIABILITIES

29.0 Completion Time Guarantee

- 29.1 The Contractor guarantees that it shall attain "Completion of the Facilities" as defined in Clause 1, within the Time for Completion as specified in the **Article-5** of the Contract Agreement or within such extended time to which the Contractor shall be entitled under **Clause 42** hereof.
- 29.2 **Liquidated Damages due to Delay in "Completion of the Facilities"**
- 29.2.1 If the Contractor fails to attain "Completion of the Facilities" as defined in **Clause 1** hereof, within the Time for Completion or any extension thereof under **Clause 42** hereof, due to reasons attributable to the Contractor, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account or by encashment of Contractor's Bank Guarantees at the rate of 0.5% of the Contract Price plus escalation, if any, excluding taxes & duties per complete week of delay up to a maximum of 5% of the Contract Price plus escalation, if any, excluding taxes & duties.

- 29.2.2 In case, the Contractor is a Consortium, the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the account of each member of Consortium, or as a last resort by encashment of their Bank Guarantees hereof, up to a maximum of 5% of the Contract Price plus escalation, if any, excluding taxes & duties of the respective Scope of Facilities. However, each member of Consortium will be liable for damages in the ratio of the respective Contract price.
- 29.2.3 Such payment shall completely satisfy the Contractor's obligation to attain Completion of the Facilities within the Time for Completion or any extension thereof under **Clause 42** hereof.
- 29.2.4 However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Contractor under the Contract.
- 29.2.5 Save for Liquidated Damages payable under this **Sub-Clause 29.2** hereof, the failure by the Contractor to attain any milestone or other act, matter or thing by any date specified in **Appendix-2** (Time Schedule) to the Contract Agreement and / or other program of work prepared pursuant to **Clause 18** (Program of Performance) hereof, shall not render the Contractor liable for any loss or damage thereby suffered by the Employer.
- 29.3 The aggregate ceiling on Liquidated damages due to delay in completion of facilities and for non-fulfillment of Performance Guarantee parameters in accordance with the Contract shall be limited to 10% (ten percent) of the Contract Price plus escalation, if any, excluding taxes & duties.
- 29.4 Any recovery of Liquidated damages shall be effected from the amount payable to the Contractor against Commissioning, Performance Guarantee Test, Final Acceptance Certificate and Performance Bank Guarantee. Liquidated Damages will not be recovered from the running bills prior to above payments.
- 29.5 **Bonus for Completion of the Facilities before Time Schedule**
- If the Contractor attains Completion of the Facilities before the Time for Completion or any extension thereof under **Clause 42** hereof, the Employer shall pay to the Contractor a bonus at the rate of 0.5% of the Contract Price plus escalation, if any, excluding taxes and duties per complete fortnight ahead of Time Schedule up to a maximum of 2.5% of the Contract Price plus escalation, if any, excluding taxes and duties.

30.0 Defect Liability

- 30.1 The Contractor shall warrant that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant and Equipment, Structures & Refractories supplied and of the work executed.
- 30.2 The Defect Liability Period shall be twelve (12) months from the date of commissioning mentioned in the Commissioning Certificate or eighteen (18) months from the date of Preliminary Acceptance Certificate (PAC), whichever is earlier, provided the delay in commissioning after PAC is not due to reasons attributable to the Contractor.
- If during the Defect Liability Period any defect be found in the design, engineering, materials and workmanship or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer and at its cost, repair, replace or otherwise make good such defect as well as any damage to the Facilities caused by such defect.

The Contractor may, with the consent of the Employer and after submission of Bank

Guarantee for the equivalent cost of Plant & Equipment, remove from the Site any Plant and Equipment or any part of the Facilities that are defective if the nature of the defect, and / or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site. However, in case value of such items is less than 20% of the respective performance bank guarantee, no additional bank guarantee is required to be submitted and the material can be taken out against indemnity bond. In case of defective parts not repairable at Site but become essential in the mean time for the commercial use of the plant, the Contractor shall replace at Site free of cost to the Employer, the defective parts, before the defective parts are removed from the Site.

- 30.3 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the Employer may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests.

If such part fails the tests, the Contractor shall carry out further repair, replacement or making good (as the case may be) until that part of the Facilities passes such tests. The tests shall be agreed upon by the Employer and the Contractor.

If the Contractor does not commence the rectification either by repair or replacement of such defects within 30 (thirty) days from the date of notice by the Employer or does not complete the rectification with reasonable diligence and within a reasonable time, the Employer may, at its option, rectify the defects at the Contractor's expense. The Employer shall, in such case, deduct from payment due to the Contractor the expenses incurred by the Employer for remedy of such defects without prejudice to the other rights of the Employer under the Contract.

- 30.4 If the Facilities or any part thereof cannot be used by reason of such defect and / or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons.
- 30.5 In addition, the Contractor shall also provide an extended warranty for any such replaced or repaired component of the Facilities for the period of minimum 12 months but not more than 24 months cumulatively or as it may be stipulated in Contract Technical Specifications. Such obligation shall be in addition to the defect liability specified under **Clause 30** hereof.

31.0 Patent Indemnity

- 31.1 The Contractor shall, subject to the Employer's compliance with **Sub-Clause 31.2** hereof, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing by reason of the installation of the Facilities by the Contractor.

Such indemnity shall not cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Contractor, pursuant to the Contract Agreement.

- 31.2 If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in **Sub-Clause 31.1** hereof, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf at the risk & cost of the Contractor.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all expenses incurred in so doing.

- 31.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification or other documents or materials provided by the Employer.

32.0 Limitation of Liability

- 32.1 Except in cases of criminal negligence or willful misconduct,

- a) the Contractor shall not be liable to the Employer, 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 and
- b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise including the cost of repairing or replacing defective equipment, shall not exceed the 100% (One Hundred Percent) of the Contract Price plus escalation, provided that this limitation shall not apply to any obligation of the Contractor to indemnify the Employer with respect to copyright, patent infringement, workman compensation.

G. RISK DISTRIBUTION

33.0 Transfer of Ownership

- 33.1 The title of ownership of Imported plant & equipment, structures, refractories, tools & tackles, first fill of lubricants and all other goods (including spare parts) whose prices in the Contract are indicated in Foreign Currency, shall be transferred to the Employer after loading on FOB port of shipment basis as per Incoterms, 2010 with amendments if any w.r.t. FOB terms.
- 33.2 The title of ownership and property for indigenous Plant & Equipment, Structures, Refractories, spares, tools & tackles, first fill of lubricants, etc. shall pass on to the Employer after the Contractors have affected the dispatch of same to the Employer or the Contractors have affected the sale, in course of transit, as per Section 6(2) of the Central Sales Tax Act 1956 and the Contractors have prepared necessary documentation for handing over the same to Employer's authorized representative.
- 33.3 The property of Plant & Equipment, Structures, Refractories, spares, tools & tackles, first fill of lubricants, etc. issued to the Contractors under Bailee Agreement / Bond is vested with the Employer all the time till erection, commissioning and completion of Performance

Guarantee Tests as per the terms and conditions of the Contract.

- 33.4 The transfer of title to ownership for the steel structural work (fabricated at site) including glazing & sheeting, civil construction work and refractory work under this Contract shall pass on to the Employer on its accretion and release of payment.
- 33.5 Notwithstanding the transfer of ownership of the Plant and Equipment, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to **Clause 34** (Care of Facilities) hereof, until Commissioning of the Facilities in which such Plant & Equipment, Structures and Refractories are incorporated.

34.0 Care of Facilities

- 34.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of commissioning and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Sub-Contractors in the course of any work carried out, pursuant to **Clause 30** (Defect Liability) hereof. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in **Paragraphs (a) & (b) of Sub-Clause 34.2 & Sub-Clause 40.1** hereof.
- 34.2 If any loss or damage occurs to the Facilities or any part thereof by reason of:
- Any use or occupation by the Employer or any third party (other than a Sub-Contractor) authorized by the Employer.
 - Any use of or reliance upon any design, data or specification provided by or on behalf of the Employer, or any such matter for which the Contractor has disclaimed responsibility herein, the Employer shall pay to the Contractor all sums payable in respect of the Facilities executed, notwithstanding that the same be lost, destroyed or damaged. If the Employer requests the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Contractor shall make good the same at the cost of the Employer in accordance with **Clause 41** (Change in the Facilities). The Employer shall either request a change in accordance with **Clause 41** (Change in the Facilities) hereof, excluding the performance of that part of the Facilities thereby lost, destroyed or damaged, or, where the loss or damage affects a substantial part of the Facilities, the Employer shall terminate the Contract pursuant to **Sub-Clause 44.1** (Termination for Employer's Convenience) hereof, except that the Contractor shall have no entitlement to profit in respect of any unexecuted Facilities as at the date of termination.
- 34.3 With respect to any loss or damage caused to the Facilities or any part thereof by reason of any of the matters specified in **Sub-Clause 40.1** hereof, the provisions of **Sub-Clause 40.3** hereof, shall apply.

35.0 Loss of or Damage to Property; Accident or Injury to Workers; Indemnification

- 35.1 Subject to **Sub-Clause 35.2** hereof, the Contractor shall indemnify and hold harmless the Employer and its employees from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property (other than the Facilities whether accepted or not), arising in connection with the supply and installation of the Facilities and by

reason of the negligence of the Contractor or its Sub-Contractors, or their employees, or agents, except any injury, death or property damage caused by the negligence of the Employer, its employees, or agents.

- 35.2 If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under **Sub-Clause 35.1** hereof, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf at the risk of the Contractor.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all expenses incurred in so doing.

36.0 Insurance

- 36.1 The Contractor shall take out a composite and comprehensive Marine-cum-Erection Insurance Policy or separate insurance policies for transit and storage-cum-erection with an Insurance Regulatory and Development Authority (IRDA) registered Insurance Company(s). The Employer shall be the principal holder of the policy. The policy shall cover total erected value of the Facilities (115% for the contracts with completion period up to 18 months or 125% for the contracts with completion period above 18 months, of Contract price excluding the design & engineering and supervision services price, training) and all risks specifically inclusive of the following.

36.1.1 All Risk Insurance: The policy shall cover all risks including terrorism, escalations, and revisions.

36.1.2 Imported Cargo Insurance: For imported supplies, the policy shall cover all goods from FOB supply point, i.e., from the point of loading on ships at a foreign port till completion of erection and commissioning.

