



NOTICE INVITING TENDER(NIT)

FOR

**NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR
STORAGE OF AMMONIA
ALONGWITH IT'S REFEGERATION SYSTEM**

FOR

NATIONAL FERTILIZERS LIMITED (NFL),

AT

NANGAL, PUNJAB (INDIA)

(NIT NO.: PNMM/PC-281/E-001)



(OPEN DOMESTIC COMPETITIVE BIDDING)

PREPARED & ISSUED BY





**PROJECTS & DEVELOPMENT INDIA LTD.
(A Govt. of India Enterprise)
PDIL BHAWAN, A-14, Sector-1,
NOIDA U.P. (India)**

July, 2024

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL MASTER INDEX	PNMM/PC-281/E- 001/P-I/MI	0	 NFL A Navratna Company
		DOC. NO.	REV.	
		SHEET 1 OF 3		



SUBJECT: NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL

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LETTER INVITING BID

Ref. No. PNMM/PC-281/E-001

Dated: 16.07.2024

To,

THE PROSPECTIVE BIDDERS
(Through Open – Domestic Competitive Bidding)

SUBJECT: NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA ALONG WITH IT'S REFEGERATION SYSTEM- NFL, Nangal

Dear Sir(s),



1.0 M/s Projects and Development India Limited (PDIL) on behalf of M/s National Fertilizers Limited (NFL) has the pleasure of inviting eligible bidders to submit Bid in Single Stage Two Part Bid System, on Lump-Sum Turn Key (LSTK) basis, for the subject Project in compliance with the Bidding documents. The entire set of bidding documents is placed on Central Public Procurement (CPP) portal (<https://etenders.gov.in/eprocure/app>) and the website of NFL PDIL (www.pdilin.com) and (www.nationalfertilizers.com). **ONLY ONLINE BID THROUGH CPP PORTAL WILL BE CONSIDERED AGAINST THIS TENDER.**

2.0 **Brief Scope of work:**

Scope of work shall include Basic Design Engineering, Detailed Engineering including Hook-up with existing facilities for all equipment & accessories, Re-routing/Modification of any underground obstructions, if any, procurement of complete materials & bought-out items whatever deemed necessary for mechanical, civil, electrical & instrumentation, fabrication at shop/site as required, loading, unloading & transportation, storage at site, assembly, construction, erection of mechanical, electrical & instrumentation system, Mechanical Completion, inspection, testing, painting, insulation, obtaining all necessary statutory approvals, Pre-commissioning, commissioning, trial runs and demonstration of guarantees, calibration, interface & supply of complete New ammonia Horton sphere with new refrigeration system along with spares & maintenance tools etc.



3.0 Bidding Document consists of:

- **PART – I : COMMERCIAL**
- **PART – II : TECHNICAL**

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4.0 Salient features of bidding document:



1.	Notice Inviting Tender (NIT) No. and issue date	: PNMM/PC-281/E-001, Date 16.07.2024
2.	Type of Tender	: Single Stage , Two Part Bid, Open Domestic Competitive Bidding
3.	Earnest Money Deposit (EMD)	Rs. 23.50 Lakh (rupees twenty-three lakh fifty thousand only).
4.	Last Date for receipt of Earnest Money Deposit (EMD) in (original) hard copy through Post/Courier:	: Refer Para 6.0 below
5.	Last date of receipt of bidders pre-bid queries	: 01.08.2024 #
6.	Pre Bid conference <i>(through hybrid mode) At PDIL, Noida</i>	: 06.08.2024, at 11:00 hrs. (IST). # MS Team Meetink Link: https://teams.microsoft.com/join/19%3ameeting_YmE2MjAxOTItMDVjMy00YTlxLTg3YTktZjQyY2QzMjVhZGUx%40thre ad.v2/0?context=%7b%22Tid%22%3a%225a cdd043-11c9-4ea4-8f27-71df729858a3%22%2c%22Oid%22%3a%220 dd3344b-1356-4462-854c-1edec7c2c3a4%22%7d Meeting ID : 483 428 154 674 Passcode: 5Mtd2a
7.	Date & Time for end of Technical Bid Submission	: 09.09.2024, at 14:00 hrs. (IST)#
8.	Date & Time for opening of Technical Bid	: 10.09. 2024, at 14:00 hrs. (IST) #
9.	Price Bid Opening date	Shall be intimated later on to Techno-commercial suitable bidders
10.	Address for Communication with	
10.1	PDIL	PROJECTS & DEVELOPMENT INDIA LTD. (A Govt. of India Enterprise) PDIL BHAWAN, A-14, SECTOR-1, NOIDA-201301, U.P., INDIA Ms. Anjali Thakur, Dy GM (MM) EPBX No. + 91-120-2529842/3 Fax no. + 91-120-2529801 / 91 E-mail : anjali@pdilin.com Mr. Sanjiv Mishra (Chief Engineer, Piping) E-mail: sanjivmishra@pdilin.com Mobile: 9818682151 Mr. M K SENAPATI (Chief Manager, MM) E-mail: mksenapati@pdilin.com Mobile: 9711678683

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10.2	NFL	National Fertilizers Limited., Naya Nangal, Nangal, Punjab -140126 Mrs. Gurinderjit Kaur (GM, TS & P), Project In-charge E-mail: gurinder@nfl.co.in Mr. Shailesh Agrawal (Chief Manager, GE), Project Co-ordinator E-mail : shailesh@nfl.co.in Mob . : 7000929161
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(#) In case of the days specified above happens to be a holiday in NFL, the next working day shall be implied. Any changes (if required) in the above timelines shall be published on CPP Portal. In case of any variance, the timelines displayed at the CPP Portal shall only govern.

- 5.0 The bidder shall submit the bid ONLINE through CPP Portal only.
- 6.0 The following documents in addition to uploading the bid on CPP Portal shall also be submitted in Original (in physical form) within 7 (seven) days from the bid due date provided the scanned copies of the same have been uploaded on CPP Portal by the bidder along with e-bid within the due date and time to the address mentioned in Clause no. 4.0 (sub-clause 10.1) above.
- i) EMD/Bid Security
 - ii) Integrity Pact
 - iii) Declaration for Local Content
 - iv) No Deviation Certificate
- 7.0 A bidder shall on no account submit more than one bid either directly or indirectly.
- 8.0 In terms of Public Procurement (Preference to Make in India) order, 2017, as revised from time to time, regarding Purchase Preference to Class-I Local Suppliers and procedure mentioned therein, shall be applicable for this NIT, details of which are mentioned elsewhere in the NIT document.
- 9.0 OWNER / PDIL reserve the right to accept/reject any or all Bids without assigning any reason whatsoever.
- 10.0 Bids complete in all respects should be uploaded timely on the CPP Portal on or before the Bid Due Date and time. Bids through other media including via Fax / E-mails will not be accepted.
- 11.0 Transfer of Bidding Document is not permissible in any other name at any stage.



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12.0 Eligible DOMESTIC BIDDERS are requested to confirm their intention to participate in subject bidding through a letter or fax message or e-mail. Proforma for Acknowledgement-Cum-Consent Letter, enclosed as **Annexure-1.13** in the enclosed Bidding document.

Thanking you,

For & on behalf of
National Fertilizers Limited.




ANJALI THAKUR
Dy. G.M. (MM)
Projects and Development India Limited

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PART I: COMMERCIAL



SECTION – 1.0

INSTRUCTIONS TO BIDDERS



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1.0 INTRODUCTION

1.1 **National Fertilizers limited (NFL)** hereinafter also referred to as “OWNER” is a public sector undertaking involved in the manufacture of nitrogenous fertilizer and industrial products and marketing of nitrogenous, phosphatic and potassic fertilizers as well as a variety of industrial chemical products. National Fertilizers Limited (NFL) is one of the largest producers of nitrogenous fertilizer in the country having a capacity to produce 3.568 million tonnes of Urea per year along with various industrial products. NFL is presently operating fertilizer units at Panipat, Bathinda, Nangal and Vijaipur which are natural gas based plants with dedicated offsite and utility facilities. All NFL plants have been operating at more than their rated capacities.

NFL intends to install 1 (One) no. of new Ammonia Horton Sphere (Capacity 2500 m3) for storage of ammonia along with its refrigeration system, interconnection with existing Horton Sphere (F2401) system, including complete Mechanical, Civil, Electrical, Instrumentation work at NFL-Nangal.



Projects & Development India Ltd. (PDIL) has been appointed by NFL as Project Management Consultant (PMC) for the aforesaid project.

1.2 The present NIT specifies the requirement of selection of LSTK Contractor for the scope of work shall include Basic Design Engineering, Detailed Engineering including Hook-up with existing facilities for all equipment & accessories, Re-routing/Modification of any underground obstructions, if any, procurement of complete materials & bought-out items whatever deemed necessary for mechanical, civil, electrical & instrumentation, fabrication at shop/site as required, loading, unloading & transportation, storage at site, assembly, construction, erection of mechanical, electrical & instrumentation system, Mechanical Completion, inspection, testing, painting, insulation, obtaining all necessary statutory approvals, Pre-commissioning, commissioning, trial runs and demonstration of guarantees, calibration, interface & supply of complete New ammonia Horton sphere with new refrigeration system along with spares & maintenance tools etc at NFL, Nangal on a lump-sum turnkey basis on single point responsibility.

1.3 Location of the Project Site

The proposed new Ammonia Horton Sphere with associated facilities shall be located inside the existing operating complex of NFL unit.

Plant Location	NFL Nangal
State	Punjab
Nearest Important Town	Rupnagar
Nearest Railway Station	Nangal Dam which is about 3 km from the plant
Nearest Air port	Chandigarh which is about 110 km from the plant
Nearest National Highway	NH-21

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2.0 SCOPE OF PROPOSAL

The scope of the proposal shall be on the basis of a Single Point responsibility, completely covering the works specified under the accompanying technical specifications and documents. It shall include the following:

- a. Supply of Basic and Detailed Design
- b. Supply of all equipment
- c. Supply of spares for as per Technical part of NIT
- d. Inspection/expediting of orders for Equipment including Third Party Inspections wherever required
- e. All Statutory Clearances as applicable till the day of handing over of the project
- f. Work under overall supervision of Owner's Project Management Consultants
- g. Progress reporting of project completions
- h. Training of Owner's Personnel, if required.
- i. Construction / Erection and Pre Commissioning of the Plants
- j. Commissioning and Startup of the Plants
- k. Performance & Guarantee test and handing over the Plants
- l. Supply of required drawings and documents, softwares and hard wares
- m. Any other item / work /activities deemed necessary for completion of Plants, safe and reliable operation of the Plant

3.0 BIDDING DOCUMENTS (NIT)

The bidder is expected to download the Bidding document and BoQ (Excel form) from the CPP Portal only. Bidder to examine the bidding documents, including all instructions, Forms, Annexure, terms and conditions of Contract, specifications, drawings and other documents and to fully familiarize itself with the requirements of the bidding documents. Failure to furnish all the information required by the Bidding Documents or the submission of a bid not substantially responsive to the Bidding Documents in every respect may result in the rejection of the Bid.



In case of any inconsistency, in the interpretation of meaning of any part of this Tender Documents, the BIDDER shall give his best endeavor to resolve the inconsistency by expressing his assumption through pre bid queries to OWNER.

4.0 AMENDMENT OF BIDDING DOCUMENTS

Bidders shall examine the Bidding documents thoroughly and inform the OWNER of any apparent conflict, discrepancy or error.

At any time prior to the deadline for submission of bids as well as upto priced bid opening, the OWNER may, for any reason whether at its own initiative or in response to a clarification or modification requested by any prospective Bidder(s), modify the Bidding documents, if required.

The modifications in form of clarification/addendum/corrigendum, if any, will be notified on CPP Portal (<https://eprocure.gov.in/eprocure/app>) only and shall be part of the Bidding documents and shall be binding on all bidders. The Bidders will be required to enclose with their Bid the signed and stamped copy of all such clarifications//addendum/corrigendum to the Bidding documents. Bidders shall ensure compliance to Addendum/Corrigendum, if any, in their bid and shall follow the instructions issued along with addendum/corrigendum, if any.

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In order to afford Bidders reasonable time to take into account, the amendment, issued prior to submission of Bids, in preparing their Bids, OWNER may, at its discretion, extend the deadline for the submission of Bids.

5.0 LANGUAGE OF BID

The bid prepared by the bidders and all correspondence and documents relating to the Bid exchanged by the Bidder shall be written in the English language and all units shall be in Metric system. If any of the documents submitted by the Bidder is not in English language, then the original document along with English translation of the same duly certified, stamped and signed by local Chamber of Commerce or respective Embassy shall be furnished. Any printed literature furnished by the bidder may be written in another language, provided that this literature is accompanied by an English translation, in which case, for purpose of interpretation of the Bid, the English translation shall govern.

6.0 TIME SCHEDULE

6.1 Bidder shall be required to complete the WORK under the CONTRACT so as to achieve the Guaranteed Completion Date in accordance with the following milestones:

a) Mechanical Completion	18 Months from Effective Date of Contract
b) Preliminary Acceptance	20 Months from Effective Date of Contract



6.2 The “**Effective Date of Contract**” shall be the date of issuance of LOI (Letter of Intent) / LOA (Letter of Award) by the Owner/Consultant.

7.0 SIGNATURE ON BIDS

7.1 The Bid must contain the name, designation and place of business of the person or persons making the Bid and must be signed and sealed on each page (**necessarily serially numbered**), by the Bidder with his usual signature. The names of all persons signing should also be typed or printed below the signature. The Bidder shall submit authority letter / Power of Attorney / Board Resolution in favour of the authorized signatory(s) of the Bid. The Bidder's name stated on the proposal shall be the exact legal name of the Bidder.

7.2 Bids by bodies corporate/ limited Companies must be signed with the legal name of the Corporation/Limited Company by the President, Managing Director or by the Company Secretary or any other person or persons holding Power of Attorney for signing their Bid.

7.3 Bidder must submit Power of Attorney issued by the Board of Directors / CEO / MD / Company Secretary of the Bidder/ all partners in case of Partnership Firm / Proprietor

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in favor of the authorized employee(s) of the Bidder, in respect of the particular tender for signing the Bid and all subsequent communications, agreements, documents etc. pertaining to the tender and to act and take any and all decision on behalf of the Bidder, is to be submitted.

The authorized employee(s) of the Bidder shall be signing the Bid and any consequence resulting due to such signing shall be binding on the Bidder.

7.4 Bid shall contain no cuttings, erasures or overwriting except as necessary to correct errors made by the Bidder in which case each such corrections or other changes in the Bid documents shall carry the initials of the person(s) signing the Bid.



7.5 Bids not conforming to the above requirements of signing may be disqualified.

8.0 PRE-QUALIFICATION CRITERIA (PQC)



Evaluation of Techno-Commercial part shall be carried out only for the bids meeting Pre-qualification Criteria as detailed below.