36.1.2.1 The policy shall cover the imported goods on replacement basis, i.e., inclusive of escalations, if any, payable to the foreign suppliers of the Contractor and / or exchange rate fluctuations and / or fluctuations in Ocean Freight, Customs Duty, clearing and forwarding charges, inland freight, etc.

36.1.3 Indigenous Cargo Insurance: For indigenous supplies, the policy shall insure the goods originating in India from the Contractor's / Supplier's warehouse to Plant's warehouse and up to completion of erection and commissioning. This will be inclusive of supplies to and from warehouse / factory of intermediate processors / suppliers. This policy will also cover the replacement items, if any.

36.1.4 Third Party Liability Insurance: The policy shall cover third party liability. The third party liability shall cover the loss / disablement of human life (persons not belonging to the Contractor) and also cover the risk of damages to others' materials / equipment / properties during construction, erection and commissioning at site. The value of third party liability for compensation for loss of human life or partial / full disablement shall be of required statutory value but not less than Rs. 2 lakh per death, Rs. 1.5 lakh per full disablement and Rs. 1 lakh per partial disablement and shall nevertheless cover such compensation as may be awarded by a Court of Law in India or abroad and cover for damage to

others' equipment / property.

- 36.1.5 Automobile Liability Insurance: Covering use of vehicles / mobile equipment used by the Contractor or its Sub-Contractors (whether or not owned by them) in connection with the execution of the Contract.
- 36.1.6 Contractor shall ensure that where applicable, its Sub-Contractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Sub-Contractors are covered by the policies taken out by the Contractor.
- 36.1.7 Sub-Contractors of the Contractor shall not be holders or beneficiaries in the policy nor shall they be named in the policy. Employer reserves the exclusive right to assign the policy.
- 36.1.8 While the payment of premium may be phased in agreement with the insurance company, at no time shall goods and services required to be provided by the Contractor shall remain uninsured.
- 36.1.9 A copy of the Insurance policy shall be made available to the Employer before start of site activities or first dispatch, whichever is earlier and policy shall be kept alive and valid at all times up to date of commissioning.
- 36.1.10 The Employer reserves the right to take out whatever policy that is deemed necessary by him if the Contractor fails to keep the said policy alive and valid at all times and / or causes lapses in payment of premium thereby jeopardizing the said policy. The cost of such policy(s) shall be recovered / deducted from the amount payable to the Contractor.
- 36.1.11 In cases where the erection, modification etc., are to be carried out in the existing shop of the Employer the 'surrounding value' shall be intimated by the Employer to the Contractor, who shall ensure that this value is included in the policy.
- 36.1.12 Marine & Transit Insurance policies shall also cover:
 - Institute Cargo Clause 'A'
 - Institute War Clauses
 - Institute Strikes Clauses
 - Ware House to Ware House
- 36.1.13 In case project gets delayed due to reasons not attributable to Contractor, the actual expenditure incurred by Contractor for additional Insurance Premium towards extension of insurance policies shall be reimbursed by the Employer.
- 36.2 Upon arrival of plant and Equipment / materials at site the Contractor shall assume custody thereof and remain responsible thereafter for safe custody until the whole plant is successfully commissioned.
- 36.3 In order to adequately cover the works under such composite and comprehensive insurance, the Contractor shall fulfill the necessary requirements/ obligations.
- 36.4 The Contractor shall arrange Accident Insurance Policy for all his personnel including foreign Experts / Specialists / Personnel deputed to site and Contractor's / his sub-contractors' manufacturing works as well as for his Indian engineers & supervisory staff. The Contractor shall also take out for his Indian workmen a separate policy as per Workmen's Compensation Act.
- 36.5 The details of consignment along with its value and vessel's name and other shipping particulars shall be intimated by the Contractor to the Employer, Underwriter in India and clearing agent immediately after shipment of the consignment.

- 36.6 In all cases, the Contractor shall lodge the claims with the Underwriters and also settle the claims. All claims shall be settled in India. However, the Contractor shall proceed with the repairs and / or replacement of the equipment / components without waiting for the settlement of the claims. In case of seizure of materials by concerned authorities, the Contractor shall arrange prompt release against bond, security or cash as required. Employer will extend all assistance to the Contractor in such a case. Upon completion of replacement/ repair, the claim amount received from Insurance Company, if any by the Employer shall be refunded to the Contractor.
- 36.7 All the insurance claims shall be processed by the Contractor and the items which are missing / damaged in transit or during handling, storage, erection and commissioning, shall be replaced / repaired by them without any extra cost to the Employer.
- 36.8 The employer at its discretion may arrange for the insurance cover at its own expense. In such an event, the amount quoted towards 'Comprehensive / Transit, Storage cum erection insurance' in 'Summary Price Schedule', shall not be payable to the contractor. However, processing of all the insurance claims shall be the responsibility of the contractor. Also, the Contractor shall perform all the obligations as mentioned in sub-clauses above.

37.0 Negligence

- 37.1 If the Contractor does not execute the Facilities in accordance with the time schedule stipulated in the **Appendix-2** of the Contract Agreement and shall neglect to execute the Facilities with due diligence or expedition or shall contravene the provisions of Contract, the Employer may give notice in writing to the Contractor to make good the failure, neglect or contravention complained of within such time as may be deemed reasonable by the Employer and in default of compliance with the said notice, the Employer without prejudice to its rights under **Clause 37.2** hereof, may rescind or cancel the Contract holding the Contractor fully liable for the damages that the Employer may sustain.
- 37.2 Should the Contractor fail to comply with such notice, the Employer shall have at its option the right to take the affected Facilities wholly or in part out of the Contractor's hands and may complete the Facilities, as envisaged in the Contract either departmentally or by awarding fresh Contract(s) to execute the same, at the risk and cost of the Contractor.
- 37.3 In such event the Employer shall be entitled to use all materials, construction equipment, tools, tackles and other things of the Contractor and the Employer shall also be entitled to retain and apply any sum which may otherwise be then due as per the Contract or any other Contract from the Employer to the Contractor as may be necessary for the payment of the cost of execution of such Facilities as aforesaid.
- If the cost of executing the Facilities as aforesaid shall exceed the sum due to the Contractor, the Contractor shall make payment for the same within the specified period.

38.0 Change in Laws and Regulations

- 38.1 If, after Effective Date of Contract Agreement, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated or changed (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Contractor, the Contract Price and time of completion shall be correspondingly increased or decreased.

39.0 Force Majeure

- 39.1 "Force Majeure" shall mean the following:
- War, hostilities or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy and civil war.
 - Rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts.
 - Sabotage, unlawful lockout, epidemics, quarantine and plague.
 - Earthquake, fire, flood or cyclone, or other natural or physical disaster.
- 39.2 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 14 days after the occurrence of such event.
- 39.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with **Clause 42** (Extension of Time for Completion) hereof.
- 39.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under **Sub-Clauses 39.6 and 40.5** hereof.
- 39.5 Any delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not
- constitute a default or breach of the Contract
 - (subject to **Sub-Clauses 34.2, 40.3 and 40.4** hereof) give rise to any claim for damages or additional cost or expense occasioned thereby
- if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.
- 39.6 If the performance of the Contract is substantially prevented, hindered or delayed for a period of more than ninety (90) days on account of Force Majeure during the currency of the Contract, the parties will develop a mutually satisfactory solution.

40.0 War Risks

- 40.1 "War Risks" shall mean any event specified in paragraphs (a) and (b) of **Sub-Clause 39.1** hereof.
- 40.2 Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to
- destruction of or damage to property of the Employer or any third party
 - injury or loss of life
- if such destruction, damage, injury or loss of life is caused by any **War Risks**, and the Employer shall indemnify and hold the Contractor harmless from and against any and all claims, liabilities, actions, lawsuits, damages, costs, charges or expenses arising in consequence of or in connection with the same.
- 40.3 If the Facilities or any Plant & Equipment, Structures and Refractories shall sustain destruction or damage by reason of any War Risks, the Employer shall pay the Contractor for
- any part of the Facilities or the Plant & Equipment, Structures and Refractories so

destroyed or damaged (to the extent not already paid for by the Employer) so far as may be required by the Employer, and as may be necessary for completion of the Facilities.

- b) Replacing or making good any such destruction or damage to the Facilities or the Plant and Equipment or any part thereof.

If the Employer does not require the Contractor to replace or make good any such destruction or damage to the Facilities, the Employer shall either request a change in accordance with **Clause 41** (Change in the Facilities) hereof, excluding the performance of that part of the Facilities thereby destroyed or damaged or, where the loss, destruction or damage affects a substantial part of the Facilities, shall terminate the Contract, pursuant to **Sub-Clause 44.1** (Termination for Employer's Convenience) hereof.

- 40.4 Notwithstanding anything contained in the Contract, the Employer shall pay the Contractor for any increased costs or incidentals to the execution of the Contract that are in any way attributable to, consequent on, resulting from, or in any way connected with any War Risks, provided that the Contractor shall as soon as practicable notify the Employer in writing of any such increased cost.
- 40.5 If during the performance of the Contract any War Risks shall occur that financially or otherwise materially affect the execution of the Contract by the Contractor, the Contractor shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its Subcontractors' personnel engaged in the work on the Facilities, provided, however, that if the execution of the work on the Facilities becomes impossible or is substantially prevented for a period of more than ninety (90) days on account of any War Risks, the parties will develop a mutually satisfactory solution.

H. CHANGE IN CONTRACT ELEMENT

41.0 Change in the Facilities

- 41.1 The Employer shall have the right to propose / consider contractor's proposal, and subsequently order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities (hereinafter called "Change"), provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of Change envisaged with the nature of the Facilities as specified in the Contract.
- 41.2 Notwithstanding **Sub-Clauses 41.1** hereof, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.
- 41.3 If the Employer proposes / considers Contractor's proposal for a Change pursuant to **Sub-Clause 41.1** hereof, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Engineer as soon as reasonably practicable a "Change Proposal," which shall include the following:
 - a) brief description of the Change
 - b) effect on the Time for Completion
 - c) estimated cost of the Change
 - d) effect on Functional Guarantees (if any)
 - e) effect on any other provisions of the Contract.

- 41.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the parties thereto shall agree on specific rates for the valuation of the Change.
- 41.5 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained. Within fourteen (14) days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order with the approval of competent authority.
- 41.5.1 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct the Contractor to proceed with the Change by issue of a "Pending Agreement Change Order."
- Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.
- If the parties cannot reach agreement within one hundred & twenty (120) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to for the Conciliation / Arbitration as per **Clause 6** hereof.
- 41.5.2 If the Employer decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Contractor accordingly.