Techno-commercial PQ Criteria for Bidder

Sr.	Pre-qualification Criteria	Supporting Documents required
i)	a) The bidder shall submit the status (i.e. Name and complete Address) of the firm/company along with its constitution such as Sole Proprietorship / Partnership Firm or Limited / Private Company, Year of Establishment and Place of Business, etc. and	<ul style="list-style-type: none"> In case of sole proprietorship, the bidder shall submit affidavit on Non Judicial stamp paper of appropriate value in original, duly attested by notary regarding status / style of the business entity as per prescribed Format, Annexure-1.22. Partnership firm shall submit a copy of Partnership Deed attested by notary Company shall submit a notarized / certified copy of Certificate of Registration / Incorporation and a copy of Articles of Association and Memorandum of Association. Registered Society & Registered Trust shall submit certified copy of the Certificate of Registration and Deed of Formation/MOA
	b) Affidavit as per prescribed Format, Annexure-1.16 (AFFIDAVIT in reference Blacklisting etc.) on Non-judicial paper in original and c) Power of Attorney / Authorization.	<ul style="list-style-type: none"> Affidavit in original The bidder shall submit Notarized/ Certified copy of Power of Attorney on Non-Judicial stamp paper of appropriate value duly attested by Notary /Magistrate in case of Sole Proprietor / Partnership Firm / Company or Authorization (backed by Board Resolution) in case of a



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		Company in favour of a person who has signed the tender documents on behalf of tenderer / Firm / Company
	<p>d) The bidder should have valid Permanent Account Number (PAN), GST Registration No., PF Registration No. and ESI Registration No.</p> <p>e) Declaration / Disclosure regarding any relation(s) with employees of NFL as per prescribed Format, Annexure-1.23</p>	<p>The bidder shall submit Declarations as per prescribed format, Annexure-1.23, with self-attested copy of related documents wherever required like</p> <ul style="list-style-type: none"> • PAN Card. • GST registration certificate • P.F Registration No. issued by PF Authorities. • ESI Registration No. issued by ESI Authorities, etc.
ii	Experience Criteria	Supporting Documents Required
	The Bidder shall have completed/commissioned contract/s involving following, either in same contract or in two different contracts executed at one place for design, engineering, fabrication, construction, testing of Ammonia/ Hydrocarbon / LPG / Butadiene, Horton Sphere Storage Facility OR Mounded Bullet Storage Facility having capacity of Minimum 1500 Cubic Meter of water capacity in last fifteen (15) years ending last day of the previous month in which bids are invited.	To meet the Experience criteria, Bidder shall submit duly self-attested copy of Work Order/ Contract/relevant Extract of Work Order indicating scope of work, along with Completion/Acceptance Certificate and one year successful operation certificate issued by the Owner /End User/PMC along with the name of the contact person and contact details such as Ph. No., e-mail I.D etc. The Completion/Acceptance Certificate shall clearly indicate the LOA/Work Order number, 'Name of Work', 'Scope of Work'.
iii	Financial Criteria	Supporting Documents Required
a.	<p>The bidder, qualifying the Experience criteria as per clause (ii) above, must have completed Similar Work during the last Fifteen (15) years ending last day of previous month in which bids are invited.</p> <p>“Similar Work” Shall mean:</p> <p>“Design & Detailed engineering, Procurement & construction works” for followings:</p> <p>a) Tankage Terminals / LNG Facilities/ LPG Bullets (Mounded Storages)/ Horton Spheres, in any of Fertilizer /</p>	<p>Bidder shall submit documentary proof such as duly self-attested copy of Work Order/ / relevant Extract of Work Order indicating scope of work, along with Completion/Acceptance Certificate and one year successful operation certificate issued by the Owner /End User/PMC along with the name of the contact person and contact details such as Ph. No., e-mail I.D etc for at least one of the following.</p> <p>The Completion/Acceptance Certificate shall clearly indicate the LOA/Work Order number, 'Name of Work', 'Contract Value', 'Scope of Work', 'Contract Period' and actual date of completion</p>

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	Refinery / Petrochemical / Chemical / Gas Processing Plants. OR b) Hydrocarbon Tanks or Process units/ Offsite, in any of Fertilizer / Refinery / Petrochemical / Chemical / Gas Processing Plants	i) One Completed Similar work* costing not less than INR 21.88 Crore inclusive of applicable Taxes & duties. OR ii) Two Completed Similar works* each costing not less than INR 13.67 Crore inclusive of applicable Taxes & duties. OR iii) Three Completed Similar works* each costing not less than INR 10.94 Crore inclusive of applicable Taxes & duties.
b.	The Average Annual financial turnover of the Bidder during the last three (3) preceding financial years i.e. 2022-23, 2021-22, and 2020-21 of the bidder meeting the requirement of "Experience Criteria" as per clause (ii) above should be not less than INR 16.41 crore	Bidder shall submit self-attested copies of Audited Balance Sheet and Profit & Loss A/c for the last three financial years ending on 31st March of the previous financial years (i.e. FY 2022-23, 2021-22 & 2020-21).
c.	Net Worth of the bidder should be POSITIVE for financial year as on 31 March 2023.	Bidder shall submit a certificate indicating the Net Worth certified by statutory auditor/practicing Chartered Accountant with UDIN.

- For clause (ii) Experience Criteria and clause (iii) Financial Criteria, a Job executed by a Bidder for its own plant/ project cannot be considered as experience for the purpose of meeting PQC of the tender. However, jobs executed for Subsidiary/Fellow subsidiary / Holding company (company under same management/having common directors) will be considered as experience for the purpose of meeting PQC subject to submission of tax paid invoice (s) duly certified by Statutory Auditor of the Bidder towards payments of statutory tax in support of the job executed for Subsidiary/Fellow subsidiary/ Holding company. Such Bidders to submit these documents in addition to the documents specified to meet PQC.
- Bidder to submit 'details of financial capability of bidder' in prescribed format of NIT, **Annexure-1.19**, in support of financial criteria of PQC duly signed and stamped by its Statutory Auditor/CA.
- The Owner/Consultant may verify the Authentication of PQC Documents submitted by the bidder at their own cost. Bidder shall also facilitate Owner/Consultant site visit to such companies/countries.

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9.0 EARNEST MONEY DEPOSIT (EMD)

9.1 Deleted

9.2 The Bidder shall furnish as part of his Bid, EMD / Bid Security for an amount as indicated in the '**LETTER INVITING BID**' of NIT.

9.2.1 The EMD offered shall be an irrevocable Bank Guarantee, issued by any Indian Scheduled bank (except Co-operative and Gramin bank) or branch of any Foreign bank in India, on a non-judicial stamp paper of applicable value. Proforma of the Bank guarantee is enclosed as **Annexure-1.7**.

9.2.2 The Bank Guarantee shall be valid for a period of Bid Validity plus (03) three months claim period from due date of submission of bid. The amount shall be as indicated in the **LETTER INVITING BID**. The Bank Guarantee shall be extended suitably if there is a delay in awarding the contract. The relevant extension shall be on Bidders' account.

Or

EMD can also be furnished in the form of Demand Draft in favour of **M/s National Fertilizers Limited** payable at **Naya Nangal /Nangal** for value as outlined in the **LETTER INVITING BID** for this NIT. EMD will not carry any interest.

Or

EMD may also be submitted electronically by NEFT/RTGS



9.2.3 The bank details of NFL for issuance of EMD/ BG are as below:

Name of Account Holder : National Fertilizers Limited
Account No. (Current) : 11070992603
IFSC code : SBIN0000689
Name of the Bank : State Bank of India
Name of the Branch : Naya Nangal

9.2.4 Bidder shall also arrange confirmation of Bank guarantee (including all amendments) by their issuing bank through SFMS mode directly to the NFL Banker i.e. ICICI Bank Ltd, Senior Mall, Sector-18, and Noida, UP, 201301, IFSC Code ICI0000031, as per following details:-

- i) IFN 760 COV for issuance of Bank Guarantee.
- ii) IFN 767 COV for amendment of Bank Guarantee.
- iii) Issuing bank shall mention NFL beneficiary code as NFLNational04022015 in filed 7037 COV/IFN 767COV"

9.3 MSEs (Micro & Small Enterprises) are also exempted from submission of EMD in accordance with the provisions of PPP-2012. However, Traders/Dealers/Distributors/Stockiest/Wholesaler are not entitled for exemption of EMD. The Government Departments/PSUs are also exempted from the payment of EMD.