42.0 Extension of Time for Completion

- 42.1 The Time(s) for Completion specified in the **Appendix – 2** of the Contract Agreement shall be extended if the Contractor has delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:
- any Change in the Facilities as provided in **Clause 41** (Change in the Facilities) hereof
 - any occurrence of Force Majeure as provided in **Clause 39** (Force Majeure) hereof, or other occurrence of any of the matters specified or referred to in **paragraphs (a) and (b) of Sub-Clause 34.2** hereof
 - any suspension order given by the Employer under **Clause 43** (Suspension) hereof
 - The default by the Employer under **Clause 10** hereof, if proved to be cause for delay in completion of the Facilities by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.
- 42.2 Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Engineer 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 for Conciliation / Arbitration.
- 42.3 The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

43.0 Suspension

43.1 The Employer may, by notice to the Contractor, order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the Effective Date of the suspension and the reasons therefore. The Contractor shall thereupon suspend performance of such obligation (except those obligations necessary for the care or preservation of the Facilities) until ordered in writing to resume such performance by the Engineer.

If, by virtue of a suspension order given by the Engineer, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may give a notice to the Engineer requiring that the Employer shall, within thirty (30) days of receipt of the notice, order the resumption of such performance.

If the Employer fails to do so within such period, the Contractor may, by a further notice to the Engineer, elect to treat the suspension as termination of the Contract under **Sub-Clause 44.1** (Termination for Employer's Convenience).

43.2 If the Contractor's performance of its obligations is suspended pursuant to this **Clause 43** hereof, then the Time for Completion shall be extended in accordance with **Sub-Clause 42.1** hereof, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension shall be paid by the Employer to the Contractor in addition to Contract Price on mutually agreed basis.

43.3 During the period of suspension, the Contractor shall not remove from Site any plant & equipment, any part of the Facilities or any Contractor's equipment, without the prior written consent of the Employer.

44.0 Termination

44.1 Termination for Employer's Convenience

44.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to **Clause 44.1** hereof.

44.1.2 Upon receipt of the notice of termination under **Sub-Clause 44.1.1** hereof, the Contractor shall either immediately or upon the date specified in the notice of termination

- a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
- b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii) below
- c) remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition
- d) In addition, the Contractor, subject to the payment specified in **Sub-Clause 44.1.3** hereof, shall
 - i) deliver to the Employer the parts of the Facilities executed by the

Contractor up to the date of termination

- ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as at the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors
- iii) Deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

44.1.3 In the event of the termination of the Contract under **Sub-Clause 44.1.1** hereof, the Employer shall pay to the Contractor the Price, the properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination. However, no consequential damages shall be payable by the Employer to the Contractor in the event of termination.

44.2 Termination for Contractor's Default

44.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefore to the Contractor, referring to this **Sub-Clause 44.2** hereof:

- a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt.
- b) If the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of **Clause 45** (Assignment) hereof.

44.2.2 If the Contractor

- a) has abandoned or repudiated the Contract
- b) has without valid reason failed to commence work on the Facilities promptly or has suspended the progress of Contract performance for more than twenty eight (28) days after receiving a written instruction from the Employer to proceed
- c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause
- d) refuses or is unable to provide sufficient materials, services or labour (adequate resources) to execute and complete the Facilities in the manner specified in the program furnished under **Clause 18** (Program of Performance) hereof, at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as per **Clause 8** hereof.

Then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith

by giving a notice of termination to the Contractor that refers to this **Sub-Clause 44.2** hereof.

44.2.3 Upon receipt of the notice of termination under **Sub-Clauses 44.2.1 or 44.2.2** hereof, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,

- a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean & safe condition
- b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below
- c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
- d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as at the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors
- e) Deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

44.2.4 The Employer may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third party at the risk and cost of the Contractor. The Employer may, to the exclusion of any right of the Contractor over the same, takeover and use any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the Employer considers expedient for the supply and installation of the Facilities.

Upon completion of the Facilities or at such earlier date as the Employer thinks appropriate, the Employer shall give notice to the Contractor that such Contractor's Equipment will be returned to the Contractor at or near the Site and shall return such Contractor's Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.

44.2.5 Subject to **Sub-Clause 44.2.6** hereof, the Contractor shall be entitled to be paid the Price attributable to the Part of the Facilities executed as at the date of termination, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to **paragraph (a) of Sub-Clause 44.2.3** hereof and rent of the Contractor's equipment, if any, used by the Employer pursuant to **Clause 44.2.4** hereof. Any sums due to the Employer from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.

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

If the sum that the Contractor is entitled to be paid, pursuant to **Sub-Clause 44.2.5** hereof, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price, the Contractor shall be liable for such excess.

If such excess is greater than the sums due to the Contractor under **Sub-**

Clause 44.2.5 hereof, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due the Contractor under **Sub-Clause 44.2.5** hereof, the Employer shall pay the balance to the Contractor.

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

44.3 In this **Clause 44** hereof, the expression "Facilities executed" shall include all work executed, Installation Services provided, and all Plant & Equipment, Structures and Refractories, acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.

44.4 In this **Clause 44** hereof, in calculating any money due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to Clause 12 (Terms of Payment) hereof.

45.0 Assignment

45.1 The Contractor shall not, without the express prior written consent of the Employer assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or there under, except that the Contractor shall be entitled to assign under the Contract.

45.2 Should loan / financial agreement(s) require the Contractor to assign, by way of charge, any money due or to become due to it, to a bank / credit agency for the benefit of receiving payment by the Contractor under this Contract from such bank / credit agency, or if

Any partial assignment is necessary to be made to any insurer in terms of Insurance Policy approved by the Employer; the Employer may give consent in such cases.

46.0 Surplus Materials

46.1 For the purpose of removing surplus materials in its original form only, the Contractor shall submit the documents / records evidencing the entry of materials inside Power Plant by producing the Gate Entry Permits and RRs or LR's and consumption statements based on approved drawings after allowing for wastages, maximum 8% cutting allowance, and irrecoverable / unaccountable losses (wastages including loss factors being minimum 2% on Steel and reinforcement rods, minimum 5% on cement and minimum 3% on cables, pipes, etc.) to establish the surplus quantity of the materials belonging to the Contractor. The Employer shall allow the Contractor to remove such materials from the Employer's premises after being satisfied regarding the evidence produced for such removal. Such removal may be permitted even before completion of the entire work.

46.2 The Employer may, on written request from the Contractor, allow him to take back imported surplus materials not covered under the contract. However, if Employer has incurred expenses for surplus items towards customs, freight or any other account etc., the same shall be reimbursed by the Contractor in case of taking back of such items.

46.3 Scrap in any form whatsoever shall not be removed from Plant premises and shall be the property of the Employer. No credit will be given for scrap.

47.0 The Employer shall allow the Contractor to take out construction equipment; tools & tackles and instruments brought by the Contractor on draw back basis provided the contractor has carried out necessary documentation at the time of taking such items inside the Plant.

ANNEXURE - I

PERFORMANCE BANK GUARANTEE

(To be executed on Non-Judicial Stamp Paper of appropriate value)

..... (Name of the Bank)
Address.....
Guarantee No.
A/c Messers..... (Name of Contractor)
Date of Expiry.....
Limit to liability (currency & amount).....
Contract No.
For..... (Name of Facilities)

Subject:.....Performance Bank Guarantee.

Date 201...

To

.....
.....
.....
[Name and Address of Employer]

Dear Sir,

We refer to the Contract Agreement (hereinafter called the "Contract") Reference No. Dated between you and M/s **(Name of the Contractor)** (hereinafter called the "Contractor") for the design, civil, manufacture, supply of plant & equipment, refractories and structures, storage, insurance & handling, erection, testing, commissioning and performance guarantee tests of **(Name of the Facilities)**.

Whereas the Contractor has undertaken to produce a Bank Guarantee under the Contract including any amendment thereto, to secure its obligations to you for the performance of the Contract including the guarantees and warranty of the Facilities & the equipment supplied.

1. We..... **(Name of the Bank)** do hereby expressly irrevocably and unreservedly undertake to unconditionally pay to you merely on your written demand, without referring it to the contractor and without protest and demur an amount not exceeding**(currency and amount)**. Any such demand made on us shall be conclusive as regards the amount due and payable by us under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding
2. Notwithstanding anything to the contrary we agree that your decision as to whether the Contractor has committed a breach of any terms and conditions of the contract shall be final and binding on us and we shall not be entitled to ask you to establish your claim or claims under this Guarantee but shall pay the same forthwith without any objection or excuse.
3. We undertake to pay to you any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) / supplier(s) in any suit or proceeding pending before

any court or Tribunal or arbitration relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment there under.

4. This guarantee shall come into force from the date of issue of this guarantee and shall remain irrevocably valid and in force initially up to _____ and the same shall be extended further until the expiry of the Defect Liability Period of the said Contract.
5. This guarantee shall not in any way be affected by you taking any securities from the Contractor or by the winding up, dissolution, insolvency or death as the case may be of the Contractor. We shall not be entitled to proceed against the assets of the Contractor at your site.
6. In order to give full effect to the Guarantee herein contained, you shall be entitled to act as if we were your principal debtors in respect of all your claims against the Contractor, hereby guaranteed by us as aforesaid and we hereby expressly waive all our surety ship and other rights, if any, which are in any way inconsistent with the above or any other provisions of this Guarantee.
7. This guarantee is in addition to any other guarantee or guarantees given to you by us.
8. This guarantee shall not be discharged by any change in the constitution of the Contractor or us, nor shall it be affected by any change in your constitution or by any amalgamation or absorption thereof or therewith but will ensure for and be available to and effaceable by the absorbing or amalgamated company or concern.
9. Notwithstanding anything contained herein before our liability under this guarantee is restricted up to a sum..... **(currency and amount)** and shall expire on Unless a claim or demand is made on us in writing within three months of the expiry date all your rights shall be forfeited and we shall stand relieved and discharged from our liabilities hereunder.
10. We, (name of the bank), hereby further agree that the guarantee herein contained can be **operable from its Bokaro Steel City Branch** and shall not be effected by any change in the constitution of the SELLER and / or PURCHASER.
11. We, the said Bank lastly confirm that the Signatory(s) of this Guarantee is / are authorized to issue this Guarantee through Board Resolution No.dated.....

Yours faithfully

Dated day of 201...

For

(Name of the Bank)

ANNEXURE - II

BANK GUARANTEE FOR RELEASE OF PAYMENT AGAINST COMMISSIONING CERTIFICATE/ PERFORMANCE GUARANTEE CERTIFICATE/ FINAL ACCEPTANCE CERTIFICATE

(To be executed on Non-Judicial Stamp Paper of appropriate value)

..... (Name of the Bank)
Address.....
Guarantee No.
A/c Messrs..... (Name of Contractor)
Date of Expiry.....
Limit to liability (currency & amount).....
Contract No.
For.....(Name of Facilities)

Sub: Release of Payment against Commissioning Certificate / Performance Guarantee Certificate / Final Acceptance Certificate.

Date 201...

To

.....
.....
.....

[Name and Address of Employer]

Dear Sir,

We refer to the Contract Agreement (hereinafter called the "Contract") Reference No. Dated between you and M/s (Name of the Contractor) (hereinafter called the "Contractor") for the design, civil, manufacture, supply of plant & equipment, refractories and structures, storage, insurance & handling, erection, testing, commissioning and performance guarantee tests of (Name of the Facilities).

Whereas, the Contractor has undertaken to produce additional Bank guarantee under the provisions of the Contract to secure Contractor's obligations to you for conducting the Commissioning / Performance Guarantee Tests / Final Acceptance Certificate (FAC) **[strikeout whichever is not applicable]** as per the provision of the Contract.

1. We..... (Name of the Bank) do hereby expressly irrevocably and unreservedly undertake to unconditionally pay to you merely on your written demand, without referring it to the contractor and without protest and demur an amount not exceeding (currency and amount). Any such demand made on us shall be conclusive as regards the amount due and payable by us under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding.....
2. Notwithstanding anything to the contrary we agree that your decision as to whether the Contractor has committed a breach of any terms and conditions of the contract shall be final and binding on us and we shall not be entitled to ask you to establish your claim or

claims under this Guarantee but shall pay the same forthwith without any objection or excuse.

3. We undertake to pay to you any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) / supplier(s) in any suit or proceeding pending before any court or Tribunal or arbitration relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment there under.

4. This guarantee shall come into force from the date of issue of this guarantee and shall remain irrevocably valid and in force up to the issue of the Commissioning / Performance Guarantee Tests / Final Acceptance Certificate (FAC) ~~[strikeout whichever is not applicable]~~ provided always that unless extended this guarantee shall remain in force till
5. This guarantee shall not in any way be affected by you taking any securities from the Contractor or by the winding up, dissolution, insolvency or death as the case may be of the Contractor. We shall not be entitled to proceed against the assets of the Contractor at your site.
6. In order to give full effect to the Guarantee herein contained, you shall be entitled to act as if we were your principal debtors in respect of all your claims against the Contractor, hereby guaranteed by us as aforesaid and we hereby expressly waive all our suretyship and other rights, if any, which are in any way inconsistent with the above or any other provisions of this Guarantee.
7. This guarantee is in addition to any other guarantee or guarantees given to you by us.
8. This guarantee shall not be discharged by any change in the constitution of the Contractor or us, nor shall it be affected by any change in your constitution or by any amalgamation or absorption thereof or therewith but will ensure for and be available to and effaceable by the absorbing or amalgamated company or concern.
9. Notwithstanding anything contained herein before our liability under this guarantee is restricted up to a sum..... (currency and amount) and shall expire on unless a claim or demand is made on us in writing within three months of the expiry date all your rights shall be forfeited and we shall stand relieved and discharged from our liabilities hereunder.
10. We, (name of the bank), hereby further agree that the guarantee herein contained can be **operable from its Bokaro Steel City Branch** and shall not be effected by any change in the constitution of the SELLER and / or PURCHASER.
11. We, the said Bank lastly confirm that the Signatory(s) of this Guarantee is / are authorized to issue this Guarantee through Board Resolution No.dated.....

Yours faithfully

Dated day of 201...

For

(Name of the Bank)

ANNEXURE – III

PROFORMA FOR CUSTODY CUM INDEMNITY BOND

(To be used for materials to be issued free / or good / materials ownership of which passed on the Employer before construction/ erection/testing/ commissioning)
(on Non-Judicial Stamp paper of appropriate value)

Proforma for custody-cum-Indemnity Bond for the work of _____

.....
.....
.....

[Name and Address of Employer]

In consideration of the BPSCL (hereinafter called this Company) which expression shall unless repugnant to the subject or content include his successors and assigns having agreed under the terms and conditions of the Contract no _____ dated _____ made between _____ and the Company in connection with _____ to permit the Contractor to receive goods / materials (specify the quantity and name of the materials) of the contract rate of item for supply the value of Rs. _____ interalia on production of Indemnity-cum-custody bond. We do hereby undertake and agree to indemnify and keep indemnified the company from time to time to the extent of Rs. _____ (Rupees _____ only) against any loss or damage, costs, charges and expenses caused to or suffered by the company by reason of the _____ failing to take proper care and custody of the goods / materials and / or failing to properly used in the job as per Contract and hand over the completed job in terms of the agreement aforesaid or not complying the instructions which may be given from time to time during the continuance of the agreement and we further undertake to unconditionally pay the amount claimed by the company on demand and without demur to the extent aforesaid.

We _____ hereby further undertake to use the said goods materials in terms of the Contract aforesaid and further keep safely, preserve and maintain or caused to be kept safely preserved or maintained all plant machinery equipment and all materials for erection till the date of the preliminary acceptance thereof in terms of the agreement and any damage, breakage, loss during this period will be solely to our Account and we would make necessary arrangement proper replacement / repair as desired by the Company.

We _____ further agree that the company shall be sole judge of and as to whether there has been any breach of the terms and conditions of this bond and as to the extent of the loss, damage, costs, charges and expenses caused to or suffered by the Company.

We _____ further agree that our liability under this bond shall not be discharged because of the change in the constitution of the Company / or the extension of the time or for any indulgence by the Company granted to us.

ANNEXURE – IV

FORM OF PRELIMINARY ACCEPTANCE CERTIFICATE

Ref No.: _____

Date: _____

To:

.....
.....
.....**[Name and address of Contractor]**

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 24** (Preliminary Acceptance) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ **[date]**, relating to the _____ **[brief description of the facilities]**, we hereby notify you that the erection, testing & trial runs of the individual unit of the following part(s) of the Facilities was completed successfully on the date specified below. The Facilities are fit for start-up and commissioning. However, you shall liquidate all the outstanding defects and / or deficiencies and complete the balance items listed in the attachment hereto, as soon as possible, so that the Facilities are fully in accordance with the requirements of the Contract and commissioning activities of the Facilities can be started. Further, you shall be fully responsible for care and custody of the Facilities and the risk of loss thereof till the issue of commissioning certificate in terms of the Contract.

1. Description of the Facilities or part thereof: _____ **[description]**
2. Date of Completion of Trial runs: _____ **[date]**

This letter does not relieve you of your obligation to complete the execution, commissioning, establishment of performance guarantee parameters of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title
(Project Manager)

ANNEXURE – V

FORM OF COMMISSIONING CERTIFICATE

Ref No.: _____

Date: _____

To:

.....
.....
.....**[Name and address of Contractor]**

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 25** (Commissioning of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ **[date]**, relating to the _____ **[brief description of the facilities]**, we hereby notify you that the following part(s) of the Facilities was (were) commissioned on the date specified below, and that, in accordance with the terms of the Contract, the Employer hereby takes over the said part(s) of the Facilities, together with the responsibility for care and custody and the risk of loss thereof but without prejudice to any of the rights of the Employer, on the date mentioned below.

1. Description of the Facilities or part thereof: _____ **[description]**
2. Date of Completion: _____ **[date]**

However, you are required to complete the outstanding items listed in the attachment hereto as soon as possible.

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title
(Project Manager)

ANNEXURE – VI

FORM OF PERFORMANCE GUARANTEE CERTIFICATE

Ref No.: _____

Date: _____

To:

.....
.....
.....

[Name and address of Contractor]

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

Pursuant to Clause 27 (Performance Guarantee Tests of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ **[date]**, relating to the _____ **[brief description of the facilities]**, we hereby notify you that the Performance Guarantee Tests of the following part(s) of the Facilities was (were) carried out and Performance Guarantee Parameters were satisfactorily attained on the date specified below, and that, in accordance with the terms of the Contract.

1. Description of the Facilities or part thereof: _____ **[description]**
2. Date of Completion: _____ **[date]**
3. Performance Guarantee Parameters:

Description	Guaranteed	Achieved
1.		
2.		

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defects Liability Period.

Yours faithfully,

Title

(PM)
(Project Manager)

ANNEXURE – VII

FORM OF FINAL ACCEPTANCE CERTIFICATE

Ref No.: _____

Date: _____

To:

.....
.....
.....**[Name and address of Contractor]**

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

Pursuant to **Clause 28** (Final Acceptance of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated _____ **[date]**, relating to the _____ **[brief description of the facilities]**, we hereby notify you that the following part(s) of the Facilities was (were) completed satisfactorily including completion of Defects Liability Period of twelve months after commissioning, on the date specified below, and that, in accordance with the terms of the Contract.

1. Description of the Facilities or part thereof: _____ **[description]**
2. Date of Completion: _____ **[date]**

Yours faithfully,

Title

(Project Manager)

ANNEXURE – VIII

FORM OF CHANGE ORDER (Employer's Letterhead)

Ref No.: _____

Date: _____

To:

.....
.....
.....

[Contractor's Name and Address]

Contract Agreement No: _____

[Name of the Facilities]

Dear Sirs,

We approve the Change Order for the work specified in the Change Proposal (No. **[number]**), and agree to adjust the Contract Price, Time for Completion and / or other conditions of the Contract in accordance with GCC **Clause 41** of the General Conditions of Contract.