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The bidders shall submit the following documents in support of claiming the exemption of EMD:

- a) Documentary evidence that the bidder is a Micro or Small Enterprises registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or MSEs who are having **Udyam Registration Certificate** or any other body specified by Ministry of Micro, Small and Medium Enterprises.
- b) The above document submitted by the bidder shall be duly certified (in original) by Notary or the Statutory Auditor of the bidder or a practicing Chartered Accountant (not being an employee or a Director or not having any interest in the bidder's company/firm) where audited accounts are not mandatory as per law or duly notarized by any Notary Public in the bidder's country.
- c) If the bidder does not provide the appropriate document or any evidence to substantiate the above, then it will be presumed that they do not qualify for any preference admissible in the Public Procurement Policy, 2012.

9.4 Any Bid not accompanied with EMD shall be rejected by the OWNER/CONSULTANT as being non-responsive.



9.5 The EMD of unsuccessful Bidders will be returned by OWNER/CONSULTANT without any interest as promptly as possible on acceptance of Bid of the successful Bidder or when the Bidding process is cancelled by OWNER/CONSULTANT, as the case may be. Bidders may indicate the name and address in whose favour the said EMD shall be returned in case the EMD has been paid by Demand Draft failing which it shall be drawn in the name of the bidder and shall be mailed to the address given on the transmittal letter.

9.6 The successful Bidder's EMD will be discharged upon the Bidder accepting and signing the Contract and furnishing the Security cum Performance Bank Guarantee.

9.7 The EMD shall be forfeited and appropriated by OWNER as mutually agreed loss and damage payable to OWNER for, inter alia, time, cost and effort of OWNER in regard to the NIT without prejudice to any other right or remedy to OWNER under the following conditions:

- a) If a Bidder withdraws his Bid during the validity or agreed extension validity period duly agreed by the bidder
- b) If the bid is varied or modified in a manner not acceptable to the Owner during the validity or agreed extension validity period duly agreed by the bidder
- c) Any effort by the bidder to influence the Owner on bid evaluation, bid comparison or contract award decision.
- d) In the case of a successful Bidder, if the Bidder fails to sign the Contract in accordance with Signing of Contract

OR

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If the successful bidder is seeking modifications to the agreed terms and conditions after issue of Letter of Intent (“LOI”) / Letter of Award (LOA) and prior to signing of the Contract.

OR

If the successful bidder fail to furnish performance guarantee within 30 days of receipt of the LOI.

- e) In case of any fraudulent practice towards PQ Criteria, as per Clause 8.0 of Instruction to Bidders.

9.8 Bidders shall submit their **Bid Security/ EMD (as per given format, Annexure-1.7), (Documentary evidences regarding EMD Exemption), No Deviation Certificate as per format, Annexure-1.11, Declaration for Local Content (as per given format- FORM-A, Annexure-1.17) and Integrity Pact (as per given format- Annexure-1.21), in Original (physical form)** at following address.

The envelope shall be super scribed with:

"-----"

PROJECTS & DEVELOPMENT INDIA LTD.
(A Govt. of India Enterprise)
PDIL BHAWAN, A-14, SECTOR-1,
NOIDA-201301, U.P., INDIA



Kind Attention: Ms. Anjali Thakur, Dy GM (MM)
EPBX No. + 91-120-2529842/3
Fax no. + 91-120-2529801 / 91
E-mail : anjali@pdilin.com / mksenapati@pdilin.com

10.0 COST OF BIDS

The Bidder shall bear all costs associated with the preparation and submission of the Bid, and OWNER / CONSULTANT will, in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.

11.0 PRE-BID CONFERENCE

- 11.1 The bidder may submit any queries/clarification/information pertaining to bidding documents by E-mail as per **Annexure-1.4** enclosed in the bidding documents so as to reach PDIL and NFL not later than the date specified in the **LETTER INVITING BID**. Queries/ Clarifications/ Information sought in any other manner shall not be responded to.
- 11.2 The bidder or his authorized representative(s), is advised to attend a pre-bid meeting as indicated in the **LETTER INVITING BID**. The purpose of the meeting will be to clarify issues and to answer questions on any matter pertaining to the Tender conditions that may be raised at that stage by Bidders.
- 11.3 The Owner’s responses to Bidder’s queries/clarifications raised will be furnished as expeditiously as possible. Any modification of the Bidding Documents which may

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become necessary as a result of the pre-bid meeting/conference shall be communicated through the issue of an Addendum/Amendment/Corrigendum.

12.0 MODIFICATION AND WITHDRAWAL OF BIDS



- 12.1 The Bidder may modify or withdraw its Bid after the Bid's submission, but before the last date and time of Bid submission as appearing on the CPP Portal.
- 12.2 In case any clarifications are sought by the Owner after opening of tenders, then the replies of the bidder should be restricted to the clarification sought. Any bidder who modifies his bid (including a modification which has the effect of altering the value of his offer) after opening of Technical and unpriced commercial bids without specific reference by the Owner shall render the bid liable to be rejected without notice and without further reference to the Bidder.
- 12.3 No bid may be withdrawn in the interval between the deadline for the submission of bids and the expiration during the validity or agreed extension validity period duly agreed by the bidder. Withdrawal or unsolicited modification of a bid during this interval shall result in the Bidder's forfeiture of its EMD.
- 12.4 The Bidder may modify or withdraw its Bid after the Bid's submission, but before the last date and time of Bid submission as specified in this NIT provided that written notice of the modification or withdrawal is received by OWNER/ CONSULTANT prior to the deadline prescribed for submission of Bids.
- 12.5 A withdrawal notice may also be sent by E-mail in signed and scanned form not later than the deadline for submission of Bids.

13.0 INFORMATION REQUIRED WITH THE BID

- 13.1 All technical and commercial information shall be furnished as per relevant sections of NIT. In addition, the bidder shall ensure that Technical and Unpriced Commercial Bid has been submitted as per clause 21.2 of Instructions to Bidders.
- 13.2 Any bid not containing sufficient descriptive material to describe accurately the process details, functioning of various sections of the Plants, equipment proposed and other necessary details may be treated as incomplete and hence rejected. Such descriptive material and drawings submitted by the Bidder will be retained by the Owner. Any major deviation from these drawings and descriptive material submitted will not be permitted during the execution of the Contract without specific written permission of the Owner.
- 13.3 Standard catalogue pages and other documents of the Bidder may be used in the bid to provide additional information and data as deemed necessary by the bidder.



14.0 LOCAL CONDITIONS

- 14.1 It will be imperative on each Bidder to fully inform himself of all local conditions and factors which may have any effect on the execution of the works covered under these specifications and documents. Bidder shall inspect the site, examine and obtain at its cost and responsibility, all information required and satisfy himself

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regarding all matters and things such as access to site, communications, transport, right of way, the type and number of equipment and facilities required for the work, availability of local labour, materials and their rates, local working conditions, weather, flood levels, sub-soil conditions, natural drainage, and all information that may be necessary for preparing its Bid, performance of work and other obligations and related matters. By submitting the Bid the Bidder shall be deemed to have acknowledged and agreed that ignorance of the site and other said conditions shall not be basis for any claim for compensation or extension of time or loss of profits etc. and the OWNER shall not be liable on account thereof in any manner whatsoever to the Bidder or any person claiming through or under the Bidder.