1. Title of Change: **[name]**
2. Change Request No. / Rev.: **[Request number / revision]**
3. Change Order No. / Rev.: **[Order number / revision]**
4. Originator of Change: Employer / Contractor: **[name]**
5. Authorized Price:

Ref. No.: **[number]**

Date: **[date]**

Foreign currency portion **[amount]** plus Local currency portion **[amount]**

6. Adjustment of Time for Completion
None Increase **[number]** days Decrease **[number]** days
7. Other effects, if any

Authorized by: _____ Date: _____
(Employer)

Accepted by: _____ Date: _____
(Contractor)

ANNEXURE – IX

BANK GUARANTEE FOR INTERIM ADVANCE

(To be executed on Non-judicial Stamp Paper of appropriate value)

_____ (Name of the Bank)

Address _____

Guarantee No. _____

A/c M/s _____ (Name of the Contractor)

Date of Expiry _____

Limit of liability (Currency & amount) _____

Contract No _____ dt _____

For _____ (Name of the Facilities)

Sub: Advance Payment

Date: _____

To,

.....
.....
.....

[Name & Address of the Employer]

Dear Sir,

Whereas you have entered into a Contract ref No. _____ dt. _____ with M/s _____ (hereinafter called the "Contractor") for "_____ of BPSCL, (hereinafter referred to as the said Contract) and have agreed to make interest bearing interim advance to the Contract or a sum of Rs. _____ (Rupees _____ only) and by way of advance payment, representing 10% (ten percent) of the Contract value of Rs. _____ (Rupees _____ only) in terms of the said Contract for "_____ of BPSCL, on our agreeing to furnish you with a guarantee in the manner hereafter contained, we, _____ (Name of Bank and address) do hereby covenant and agree with you as follows:

1. We, the _____ (Name of Bank) (hereinafter referred to as 'the said Bank) hereby undertake to indemnify you and keep you indemnified to the extent of a sum of Rs. _____ (Rupees _____ only) from and against all losses and damages that may be caused to or suffered by you in relation to the advance payment to be made by you to the Contractor, as aforesaid, by reason of any default or defaults on the part of the Contractor in due supply of any plant, machinery or equipment or carrying out any works under the said Contract in respect of which such advance payment as aforesaid is to be made by you to the Contractor or otherwise in the observance and performance of any of the terms and conditions relating hereto in accordance with the true intent and meaning thereof and in the event of any default or defaults on the part of the Contractor as aforesaid we shall forthwith on demand pay to you any sum or sums not exceeding in the total of said sum of Rs. _____ (Rupees _____ only) as may be claimed by you to be due from the contractor by way of refund of such advance payment of any portion or otherwise as your losses and / or

damages, costs, charges or expenses by reason of such defaults on part of the Contractor as aforesaid without demur and without recourse to the Contractor and without any reference to any other source.

2. Notwithstanding anything to the contrary we agree that your decision as to whether the decision as to whether the Contractor has made any default or defaults and the amount to which you are entitled by reason thereof will be binding on us and we shall not be entitled to ask you to establish your claim or claims under this guarantee but shall pay the same forthwith without any objection, or excuse.
3. We, the said Bank further undertake to pay to you any money so demanded subject to the maximum limit of our liability, notwithstanding any dispute or disputes raised by the contractor in any suit or proceeding pending before any court or tribunal or arbitration relating thereto, our liability under these presents being absolute and unequivocal.
4. The payment so made by us under this guarantee shall be a valid discharge of our liability for payment hereunder.

The guarantee shall come into force simultaneously with your making the said advance payment to the Contractor and shall not be revoked by us at any time during its currency without your consent in writing.

5. Unless extended, this guarantee shall remain in force till _____ provided however, that should it be necessary to extend we shall extend forthwith the period of this guarantee on your request till such time as may be required by you.
6. You will have fullest liberty without affecting this guarantee to postpone for any time or from time to time any of your rights or power against the Contractor and either to enforce or forebear to enforce any of the terms or conditions of the said Contract and we shall not be released from our liability under this guarantee by the exercise of your liberty with reference to the Contract or by any variation or modification of the said Contract or any other forbearance act or omission on your part or any indulgence shown by you to the Contractor or by any variation or modification of the said Contractor any other act, matter, or thing whatsoever which under the law relating to sureties would but for the provisions hereof have the effect of so releasing us from our liability hereunder. Provided always that nothing herein contained will enlarge our liability hereunder beyond the limit of Rs. _____ (Rupees _____ only) as aforesaid or extend the period of guarantee beyond the said _____ unless extended by us in writing in terms of 5 hereof.
7. All compensations or payments that may be received by you from the Contractor or any person, firm or company whosoever for or on account of the Contractor in any way in respect of the said Contract shall be regarded as payments in gross and you will be entitled to proceed against the assets of the Contractor, should the Contractor be wound up or dissolved or declared insolvent in respect of the whole of the Contractor's indebtedness to you without any right on our part to stand in your place in respect of or to claim the benefit of such compensation or payment or any security that may be held by you until you shall have received the full guarantee shall not in any way be affected by your taking or varying or giving up any securities from the Contractor or any other person, firm or company on its behalf or by winding up, dissolution, insolvency or death as the case may be of the Contractor.
8. In order to give full effect to the guarantee herein contained you shall be entitled to act as if we were your principal debtors in respect of all your claims against the Contractor, hereby guaranteed by us as aforesaid and we hereby expressly waive all our surety ship and other rights if any, which are in any way, inconsistent with the above or any other provisions of the guarantee.
9. Subject to the maximum limit of our liability as aforesaid this guarantee will cover all your claim or claims against the Contractor from time to time, arising out of or in relation to your such advance payment to the Contractor as aforesaid and in respect of your demand are noticed in writing be

issued to us before the date of expiry of this guarantee mentioned above.

10. This guarantee and the power and provisions herein contained are in addition to and not by way of limitation of or substitution for any other guarantee or guarantees here to given to you by us (Whether jointly with other or alone) and now existing un cancelled and that this guarantee is not intended to and shall not revoke or limit such guarantee or guarantees.
11. This guarantee shall be a continuing guarantee and shall not be discharged by any change in the constitution of the Contractor or ourselves nor shall be affected by any change your constitution or by any amalgamation or absorption thereof or therewith but will ensure for and be available to and enforceable by the absorbing or amalgamated company or concern. We shall not revoke this guarantee during its currency; accept with your prior consent in writing.
12. This guarantee shall not be discharged due to any change in the constitution of the bank or the Contractor.
Unless a claim or demand is made on us in writing within the expiry date all your writes will be forfeited and we shall also be relieved and discharged from our liability hereunder.
13. We have power to issue this guarantee under our Memorandum and Articles of Association and the undersigned has full powers to sign this guarantee on our behalf under power of attorney dated _____ granted to his and / or the resolution dated _____ passed by our Board of Directors in accordance with our constitution.
14. We, (name of the bank), hereby further agree that the guarantee herein contained can be **operable from its Bokaro Steel City Branch** and shall not be effected by any change in the constitution of the SELLER and / or PURCHASER.
15. Notwithstanding anything contained herein above,
 - i) Our liability under this bank guarantee shall not exceed Rs _____ (Rupees _____).
 - ii) This Bank Guarantee shall be valid up to _____ and
 - iii) We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only and only if you serve upon us a claim or demand on or before _____

Dated _____ day of _____ 201__

For _____

(Name of the Bank)

SAFETY CODE FOR CONTRACTORS

SAFETY CODE FOR CONTRACTORS

INTER PLANT STANDARD FOR SAFETY IN STEEL INDUSTRY	
SAFETY IN CONTRACT WORKS	IPSS:1-11-011-01

FOREWORD

This Inter Plant Standard formulated by the Standard Committee on Personnel Safety Appliances & Procedures, IPSS 1:11 with the active participation of the representatives of steel plants and associated organizations in the field, was adopted in May, 2001.

This is one of the series of Inter Plant Standards in the area of the safety in the steel plants with a view to providing guidance to all concerned in accident prevention.

1.0 SCOPE OF WORK

- 1.1 Safety is the responsibility of the Contractor and his staff / employees / workmen engaged / deployed for execution of work under the Contract, individually and collectively. For this purpose, the Contractor staff means and includes all its associates and sub-contractors / vendors / sub-vendors and their staff / employees / workmen deployed for execution of the work covered under the Contract. The Contractor shall ensure that his workmen participate in the safety awareness, health care and safety training programmes whenever such programmes are organized by the Employer or the Contractor.
- 1.2 The Contractor's scope of work shall include, but not limited to execution of work / Contract, adequate safety arrangements for men machinery etc. engaged during the execution of the Contract.
- 1.3 While executing the Contract, the Contractor / his supervisor has to ensure safety of the surroundings with regard to Employer's work place / site and other contractor's men / machine / materials / system etc.

2.0 DETAILED PROCEDURE / PROTOCOL

- 2.1 Before starting the work, a safe work procedure / protocol shall be prepared and signed jointly by the executing department, representative of Safety Deptt. and the Contractor or his representative. This procedure / protocol shall be prepared by breaking the whole job into small elements and listing them separately in the sequence. Against these elements, the agency responsible for doing it, would be mentioned. Any other details about these elements, may also be mentioned in the remarks column.

3.0 MEMORANDUM OF UNDERSTANDING (MOU)

- 3.1 A Memorandum of Understanding, placed at Enclosure-A, shall be signed between the Contractor and the representative of the Contracts Department (on behalf of the Plant) before award of the Contract.

ENCLOSURE – A

(Name of the Company / Plant)

Memorandum of Understanding between the (Company / Plant) and the (Contractor) for safe execution of contract work

This Memorandum of Understanding is made and executed by and between Bokaro Power Supply Company (P) Ltd., a Company and / or Plant registered under the Companies Act 1956 and / or Factories Act and having its office at Hall No. – M 01, Old Administrative Building, ISPAT Bhawan, Bokaro Steel City, Jharkhand – 827001, India or their authorized representative(s), hereinafter referred to as “Employer” (which expression shall wherever the context so requires or admits be deemed to mean and include its successor in business and assignees) of the one party

AND

M/s _____ having its registered office at _____ hereinafter referred to as the “Contractor” (which expression shall wherever the context so requires or admits be deemed to mean and include its successors in business and assigns) of the other party.

WITNESSETH THAT

Whereas the Employer gives highest importance to the safety in execution of work, seeks co-operation from the Contractor in this endeavor.

Thus, the Memorandum of Understanding is for promoting the safety aspects required to be followed at work place / site and will be applicable to any site job to be done by the Contractor.

AND

Whereas the Contractor has read all the terms and conditions of the Employer and whereas the Contractor has studied the following documents.

- a) Tender documents, enquiry / order specification including General Conditions
- b) General Safety Rules”, “Safety Rule for Construction work” and “Electrical Safety Guide”.
- c) _____ Factory Rules 19____, Factories Act 1948, Indian Electricity Rules 1956.

The amendments to any of the above rules and any other rules and regulations or procedures, circulars, notices and advices laid down by the Employer from time to time whereas these documents are included as Annexure to this Memorandum of Understanding.

Now, it is hereby AGREED AND DECLARED by and between the Employer and the Contractor as follows:

- Clause-I The Contractor shall abide by the terms and conditions stipulated in “Annexure to the Memorandum of Understanding between Employer and the Contractor for safe execution of the Contract work (_____ 201__)”.
- Clause-II The Contractor shall undertake full responsibility for safe execution of the job at work place / site and safety of his personnel from the time he enters the gates till the time he leaves the works gates after his duty.
- Clause-III Without giving any prior notice, the Employer shall from time to time be entitled to add / or amend any or all terms and conditions with a view to improving safety of personnel and safety of work, with immediate effect and the shall be binding on the Contractor. The Contractor agrees to implement all such amendments which shall be laid down by the Employer.
- Clause-IV Besides following the guidelines, safety rules and regulations, safety codes given in various safety procedures / documents mentioned above, the Contractor shall also prepare a job safety analysis wherever there are complicated and hazardous working involved. The

Contractor shall consult executing agency, supervisors Safety and Accident Prevention Services Department and officers from specialized agency of Employer in preparing such documents.

In witness thereof, the parties hereto by representatives duly authorized have executed this Memorandum of Understanding on _____ day of _____ 201__.

Signed on:

For and on behalf of BPSCL

Signed on:

For and on behalf of (**Contractor**)

Signature

Name

Title

Signature

Name

Title

GENERAL TERMS & CONDITIONS

1.0 SUPERVISOR

- 1.1 The Contractor shall engage qualified and competent supervisors for executing the Contract. The supervisor must be able to
- read drawing;
 - understand the safety aspect of the job;
 - take necessary precautionary measures;
 - ensure leadership for the safe execution of the job.

2.0 SAFETY SUPERVISION

- 2.1 The Contractor shall provide at least one competent full time safety supervisor who shall be nominated for each contract depending on the number of persons employed and safety requirements of the job including round the clock supervision on safety aspects, wherever required.

3.0 GATE PASS

- 3.1 The Contractor shall, in accordance with prescribed procedure, obtain gate passes (photo passes) from Employer's Security Department who shall make it available to the Contractor, to enable the Contractor and his staff / employees / workmen to enter the work area inside the plant as well as un-enclosed (open) work area like township. The Contractor shall make arrangement for instant photography for those contract workers who may be required to go to work in emergency and do not have photo passes.

4.0 SAFETY INDUCTION

- 4.1 In order to provide basic industrial safety training to the workers of Contractor, Employer will provide on request, the general safety induction to the workmen / supervisor at Safety Engineering Department. The Contractor shall submit the list of persons with full details for the job of safety induction to the Engineer for arranging the same. The Contractor shall not engage untrained personnel for executing any Contract inside the works. Job safety induction is a compulsory thing for every job to start with.
- 4.2 If at any point of time, Contractor feels or needs any special safety training for carrying out a particular job the same shall be arranged by the concerned Engineer of the Employer. For this, the Contractor shall inform the concerned Engineer of the Employer well in advance of commencement of such job.
- 4.3 The Contractor shall motivate and encourage his employees / workmen to make personal contribution towards enhancing safety on the basis of their knowledge and experience.
- 4.4 The Contractor shall have adequate number of Pocket Sized Safety Cards containing safety instructions prepared on the basis of Employer's model safety book for Contractors workers in Hindi or regional languages as may be required and shall issue them to all his employees / workmen and ensure that they read it before commencing the work. The safety instructions from these Safety Cards shall be read and explained by the Contractor or his representative to those employees / workmen who are illiterate and cannot read and ensure that they have been understood. If the employees are signing in the attendance register, the Contractor shall arrange to write "Safety Sentence" on the top of each page below which each employee will either sign or put his thumb impression as a

token of his / her attendance also for having read / understood the safety instructions.

The "Safety Sentence" shall be "I have read / understood the Safety Instructions and I shall work according to these instructions".

- 4.5 The work areas where a different system of keeping attendance exists, the Contractor or his representative shall furnish the list of employees / workmen deployed on the job on any particular day and on top of which the following sentence will be recorded by the representative of the Contractor.

"I have explained the safety instructions to my workers mentioned below and assure that they have understood the instructions and shall work according to these instructions".

- 4.6 The Contractor shall provide safety induction every day before start of the job i.e. briefing the nature of work to be carried and the necessary precautions to be taken while executing the job / Contract during the particular day.
- 4.7 Contractors shall follow all special safety precautions issued by the executing authority or his site engineer from time to time.

5.0 LEGAL AND PENAL

- 5.1 The Contractor shall abide by the provisions of all statutory acts and rules as applicable and maintain register / documents, submit periodic reports and returns furnish information / report relating to accidents occurring in the area of work to competent authority in time.
- 5.2 The Contractor shall be liable for prosecution and penalty in accordance with as prescribed under the law of land, terms & conditions of Contract as well as rules of the Company relating to safety, for not observing those provisions by the Contractor or his employees / workmen.
- 5.3 The Contractor shall keep the Company indemnified against all losses / claims due to accidents / injuries / damages caused at the Contractor's works site. He shall be fully responsible for accidents caused due to the Contractor or his agents or workmen's negligence or carelessness in regard to observance of the safety requirements and shall be liable to pay compensation for injuries.
- 5.4 The Engineer or Head of the Safety Department or their authorized nominees, upon their satisfaction that the Contractor is not conforming to the safety requirements, may direct stoppage of work and direct the Contractor to remedy the defects or supply the facility / equipment as the case may be. The Contractor shall not proceed with the work until he has complied with such directions to the satisfaction of the Engineer / Safety Department.
- 5.5 If a Driver or any staff of the Contractor is caught in theft case or in any unauthorized movement of materials or in the activity which is punishable under the law or not authorized by the plant, the Contractor shall bear the full responsibility for the loss and other consequences which may result to the plant due to such illegal / unauthorized acts besides the action to terminate the Contract by the plant.
- 5.6 The Contractor shall be responsible to ensure that vehicles belonging to him are not driven in reckless or rash manner so as to become a potential threat to the safety of the traffic in the plant or township area. The drivers of the vehicles shall be made to adhere to the speed limits wherever applicable. Failure to comply with the above may result in termination of the Contract.

In case of accident or injury or damage caused by the Contractor's vehicle or staff to any person or property, the financial responsibility to compensate be borne solely by the Contractor and this amount may, at the discretion of the Competent Authority of the Plant, be recovered from the bills or security or other deposits of the Contractor.

- 5.7 The Contractor shall ensure that all his employees / workmen are covered under "Workmen Compensation Act" and shall pay compensation to his workmen as and when the eventuality for the same arises.
- 5.8 To ensure effective enforcement of the rules and regulations relating to safety precautions, the arrangements made by the Contractor shall be open to inspection by the Engineer or his representatives, Safety Engineer and Labour Officer.
- 5.9 The Contractor shall enclose along with his first bill a true copy of the Safety Induction Form (**Annexure-1A**) duly certified by the Executing Authority regarding use of safety appliances, following of safety instructions and observance of all safety laws, failing which the bill will not be processed for payment.
- 5.10 Notwithstanding the above clauses, there is nothing in those to exempt the Contractor from the operation of any other Act or rule in Republic of India for the safety of men and materials.
- 5.11 Without prejudice to the right conferred to the Employer for stoppage of work for violations of safety requirements, the Contractor shall be liable, after written warning, for a penalty of Rs. 1,000/- for the first violation and up to Rs. 3,000/- for the second violation. For the third violation, the Contractor shall be liable to be debarred from further Contracts up to a period of one year from the date of issue of debarring notice. For low value contracts up to Rs. 5 crores, fines up to Rs. 25,000/-, for medium value contracts from Rs. 5 crores to Rs. 10 crores, fines up to Rs. 50,000/- and for high value contract above Rs. 10 crore, fine up to Rs. 1,00,000/- at a time can be imposed by Employer / Executing Authority on defaulting Contractors.

6.0 PPE & SAFETY APPLIANCES

- 6.1 The Contractor shall provide all the PPE (Personal Protective Equipment) and safety appliances required to carry out the job to all the workmen deployed by the Contractor and also ensure that his workmen use those PPE and safety appliances while on the job. The Contractor shall not pay any cash amount in lieu of PPE to the workers.
- 6.2 The PPE and safety appliances provided by the Contractor shall be of the standard as prescribed by the Inter Plant Standardization in Steel Industry (IPSS) or by Bureau of Indian Standards (BIS). If materials conforming to IPSS or BIS standards are not available, PPE and safety appliances shall be procured by the Contractor as approved by the Employer.
- 6.3 If the Contractor fails to ensure provision of safety appliances required to carry out the job safely to the workmen and that his workmen do not use the PPE and safety appliances as needed for safe working, Engineer and the Safety Engineering Department upon the satisfaction that the Contractor is not conforming to the safety requirement may direct the Contractor for stoppage of work and require the Contractor to remedy the defects.

The Contractor shall not proceed with the work until he has complied with each direction to the satisfaction of Engineer and Safety Engineering Department.

7.0 SITE CLEARANCE

- 7.1 Prior to commencement of work, the Contractor shall obtain a clearance from the Safety Engineering Department of the Employer and concerned department / section of the Employer where the job is to be carried out. The Employer / Engineer shall not permit the Contractor to commence the work unless Contractor or his representative produces such clearance certificate. The Department concerned shall grant such clearance after ensuring that:

- a) The Contractor himself has undergone Safety Induction Training organized by the Employer's Safety Engineering Department in the preceding twelve months.
 - b) The Contractor's workers, identified for particular work / Department, have undergone Safety Induction Training in the preceding twelve months.
 - c) The Contractor has arranged PPE and Safety appliances for himself and for all his workmen, as required.
 - d) The Contractor possesses work permit issued by the Employer or Employer's representative for which the "Work Clearance Form" (Annexure – 1B) shall be filled in triplicate by the Contractor for record of:
 - i) Safety
 - ii) Department / Section of the Employer granting clearance and
 - iii) Contractor
 - e) The Contractor and his supervisors along with the Contract documents and job instructions received from the Employer, will come to Employer's Safety Engineering Department where the Contractor will obtain Safety Rule Book for Contractor and seek clarifications, if any. The Contractor is not permitted to stop the job without clearance from Employer's Safety Engineering Department.
 - f) The Contractor shall possess handling equipment, tools & tackles of adequate capacity and tested quality.
- 7.2 Contractor shall obtain specific permission in accordance with IPSS: 1-11-007-01 "Procedure to Permit to Work" and IPSS: 1-11-005-98 "Procedure for working at height by Contractor's Workers" from the Engineer of the company or the companies Safety Department before commencing the following:
- a) Working in an operating plant / equipment;
 - b) Working at height;
 - c) Working in areas expected to have toxic / poisonous gases;
 - d) Major site activities irrespective of the clearance already obtained;
 - e) Wherever there are hazardous of electricity moving.
- The Contractor shall obtain the copies of the above IPSS procedures from the Engineer or the Safety Engineering Department.
- 7.3 The executing department shall take necessary shut down of operating plant before commencement of job in that area. The Contractor shall ensure that shutdown / clearance is taken before sending workers to such locations particularly in the area where there are hazardous of gases, electricity, moving machinery etc.