- 14.2 Bidders must before submission of their Bids, acquaint themselves with all applicable regulatory and other legal requirements pertaining to insurance and health, safety and environment requirement in INDIA and rules related to work permit and visa requirements in INDIA or in any way or manner affecting the performance of Scope of Work, the Contractor and the Plant operation and performance including social security, safety, pollution control, permits, licenses, and the other statutory requirements and regulations. The submission of a Bid by the Bidder will be construed as evidence that such an examination was made and the Bidder shall not raise at any time later any claims/disputes against the OWNER and the OWNER shall not be liable for the same in any manner whatsoever.
- 14.3 In their own interest, the foreign bidders are particularly requested to familiarize themselves with the Income Tax Act 1961, the Companies Act, 2013, the Customs Act, 1962, GST Act 2017 (SGST Act 2017, CGST Act 2017, UTGST Act 2017 and IGST Act 2017) including any amendments thereof and other related acts and laws prevalent in India.
- 14.4 The Owner shall not entertain any request for clarification from the bidder, regarding such local conditions.
- 14.5 The Bidder shall be deemed to have prepared the Bid on the basis of its independent judgment and to have made all necessary allowances and provisions to ensure that the PLANT will meet all technical specification prescribed hereunder including the specified performance requirements and guarantees and be entirely suitable for the purpose for which it is intended. Accordingly, at the time of submission the Bid Price will, without extra price and/or extension of time, be held to include everything implicitly or otherwise required or necessary for the proper and timely completion of the WORK including ACCEPTANCE OF PLANT in accordance with the CONTRACT. Further , in case of any contract awarded under these specifications and documents, neither any change in the time schedule of the Contract nor any financial adjustments arising thereof shall be permitted by the Owner, which are based on the lack of such clear information or its effect on the cost of the works to the Bidder.
- 14.6 Bidder to inform himself of all local conditions and factors which may have any effect on the execution of WORK covered under the Tender Document. In their own interest, the Bidder are requested to familiarise themselves with the Indian Income Tax Act 1961, Indian Companies Act 1956/2013, Indian Customs Act 1962 and other related Acts and Laws and Regulations of India with their latest amendments, as applicable. OWNER shall not entertain any requests for clarifications from the Bidder regarding such local conditions.

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14.7 It must be understood and agreed that such factors have properly been investigated and considered while submitting the tender. No claim for financial or any other adjustments to CONTRACT PRICE, on lack of clarity of such factors shall be entertained.

14.8 Visit to site is optional and at BIDDER's cost and expense.

15.0 PRICE BASIS & CURRENCY OF BIDS

15.1 Bidder shall quote their firm prices as per **the Schedule (Excel_BoQ)** provided with the NIT. The Bidder shall quote their prices in Indian Rupees only. The Currency of Price Bid shall be **Indian Rupees** only.

15.2 The price/Unit Rates quoted by the Bidder shall be FIXED & FIRM and shall be valid until completion of the Contract, pursuant hereto and shall not be subject to variation / escalation on any account except as otherwise specifically provided in the Contract documents. Firm rate shall not be subject to any escalation on any account. Bids with variable prices shall be disqualified.

15.3 The bidders are required to check & confirm before bidding for all taxes & duties for the procurement of supply and service by them for the execution of CONTRACT(S).

15.4 The quoted prices shall be inclusive of all taxes, duties, levies, cess/BOCW Cess, **except GST** as applicable. GST amount will be quoted separately, in the space provided for GST, which will be reimbursed at actual by the owner limited to the GST amount as per the Bid.

15.5 All bank charges of bidders bankers shall be to the Bidder's account and all Bank charges of Owner's bankers shall be to Owner's account.

15.6 Income Tax, BoCWcess, GST TDS, or any other tax and surcharge as applicable shall be deducted at source from the bills of the contractor and a certificate to that effect shall be issued by the Owner, wherever applicable.



15.7 Third Party Inspection (TPI):

TPI shall be in the scope of bidder. Bidder shall carryout Inspection services for indigenous/Imported equipment/ materials through BV/Lloyds/TUV and such inspection charges/fee shall be included in their bid.

However, For Indigenous equipment/ materials, OWNER/PDIL, if desire, shall visit to witness the inspection and Bidder shall facilitate the same. Financial implication of such visit shall be OWNER's scope.

16.0 COMPLIANCE TO ALL THE PROVISIONS OF THE BIDDING DOCUMENT / NIL DEVIATION

The Bidders are advised that while making their Bid and quoting prices, all conditions may appropriately be taken into consideration. **Any deviation, whatsoever, is not permitted** by the Owner to the provisions of Bidding Documents and its subsequent Amendment(s) / Clarification(s) / Addenda / Errata if any, issued by the Owner/PDIL. Bidders are required to certify their full compliance to the complete Bidding Documents and its subsequent Amendment(s) / Clarification(s) / Addenda / Errata if

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any, issued by the owner by submitting the “**No Deviation Certificate**” as per **Annexure-1.11** in the tender document. **In case such Certificate is not furnished, the bid shall be rejected.**

Acceptance of above shall be considered as Bidder's confirmation that any deviation to the Bidding Documents found anywhere in their Bid Proposal, implicit or explicit shall stand unconditionally withdrawn, without any cost implication whatsoever to owner, failing which the bid shall be rejected and bid security(EMD) shall be forfeited.

17.0 PUBLIC PROCUREMENT (Preference to MAKE IN INDIA (MII))

17.1 For implementing the Policy related to ‘Public Procurement (Preference to Make in India) order ,2017 (PPP-MIL Order), Department of Industrial Policy and Promotion of Ministry of Commerce and Industry, Govt. Of India has issued an order dated 16.09.2020 in this regard (copy enclosed at **Annexure-1.17**). The aforementioned orders, inter-alia, contain Purchase Preference and other procedures/requirement to be followed while finalizing the tender and during the execution of the contract. The bidders shall apprise themselves of the provisions and required to comply with these applicable requirement/provisions.

17.2 As per the provisions of the above order, Purchase Preferences shall be accorded to the ‘**Class-I Local Supplier**’ as brought at Clause-28 below. However, the bidder to claim their eligibility for Purchase Preference under the definition of ‘Class-I&II Local Supplies’, shall necessarily furnish their certificate duly complying the requirement mentioned at Clause-17.1 above as per **Annexure-1.17**.

17.3 PUBLIC PROCUREMENT POLICY FOR MICRO AND SMALL ENTERPRISES

17.3.1 Government of India, vide Gazette of India No. 503 dated 26.03.2012 proclaimed the Public Procurement Policy for Micro and Small Enterprises (MSEs).



The following benefit is available in case of **Works Contract** also:

- i) Issue of tender document to MSEs free of cost.
- ii) Exemption to MSEs from payment of EMD/Bid Security.

However, Purchase Preference shall not be applicable on Works Contract. **Works Contract** means wherein transfer of property in Goods involved in execution of such contracts i.e. wherein both material and services are involved.

17.3.2 In case bidder is a Micro or Small Enterprise the bidder shall submit the following:

- i. Ministry of MSME vide Gazette notification no. CG-DL-E-26062020-220191 dated 26.06.2020 had notified certain criteria for classifying the enterprises as Micro, Small and Medium Enterprises and specified, form and procedure for filing the memorandum (Udyam Registration) w.e.f. 01.07.2020 (for complete details of policy refer website of Ministry of MSME i.e. <https://msme.gov.in/>) Accordingly, Micro and Small Enterprises (MSEs) shall be required to submit Udyam Registration Certificate for availing benefit under Public Procurement Policy for MSEs2012

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The above documents submitted by the bidder shall be duly certified by the Chartered Accountant (not being an employee or a Director or not having any interest in the bidder's company/firm) and notary public with legible stamp. If the bidder does not provide the above confirmation or appropriate document or any evidence, then it will be presumed that they do not qualify for any preference admissible in the Public Procurement Policy (PPP) 2012. Further, MSEs who are availing the benefits of the Public Procurement Policy (PPP) 2012 get themselves registered with MSME Data Bank being operated by NSIC, under SME Division, M/o MSME, in order to create proper data base of MSEs which are making supplies to CPSUs.