8.0 SKILL AND COMPETENCE OF WORKMEN

- 8.1 The Contractor shall be responsible to engage competent and skilled workers.
- 8.2 Before starting of the day's job, the Contractor shall ensure that safety briefing has been done to his workers by himself or his supervisors who have been imparted safety induction earlier and also maintain records to this effect.

9.0 PHYSICAL FITNESS OF WORKMEN

- 9.1 The Contractor shall ensure that his employees / workmen subject themselves to such medical examination as required under the law or under the company's rule and keep a record of the same.

- 9.2 The Contractor shall not permit any employees / workmen to enter the work area under the influence of alcohol.

10.0 DEALING WITH ACCIDENT

- 10.1 The Contractor shall maintain a safety register, keep records of all minor and major accidents, serious or averted (near miss) accidents, with or without injuries to human beings and shall submit a report about the accident to the Engineer promptly, on the form prescribed by the Employer.
- 10.2 The Contractor's supervisor / officer in charge shall arrange to take the injured person first to Plant Medical Unit with IOW (Injury on Work) form given on **Annexure-1C** and under no circumstances, take the injured person directly to his own doctors. The information of fatal accident shall be given on **Annexure-1D**.
- 10.3 The Contractor shall not interfere with the site of accident, unless inspected and / or permitted by the competent authorities.
- 10.4 The Contractor shall arrange to avoid any sort of commotions at site in the event of an accident.

11.0 MISCELLANEOUS

11.1 Safety Records (Statutory Records)

The Contractor shall keep record of:

- i) Test certificates of all lifting tools & tackles, pressure vessels etc.
- ii) Periodical inspection report of safety appliances,
- iii) Maintaining accident analysis report in proper format in consultation with Employer's Engineer.
- iv) Safety record as per Factory Rules / Safety Codes or any other statutory provision shall also be maintained. However, necessary help in this regard can be taken from concerned Safety Organization.

11.2 Gas Lines

To work in dangerous gas lines e.g. Coke Oven gas line, Blast Furnace gas line, LD gas line etc. Employer will provide job safety induction to the Contractor's personnel. For this the Contractor shall give in writing the list of personnel likely to work in gas line (new / old) to the Engineer who in turn will arrange the safety induction to the Contractor's personnel inside Employer's Works. The Contractor shall ensure the presence of his personnel at place of safety induction and follow the steps, General rules & regulations as imparted during the training.

11.3 Electrician / Other Electrical Personnel

The Contractor shall engage qualified and competent electricians and other electrical personnel while working on electrical lines (which may be High Tension, Medium Tension and Low Tension electrical lines) for safe execution of contract. The electricians and other electrical personnel must possess requisite certificate issued from competent authority.

Electrical Equipment

The Contractor shall ensure proper earthing of all electrical equipment / machinery prior to start of the machine. The Contractor shall also ensure daily examination of the earthing of equipment / machinery prior to start of the job in order to avoid electrical hazards.

The Contractor shall ensure use of proper cable (may be welding cable or power cable or

control cable). The joints of the cables shall be perfectly insulated. The Contractor shall also ensure the use of proper plugs, sockets and other electrical fittings while executing any Contract.

11.4 Scaffolding / lifting / lowering / dismantling equipment or fabricated structurals or any other materials.

- i) For safe execution of the Contract, Contractor shall make a programme of a piece / whole job, in sequence of steps involved in execution the required safety measures to be taken during the execution of the job.
- ii) The Contractor shall ensure the use of sufficiently strong scaffolding with sufficiently strong hand railings during the execution of the job. The Employer will provide prints of "Standard Scaffolding Drawing" on request by the Contractor. Scaffold / platform to be used by more than 2 persons has to be approved by the Site Engineer and the concerned Safety Organization, jointly.

The Contractor shall ensure the use of scaffoldings at construction site by his personnel working at height, fabricated as per standard drawing for scaffolding.

If the scaffolding as per the standard drawing is not found suitable at site, the Contractor shall make necessary modification to strengthen the same.

For any civil engineering job, the Contractor will provide adequate support before casting or any superstructure and provide approach, scaffolding etc., in such a manner that is safe, easy for movement of men, women and materials.

- iii) The Contractor shall make his own arrangement for the area lighting / spot lighting at fabrication yard. The Employer will provide power source at one point only near to the fabrication yard.
- iv) The Employer will provide area lighting at erection site only. The Contractor shall make his own arrangement for spot lighting. The source of power supply at the nearest possible point will be shown by the engineer at site.

11.5 House keeping

- i) The Contractor shall ensure good housekeeping in his working area, fabricating yard as well as at erection site. The safe approach to the working place must be ensured. Place for keeping raw materials, semi-finished materials should be clearly marked with proper identification. Machine component shall be kept properly under shed.
- ii) The Contractor shall keep the scrap material at one place duly barricaded and shall remove the same regularly from the work place.
- iii) The Contractor shall stack properly the fabricated or any other items likely to be erected very shortly at erection site, in such a way that the materials do not cause congestion at site or create unsafe condition for free and safe approach.
- iv) The Contractor should put up a board (minimum 4' x 3') indicating the name of the Contractor, details of the job, order No., starting date and likely completion date of the job. On completion of the job, the Contractor shall clear the site (good materials and scrap). The board so displayed shall be taken out of the site. Any material left after the job is over will be picked up by the Employer and the Contractor will be charged back for the same.
- v) Barricading

The Contractor shall ensure barricading of the unsafe area, which can lead to accidents to any unknown person working in that area. In order to remove unsafe condition and prevent accidents, this unsafe area such as trench / pit / foundation, any type of opening made or left in any floor of the building including staircase etc.

must be barricaded.

The hand railings shall be immediately provided in all the floors, stairs etc. before proceeding for erection / dismantling.

- vi) Removal of muck shall be done within 24 hours from road sides.
 - vii) The Contractor shall be responsible for removing all unwanted materials / scaffolds from the work site.
 - viii) The Contractor shall issue written as well as oral instructions from time to time, in addition to the precautions, measures spelt out above so as to ensure that the workers adhere to safety norms specifically needed for the particular job during the execution of the work.
- 11.6 The Contractor shall ensure that compressed air is not used for removing the dust from one's clothes. Compressed air shall not be blown against any one as it may injure or even kill him / her.
- 11.7 The Contractor shall provide, maintain and arrange for periodical checking of adequate numbers of fire extinguishers of appropriate type and other facilities (e.g. sand buckets, asbestos covering etc.) in fire prone areas.
- 11.8 The Contractor shall provide clearly demarcated access and exits at work site to take care in case of outbreak of fire or any other eventualities.
- 11.9 The Contractor shall ensure that smoking or keeping of naked light near gas lines, valves and any other equipment connected with gas distribution system and handling of all inflammable material is strictly prohibited.
- 11.10 The Contractor shall ensure that no one takes rest / shelter below any dumped slag, boulder or any other cut pit / excavation near any stock of materials, electrical installations and gas lines etc.
- 11.11 The Contractor shall ensure the availability of first aid box at the working sites.

ANNXURE – 1A

(Name of the Organization)

(Name of the Unit)

SAFETY INDUCTION FORM

Safety induction to the Contractor for starting a job.

1. Name and address of the Contractor :
2. Contract / Award Letter / Work Order No. :
3. Name of the Department awarding Contract. :
4. a) Probable date of starting the job :
b) Duration :
5. Place & nature of work :
6. Name & designation of supervisors :
i) Department (1) (2)
ii) Contractual (1) (2)
7. Necessary safety precautions explained :
8. Safety appliances advised for usage to the Workers :

Safety Engineering Department or
Engineer's representative

I have gone through the Safety Rules Book for Contractors and received a copy of the same. I shall follow all safety precautions/ instructions given to me and shall be responsible for safety of my staff / employees / workmen.

Signature of Contractor

Certified that requisite Safety Appliances are available with workers and Contractor is permitted to start the work.

Signature of Engineer

Certified that requisite Safety Appliances are being used and safety precautions / measures are being adopted.

Safety Officers of Employer

Copy to:

1. Safety Department.
2. Operation / Works Department.
3. Contractor with one spare copy.

ANNEXURE-1B

(Name of the Organization)

(Name of the Unit)

WORK CLEARANCE FORM FOR CONTRACTORS

1. Name of Contractor's firm with address :
2. Engaged by which Department :
3. Name of the representative / supervisor :
of the Contractor supervising the job
4. Precise nature of work to be carried :
out / work order reference.
5. Precise location of work :
6. Proposed date and time of commencement :
of work.
7. Expected No. of days required for the work :
8. Whether Contractor's workers are to be :
engaged in G/A/B/C shifts and No. of people engaged

I accept responsibility for ensuring that all men under my control shall observe the statutory safety requirement and follow the safety instructions of the plant.

Date:

Signature of the Contractor

Certified that the Contractor has been engaged by us for the work described above.

Date:

Signature of the Engineer

(Certificate to be given by the Department/Section where work is to be carried out)

You are authorized to carry out the work described below:

Date:

Signature of the Safety Officer of the Employer

Note:

1. The form shall be filled-in in triplicate by the Contractor for the record of
 - i) Safety Engineering Department,
 - ii) Department / Section granting clearance,
 - iii) Contractor.
2. These certificates are not a substitute for the electrical permits and do not give permission to use masked lights or work in gas hazardous areas or enter closed vessels or for explosives, which shall be taken separately whenever required.

ANNEXURE-1C

(Name of the Organization)

(Name of the Unit)

INJURY ON WORK

(Contractor's Employees)

1. Name of the firm :
2. Name of the Contractor :
3. Name of Department (awarding Contract) :
4. Name of the injured person :
5. Designation, Gate Pass No. / Token No. :
6. Date and time of accident :
7. Department where accident happened :
8. Exact place of occurrence :
9. Eye witness (name & designation) : 1)
2)
10. Persons appraised of : 1)
2)
11. Brief account of the accident :

Date:

Signature of the Contractor / Contractor's supervisor

(Particulars to be filled in by the Medical Officer)

1. Nature of injury :
2. Injured person is fit / unfit to return to duty :
3. If unfit, period of rest recommended :
4. This employee has been notified that :
he is fit / unfit as per Sl. No.2.
(strike out which is not applicable).

Date:

Signature of the Medical Officer

Name:

Seal:

ANNEXURE – 1C (contd.)

Note:

1. When an injury occurs to a Contractor's employee while inside the factory, the injured person should be sent to Plant Medical Unit immediately, with this form in triplicate.
2. The Medical Officer on duty at Plant Medical Unit will retain one copy and send one copy to Safety Engineering Department. The third copy shall be returned to the Contractor concerned after duly filling up the forms.

In case, the Contractor takes the injured person to his private doctor, he shall do so by giving a written undertaking to the doctor in Plant Medical Unit and to the Manager, Safety Engineering Department.

If the private doctor declares the injured person unfit for duty more than 2 days, this becomes a reportable accident under the Factories Act and the Contractor shall immediately report this to the Manager, Safety Engineering Department for sending reports to concerned Government agencies.

The Contractor shall also keep the manager (Safety) inform about:

- a) The condition of the injured person;
- b) The period of disability and
- c) Any loss of earning capacity certified by the doctor.

The Contractor shall produce the fitness certificate from the attending doctor after the injured person is declared fit for duty.

ANNEXURE – 1D

(Name of the Organization)

(Name of the Unit)

NOTICE OF FATAL ACCIDENT

(Contractor's Employees)

Date: _____

From

(Name and address of the Contractor)

To

The Engineer

(Sr. Manager / Manager)

Dear Sir,

We regret to inform you that _____, an employee of M/s
_____ met with a fatal accident at _____ AM/PM, dated
_____ at _____. At the time of accident, he was engaged in

_____ **(description of work).**

Yours faithfully,

Signature of the Contractor / Contractor's supervisor

ANNEXURE – 1E

The process of submission of Online Price bid is as detailed hereunder:-

- Step 1: Type <http://www.buyjunction.in> in the internet explorer.
Step 2: Click on Login (present on Top right side of the Page)
Step 4: Click on **View Live Auctions and Tenders**.
Step 5: In the right side open/ global tenders link will be displayed.
Step 6: Click on the link for the above mentioned tender link present under Open tenders
Step 7: Click on new user if you are not registered in buyjunction earlier. Click on Existing user in-case you have already registered in buyjunction earlier. Existing users can login with their user id and password.

New Users:

Steps to get your **User Code** and **Password**

1. Click on the required tender link under **“Open Tenders”**
2. Choose your Auction currency in-case any option is coming to select currency. Click on **“New User”**
3. Fill up the **“Registration Form”** and click on **“Submit”**. All fields marked with (*) are mandatory fields.
4. On submitting the filled-up registration form, an auto generated email will be sent to the email address you have mentioned in the registration form containing your User Code and Password.
5. Changing of password on first login is compulsory.
6. On receipt of the User Code and Password you become an **Existing User**. Now follow the steps of existing user to login to the auction site.

Existing Users

1. Click on the required tender link under **“Open Tender”**
2. Click on **“Existing User”**.
3. Log in with your existing user code and password for placing your bid.
4. Read through the **“Bidding Procedure”** to proceed further for bidding.

Bidding Procedure

After logging in with your user id and password you have to accept the **“Auction Terms”**.

Steps to accept the “Auction terms”:

1. Click on **“Auction Terms”**.
2. Then click on **“View term without DSC”**
3. Click on the relevant auction terms appearing under **“Term”** column.
4. Select the check box on the left-side of the relevant auction terms.
5. Click on the button besides **“Accept”**.
6. Then click on **“Submit”**.
7. A message will be displayed to you mentioning your acceptance to terms for auction.
8. It is mandatory to accept the terms of online bidding in order to proceed for submission of bid.

Steps to Submit Price Bid

1. Click on **“Bids.”**
2. Then click on **“Live Auction.”**

3. Put your login password as transaction password
4. Select the auction id and click on add to watch list.
5. Now the bidding screen is visible.

6a. For Template Bidding

1. Click on **Icon “T”** on left column of bidding screen (Which will appear separately **for each lot**).
2. A template form will open where you need to fill up the price & click on evaluate at the bottom
3. If you want to quote the evaluated price then click on **“confirm”**.
4. After clicking on the confirm button of the template window, your price will appear in the **“New Bid”** box.

6b. For Non-Template Bidding

1. Fill your Price in the **“New Bid Box”** visible on the bidding screen.
2. Select the check box at the extreme left of the bidding screen
3. Click on **“Submit”** button placed at the bottom left of the screen.
4. Bid once placed will have to be honoured.
5. You will see **“Bid Accepted”** in the **“Result”** column. This indicates that your bid is accepted and registered in the system.

Steps to take a print-out of the receipt

1. Once you have placed your bid, to download Bid Receipt, kindly click on **“Download”**.
2. Then click on **“Bid Receipt for Open Tender”**.
3. Select the auction to generate receipt.
4. Take print out of the same market-wise (Term List)/ item-wise (Auction list).

Note:

1. **Current price, Market status, Start Bid Price, Bid Decrement, Effective Price** will not be available.
2. Time remaining for the event to close will be shown under the Bid Summary screen.
3. For any clarification on the bidding process please contact
Mr. Manish Nandwana _ 9163348165_ manish.nandwana@mjunction.in
Ms. Monalisa Shaw _ 9163348297_ monalisa.shaw@mjunction.in
Mr. Sumit Kumar Das – 8873002750 - sumit.das@mjunction.in for Bokaro Office
A copy of System generated **acknowledgement-slip** for Online submission of sealed price bid to be submitted along with Techno-commercial Bid.

ANNEXURE – 1F**ENVIRONMENT, HEALTH AND SAFETY****EHS (Environment, Health and Safety) Clause for contracts where overall site is under BPSCL control Contractor's Responsibilities**

The contractor shall during the entire term of contract undertake to perform the following obligations relating to environment, health and safety:-

1. Ensure that your workforce is not exposed to asbestos or asbestos containing atmosphere.
2. Take suitable control measures to ensure that the workers are protected from dust emission.
3. Monitor and ensure that the working area is free from any toxic gas, vapour and fume. Take adequate measures to reduce level of concentration below permissible limit. Exposure to any particular toxic gas, vapour or fume shall not exceed the maximum permissible limit prescribed in local regulation for any particular period of time. Ensure adequate ventilation and no immediate danger to life and health of personnel working at site.
4. Ensure that there is no flammable atmosphere and uncontrolled fire hazard in and around the work place. In case it is required to work in flammable atmosphere, implement safe working procedure and suitable control measures in order to work safely.
5. Ensure that the workers are protected from excessive noise and heat. Take adequate measures to reduce noise/heat level below the permissible limit.
6. Ensure safe access and egress in and around work place. Ensure proper maintenance of Platforms, staircases, ramps etc. Special care and all safety measures should be taken while working at height. Roof work and access to roofs must not be undertaken without prior permit.
7. All Personal Protection Equipments supplied by the contractor should be of internationally recognized standards. All tools and tackles bought by the contractor for use during the contract period should have proper and valid certification by competent authority.
8. All lifting equipments, tools and accessories provided by BPSCL should be maintained and returned back in sound condition after the completion of contract period.
9. Ensure that the illumination in and around workplace and access areas are maintained properly. Make sure to switch off the light, fan and air conditioners after use.
10. The contractor must ensure that all machinery and equipments are provided with earth fault circuit breakers at all times when using electrical leads. Use of electrical tape for temporary repair is prohibited.
11. Guards and covers for equipments/machineries are to be provided where ever necessary.
12. Gas cylinders shall be securely stored, transported, identified and used in line with legislation and EHS requirements.
13. Fire extinguishers and other fire fighting equipments provided in different locations should never be misused.
14. Contractor must ensure optimum use of water with minimum wastage.
15. Contractor shall also ensure that the work area is kept clean, tidy, & free from debris. The contractor is also fully responsible for protection of ground and underground from pollution.
16. Identify and highlight potential hazards / risks existing.
17. Ensure suitable corrective actions are implemented for identified issues.
18. Provide adequate emergency and first-aid facilities and it should be available in all shifts.
19. All workers should be trained and communicated about the onsite emergency and evacuation plan.
20. All equipments and plant should be maintained in safe condition.
21. The Contractor and their Personnel admitted to site must conduct themselves in an orderly and safe manner and conform at all times to the EHS Requirements. Fighting, engaging in horseplay, being under the influence of or possessing alcohol or drugs, gambling, soliciting, stealing, immoral or otherwise undesirable conduct is not permitted and shall not be tolerated. Upon knowledge of such conduct, BPSCL shall exclude the concerned person from the site and take all other appropriate measures as deemed necessary. BPSCL reserves the right to perform random drug and alcohol tests.
22. The Contractor shall immediately notify BPSCL of any environmental incident, injury, illness, near-miss, unsafe condition or practice and any loss or damage to property, including incidents related to the Contractor Personnel. An investigation report assessing the root cause, corrective action, and preventative action shall be submitted by the Contractor to BPSCL within 24-hours of the incident's occurrence.

ACRONYMS

1.	BDS	Bid Data Sheet
2.	BG	Bank Guarantee
3.	FAC	Final Acceptance Certificate
4.	GCC	General Conditions of Contract
5.	GTS	General Technical Specifications
6.	ICC	International Chamber of Commerce
7.	IFB	Invitation for Bids
8.	Incoterms	International Commercial Terms
9.	ITB	Instructions to Bidders
10.	LC	Letter of Credit
11.	LD	Liquidated Damages
12.	LOA	Letter of Acceptance
13.	PAC	Preliminary Acceptance Certificate
14.	PG	Performance Guarantee
15.	SBD	Standard Bidding Document
16.	SCC	Special Conditions of Contract
17.	TS	Technical Specifications