17.3.3 The benefit of policy are not extended to the traders/dealers/ Distributors /Stockiest/Wholesalers.

18.0 NUMBER OF BIDS



- 18.1 A bidder shall on no account submit more than one bid either directly or indirectly.
- 18.2 A bidder shall be deemed to have submitted an indirect bid if a subsidiary of the bidder is also a direct or indirect bidder in an independent bid or if the bidder or its subsidiary has with its consent been indicated as a sub-contractor in any other bid or even if not so indicated has entered into any arrangement (whether disclosed or undisclosed) with any other bidder or with a sub-contractor of that bidder for the performance of any work for that other bidder upon an award of the work to that other bidder.
- 18.3 If a BIDDER makes more than one bid and/or directly or indirectly participates in another bid all the bids of the BIDDER, including the bid of the BIDDER in whose bid the first named BIDDER has directly or indirectly participated, may be considered as cartel bids and may be rejected. If the factum of such bid(s) is discovered after the notification of award, the resultant contract shall be liable to be terminated pursuant to the provisions for termination contained in the General Conditions of Contract.
- 18.4 In case of offers are received from Companies/Firms, having common Directors/Partners, then offer of only single Company/Firm shall be considered for evaluation at the sole discretion of Owner.

19.0 CONFIDENTIALITY OF DOCUMENTS

Bidders shall treat the bidding documents and contents therein as strictly confidential.

20.0 TAXES AND DUTIES

- 20.1 The Prices/Rates shall include all taxes & duties, levies, Cess etc. including but not limited to custom duty, personnel and corporate tax, /BOCW Cess **except GST**. GST amount paid by the Bidder shall be reimbursed at actual by the owner limited to the amount as per the bid.
- 20.2 Bidders are required to ascertain themselves the prevailing rates of applicable taxes & duties including income tax rates as applicable on the scheduled date of submission of bids and Owner would not undertake any responsibility whatsoever in this regard.

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However, due to any subsequent change in law, liability of the Owner as regards to payment of duties and taxes would be governed by Clause 13 of SCC.

20.3 GST

20.3.1 Bidders are required to submit copy of the GST Registration Certificate while submitting the bids wherever **GST (CGST & SGST/UTGST or IGST)** is applicable.

20.3.2 Quoted prices should be inclusive of all taxes and duties, except **GST (CGST & SGST or IGST or UTGST)**. Please note that the responsibility of payment of **GST (CGST & SGST or IGST or UTGST)** lies with the Supplier of Goods / Services / CONTRACTOR only. Bidder / CONTRACTOR providing taxable service shall issue an Invoice/ Bill, as the case may be as per rules/ regulation of GST. Further, returns and details required to be filled under GST laws & rules should be timely filed by Bidder / CONTRACTOR with requisite details.

Payments to Bidder for claiming **GST (CGST & SGST/UTGST or IGST)** amount will be made provided the above formalities are fulfilled. Further, OWNER may seek copies of challan and certificate from Chartered Accountant for deposit of **GST (CGST & SGST/UTGST or IGST)** collected from Owner.

20.3.3 The Bidder confirms that it has included all taxes, duties, levies etc., as applicable at prevailing rates, in its CONTRACT PRICE. In case, bidder has not included any such taxes, duties, levies etc., at all and/or at prevailing rates (deliberately or otherwise) and it becomes leviable during execution of the contract, then such bidder has to pay all such taxes, duties, levies etc. and OWNER shall not be liable for payment of such liabilities and/or OWNER shall not reimburse such taxes, duties, levies etc. to the Bidder.

20.3.4 In case of statutory variation in GST (CGST & SGST/UTGST or IGST), other than due to change in turnover, payable on the contract value during contract period or extension thereof, the Bidder shall submit a copy of the 'Government Notification' to evidence the rate as applicable on the Bid due date and on the date of revision.



Any reduction in the amount of GST resulting from a reduction in the rate of GST or remission or exemption from GST with respect to Services provided to the OWNER shall be refundable to the OWNER at actuals during the Contract Period and also during the extended Contract Period, if any.

Beyond the completion period, any increase in the rate of GST (CGST & SGST/UTGST or IGST) beyond the contractual delivery/ completion period shall be to Contract's account whereas any decrease in the rate GST (CGST & SGST/UTGST or IGST) shall be passed on to the Owner.

In case of delayed completion beyond the completion period for reasons due to Owner's default, then any increase in the rate of GST (CGST & SGST/UTGST or IGST) during the delayed completion period shall be Owner's account.

Claim for payment of GST (CGST & SGST/UTGST or IGST)/ Statutory variation, should be raised within two [02] months from the date of issue of 'Government Notification' for payment of differential (in %) GST (CGST & SGST/UTGST or IGST), otherwise claim in respect of above shall not be entertained for payment of arrears.

The base date for the purpose of applying statutory variation shall be the Bid Date.

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20.3.5 Owner will reimburse the GST (CGST & SGST/UTGST or IGST) to the Bidder at actuals against submission of e-Invoices/Invoices as per format specified in rules/regulation of GST to enable Owner/OWNER to claim input tax credit of GST (CGST & SGST/UTGST or IGST) paid. In case of any variation in the executed quantities, the amount on which the GST (CGST & SGST/UTGST or IGST) is applicable shall be modified in same proportion. Returns and details required to be filled under GST laws & rules should be timely filed by supplier with requisite details.

20.3.6 Deleted

20.3.7 Deleted

20.3.8 In case Owner is required to pay entire/certain portion of applicable **GST (CGST & SGST/UTGST or IGST)** and remaining portion, if any, is to be deposited by Bidder directly as per **GST (CGST & SGST/UTGST or IGST)** laws, entire applicable rate/amount of **GST (CGST & SGST/UTGST or IGST)** to be indicated by bidder in the SOR.



Where Owner has the obligation to discharge **GST (CGST & SGST/UTGST or IGST)** liability under reverse charge mechanism and OWNER has paid or is /liable to pay **GST (CGST & SGST/UTGST or IGST)** to the Government on which interest or penalties becomes payable as per GST laws for any reason which is not attributable to OWNER or ITC with respect to such payments is not available to OWNER for any reason which is not attributable to OWNER, then OWNER shall be entitled to deduct/ setoff / recover such amounts against any amounts paid or payable by OWNER to Bidder.

20.3.9 **Anti-profiteering clause**

As per Clause 171 of GST Act it is mandatory to pass on the benefit due to reduction in rate of tax or from input tax credit to the consumer by way of commensurate reduction in prices. The Bidder may note the above and quote their prices accordingly.

In case the GST rating of Bidder on the GST portal / Govt. official website is negative / black listed, then the bids may be rejected by OWNER. Further, in case rating of bidder is negative / black listed after award of job, then OWNER shall not be obligated or liable to pay or reimburse GST to such vendor and shall also be entitled to deduct / recover such GST along with all penalties / interest, if any, incurred by OWNER.

20.3.10 The Contractor shall mention the particulars of OWNER on the Invoice. Besides, if any other particulars of OWNER are required to be mentioned, under GST rules/regulations, the same shall also be mentioned on the Invoice.

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20.3.11 Reconciliation between GSTR 2A and Input Tax Credit

Bidder shall ensure timely submission of correct invoice(s), as per GST rules/regulation, with all required supporting document(s) within a period specified in Contract to enable OWNER to avail input credit of GST (CGST & SGST/UTGST or IGST). Further, returns and details required to be filled under GST laws & rules should be timely filed by Supplier of Goods / Services with requisite details.

If input tax credit is not available to OWNER for any reason not attributable to OWNER, then OWNER shall not be obligated or liable to pay or reimburse GST (CGST & SGST/UTGST or IGST) claimed in the invoice(s) and shall be entitled to deduct / setoff / recover such GST amount (CGST & SGST/UTGST or IGST) or Input Tax Credit amount together with penalties and interest, if any, against any amounts paid or becomes payable by OWNER in future to the Supplier/Contractor under this contract or under any other contract.

In case CBIC (Central Board of Indirect Taxes and Customs)/ any tax authority / any equivalent government agency brings to the notice of OWNER that the Bidder has not remitted the amount towards GST (CGST & SGST/UTGST or IGST) collected from OWNER to the government exchequer, then, that Bidder shall be put under Holiday list of OWNER for period of six months.. This action will be in addition to the right of recovery of financial implication arising on OWNER.

20.3.12 GST, as quoted by the bidder, shall be deemed as final and binding for the purpose of bid evaluation (applicable for tenders where bidder quotes the GST rates). In case a bidder enters zero GST or an erroneous GST, the bid evaluation for finalizing the bidder will be done considering the quoted GST rate. No request for change in GST will be entertained after submission of bids.



In cases where the bidder quotes a wrong GST rate, for releasing the order, the following methodology will be followed:

- a) In case the actual GST rate applicable is lower than the quoted GST rate, the actual GST rate will be added to the quoted basic prices. The final cash outflow will be based on actual GST rate.
- b) In case the actual GST rate applicable is more than the quoted GST rate, the basic prices quoted will be reduced proportionately, keeping the final cash outflow the same as the overall quoted amount.

Based on the Total Cash outflow calculated as above, OWNER shall place orders.

20.3.13 Wherever TDS under GST Laws has been deducted from the invoices raised / payments made to the vendors, as per the provisions of the GST law / Rules, Bidder should accept the corresponding GST-TDS amount populated in the relevant screen on GST common portal (www.gst.gov.in). Further, Vendors should also download the GST TDS certificate from GST common portal (reference path: Services > User Services > View/Download Certificates option).

20.3.14 Bidder/CONTRACTOR who is required to comply with the requirements of E-invoice for B2B transactions as per the requirement of GST Law will ensure the compliance of requirement of E Invoicing under GST law. If the invoice issued without following

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this process, such invoice can-not be processed for payment by OWNER as no ITC is allowed on such invoices.

Therefore, all the payments to such supplier / service provider / contractor/ Bidder who is liable to comply with e-invoice as per GST Laws shall be made against the proper e-invoice(s) only. Further, returns and details required to be filled under GST laws & rules against such e-invoices should be timely filed by Supplier of Goods / Services with requisite details.

If input tax credit is not available to OWNER for any reason attributable to supplier / service provider / contractor/ Bidder (both for E-invoicing cases and non-E-invoicing cases), then OWNER shall not be obligated or liable to pay or reimburse GST (CGST & SGST/UTGST or IGST) claimed in the invoice(s) and shall be entitled to deduct / setoff / recover such GST amount (CGST & SGST/UTGST or IGST) or Input Tax Credit amount together with penalties and interest, if any, by adjusting against any amounts paid or becomes payable in future to the supplier / service provider / contractor/ Bidder under this contract or under any other contract.

20.3.15 **New Taxes & duties:**



- (a) Any new taxes and/or duties, if imposed by the State/ Central Govt. of India after the due date of bid submission but before the Completion Period or any extension thereof, shall be reimbursed to the Bidder on submission of copy of notification(s) issued from State/ Central Govt. Authorities along with documentary evidence for proof of payment of such taxes & duties, but only after ascertaining it's applicability with respect to the Contract.
- (b) If any new taxes and/or duties are imposed beyond contractual completion period for reasons not due to Owner's default, such taxes and duties shall be to Bidder's account.
- (c) If any new taxes and/or duties are imposed beyond contractual completion period for reasons due to Owner's default, such taxes and duties shall be to Owner's account.

20.3.16 Full payment including GST will be released at the time of processing of invoice for payment, where the GST amount reflects in Form GSTR-2A of OWNER. However, in case where the GST amount doesn't reflect in Form GSTR-2A of OWNER, the amount of GST will be released after reflection of GST amount of corresponding invoice in Form GSTR-2A of OWNER.



21.0 **DETERMINATION OF BID'S RESPONSIVENESS**

21.1 The Owner's determination of a bid's responsiveness is to be based on the contents of the bid itself without recourse to extrinsic evidence. If a bid is not substantially responsive, it will be rejected by the Owner and may not subsequently be made responsive by the Bidder by correction of the nonconformity.

21.2 It is important that Bidder clearly demonstrates his experience and capability, giving OWNER/CONSULTANT a high level of confidence that if awarded, the Bidder will be able to perform the works within the stipulated Time Schedule and quoted rate/price and meeting all other requirements listed in the Bidding document.

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- 21.3 Bidder is requested to furnish the complete and correct information required for evaluation of his Bid. If the information with regard to resources and concurrent commitments or any other information/documentation forming basis of evaluation is found incomplete/incorrect, the same may be considered as adequate ground for rejection of the Bid.
- 21.4 Examination of bids and determination of responsiveness
- 21.4.1 The Owner's determination of a bid's responsiveness is based on the content of the bid only. Prior to the detailed evaluation of Bids, the Owner will determine whether each Bid:
- (a) Meets the "Pre-Qualification Criteria" of the Bidding Documents;
 - (b) Has been properly signed;
 - (c) Is accompanied by the required 'Earnest Money Deposit, Declaration for Local Content, No Deviation Certificate and Integrity Pact
 - (d) Is substantially responsive to the requirements of the Bidding Documents; and
 - (e) Provides any clarification and/or substantiation that the Owner may require to determine responsiveness pursuant to Clause-21.4.2 of this ITB
- 21.4.2 A substantially responsive Bid is one which conforms to all the terms, conditions and specifications of the Bidding Documents without material deviations or reservations or omissions for this purpose Owner defines the foregoing terms below:-
- a) "Deviation" is departure from the requirement specified in the tender documents.
 - b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirement in the tender documents
 - c) "Omission" is the failure to submit part or all of the information or documentation required in the tender document.
- 21.4.3 A material deviation, reservation or omission is one that,
- a) If accepted would,
 - i) Affect in any substantial way the scope, quality, or performance of the job as specified in tender documents.
 - ii) Limit, in any substantial way, inconsistent with the Tender Document, the Owner's rights or the tenderer's obligations under the proposed Contract.
 - b) If rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.
- 21.4.4 The Owner shall examine all aspects of the bid to confirm that all requirements have been met without any material deviation, reservation or omission.
- 21.5 Bidder is requested to furnish the complete and correct information required for evaluation of his Bid. If any information/documentation forming basis of evaluation is found incomplete/incorrect, the same may be considered as adequate ground for rejection of the Bid.
- 22.0 SUBMISSION OF BIDS**
- 22.1 The Bid must be submitted in **electronic format (through CPP portal)** as per time schedule mentioned in the LETTER INVITING BID.

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The Bidder shall submit Original Bid Security / EMD, No Deviation Certificate, Declaration for Local Content and Integrity Pact, in physical form, only at the address mentioned at Clause 9.0 of Instruction to Bidders.

The OWNER/ CONSULTANT may extend this deadline for the submission/uploading of Bids by amending the NIT documents in accordance with Clause No. 4.0 above. In such case all rights and obligations of the OWNER and Bidders under this NIT shall be subject to the extended deadline.



22.2 Instruction for Online Submission of Bid

Instructions to the Bidders to submit the bids online through the Central Public Procurement Portal for e-Procurement at <https://eprocure.gov.in/eprocure/app> (if, needed, CPP Portal helpline number should be used for latest update in this regard)

- 1) Possession of valid Digital Signature Certificate (DSC) and enrolment/registration of the contractors/bidders on the e-procurement / e-tender portal is a prerequisite for e-tendering.
- 2) Bidder should do the enrolment in the e-procurement site using the “Click here to Enroll” option available on the home page. Portal enrolment is generally free of charge. During enrolment/registration, the bidders should provide the correct/true information including valid email id. All the correspondence shall be made directly with the contractors/bidders through email id provided.
- 3) Bidder need to login to the site thro’ their user ID/ password chosen during enrolment/registration.
- 4) Then the Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by SIFY / TCS / nCode / eMudra or any Certifying Authority recognized by CCA India on eToken / SmartCard, should be registered.
- 5) The DSC that is registered only should be used by the bidder and should ensure safety of the same.
- 6) Bidder may go through the NIT / tenders published on the site and download the required NIT documents/schedules for the tenders he/she is interested.
- 7) After downloading / getting the NIT/ Tender document/schedules, the Bidder should go through them carefully and then submit the documents as asked, otherwise bid will be rejected.
- 8) If there are any clarifications, this may be obtained online thro’ the tender site, or thro’ the contact details. Bidder should take into account the corrigendum published before submitting the bids online.
- 9) Bidder then logs in to the site through the secured log in by giving the user id/ password chosen during enrolment/registration and then by giving the password of the e-Token / Smart Card to access DSC.

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- 10) Bidder selects the tender which he/she is interested in by using the search option & then moves it to the 'my tenders' folder.
- 11) From my tender folder, he / she selects the tender to view all the details indicated.
- 12) It is construed that the bidder has read all the terms and conditions before submitting their offer. Bidder should go through the tender schedules carefully and upload the documents as asked otherwise, the bid will be rejected.
- 13) Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document/schedule and generally, they can be in PDF/xls/rar/zip/dwf formats. If there is more than one document, they can be clubbed together and can be provided in the requested format. Each document to be uploaded through online for the tenders should be less than 2 MB. If any document is more than 2MB, it can be reduced through zip/rar and the same can be uploaded, if permitted. Bidders Bid documents may be scanned with 100 dpi with black and white option. However if the file size is less than 1 MB the transaction uploading time will be very fast.
- 14) If there are any clarifications, this may be obtained through the site, or during the pre-bid meeting if any. Bidder should take into account the corrigendum published from time to time before submitting the online bids.
- 15) The Bidders can update well in advance, the documents such as certificates, annual report details etc., under My Space option and these can be selected as per tender requirements and then send along with bid documents during bid submission. This will facilitate the bid submission process faster by reducing upload time of bids.
- 16) Bidder should submit the EMD, No Deviation Certificate and Integrity Pact as specified in the tender. The original of these documents should be posted/couriered/given in person to the Tender Inviting Authority, within the bid submission due date & time for the tender. Scanned copy of these documents should be uploaded as part of the offer.
- 17) While submitting the bids online, the bidder reads the terms & conditions and accepts the same to proceed further to submit the bid packets.
- 18) The bidder has to select the payment option as offline to pay the Tender FEE/ EMD, if any, as applicable and enter details of the instruments.
- 19) The details of the DD/any other accepted instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise submitted bid will not be acceptable.
- 20) The bidder has to digitally sign and upload the required bid documents one by one as indicated. Bidders to note that the very act of using DSC for downloading the bids and uploading their offers shall be deemed to be a confirmation that they have read all sections and pages of the bid document including General conditions of contract without any exception and have understood the entire document and are clear about the requirements of the tender requirements.

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- 21) The bidder has to upload the relevant files required as indicated in the cover content. In case of any irrelevant files, the bid will be rejected.
- 22) If the price bid format is provided in a spread sheet file like BoQ_xxxx.xls, the rate offered should be entered in the allotted space only and uploaded after filling the relevant columns. The Price Bid / BOQ template must not be modified/ replaced by the bidder; else the bid submitted is liable to be rejected for this tender.
- 23) The bidders are requested to submit the bids through online e-tendering system to the Tender Inviting Authority (TIA) well before the bid submission end date & time (as per Server System Clock). The TIA will not be held responsible for any sort of delay or the difficulties faced during the submission of bids online by the bidders at the eleventh hour.
- 24) After the bid submission (i.e. after Clicking "Freeze Bid Submission" in the portal), the acknowledgement number, given by the system should be printed by the bidder and kept as a record of evidence for online submission of bid for the particular tender and will also act as an entry pass to participate in the bid opening date.
- 25) The time settings fixed in the server side & displayed at the top of the tender site, will be valid for all actions of requesting, bid submission, bid opening etc., in the e-tender system. The bidders should follow this time during bid submission.
- 26) All the data being entered by the bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered will not be viewable by unauthorized persons during bid submission & not be viewable by any one until the time of bid opening.
- 27) Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid openers public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- 28) The confidentiality of the bids is maintained since the secured Socket Layer 128 bit encryption technology is used. Data storage encryption of sensitive fields is done.
- 29) The bidder should logout of the tendering system using the normal logout option available at the top right hand corner and not by selecting the (X) exit option in the browser.

Note: A bidder shall submit only one bid in the same bidding process. A Bidder who submits more than one bid will cause all their bids disqualified in the said bidding process.

- 22.3 The Bidder is expected to examine all instructions, forms /annexures, terms and conditions in the NIT. The NIT together with all its attachments thereto, shall be considered to be read, understood and accepted by the Bidders. Failure to furnish all information required or submission of a Bid not responsive to the NIT in every respect will be at the Bidder's risk and may result in the rejection of the Bid.

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22.4 The Bidder must submit the bids **online** in separate covers as below;

COVER-I PRE-QUALIFICATION AND TECHNICAL & UNPRICED COMMERCIAL BID



COVER-II PRICED BID (BOQ EXCEL SHEET)

22.4.1 Under online submission, **Cover-I shall contain** : (**Pre-Qualification and Technical & Unpriced Commercial Bid**)



Pre-Qualification Document (Refer Clause 8.0)

i)	Documents about the status (i.e. Name and complete Address) of the firm/company along with its constitution such as Sole Proprietorship / Partnership Firm or Limited / Private Company, Year of Establishment and Place of Business, etc. Organization Profile covering (a) Name & address of the organization with telephone, fax, email nos. with contact persons (b) history & structure of the organizations with names of directors & chief executives (c) Copy of Article of Association of the Company or Board Resolution mentioning Chairman/ Chief Executive Officer / Managing Director of the Company.
ii)	Affidavit as per prescribed Format, Annexure-1.16 (AFFIDAVIT in reference Blacklisting etc.) on Non-judicial paper in original
iii)	Power of Attorney in favour of the person who has signed the bid.
iv)	Declaration / Disclosure regarding any relation(s) with employees of NFL as per prescribed Format, Annexure-1.23 and submission of copy documents like. <ul style="list-style-type: none"> • PAN Card. • GST registration certificate • P.F Registration No. issued by PF Authorities. • ESI Registration No. issued by ESI Authorities, etc.
v)	Documents in favor of Experience Criteria viz. Work Order /LOI, Completion/Acceptance Certificate/ One year successful operation certificate
vi)	Documents in favor of “ Similar Works ” Financial Criteria viz. Work Order /LOI, Completion/Acceptance Certificate/ One year successful operation certificate
vii)	Financial Details as per Annexure – 1.19 / Audited Annual Reports for last three years

Technical & Unpriced Commercial Bid shall contain following Sections:

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SECTION-I:	i)	Letter of submission & Synopsis of the proposal.
	ii)	<i>Tender Fee (Not applicable)</i>
	iii)	Photocopy of Earnest Money Deposit (EMD) / Bid Security
SECTION-II:	i)	Bid Form as per Annexure-1.1
	ii)	Commercial Questionnaire as per Annexure-1.3
	iii)	Bidder's Proposed Schedule as per Annexure-1.5
	iv)	Declaration by the Bidder Regarding Bidding Document as per Annexure-1.6
SECTION-III:	i)	Proforma of Certificate of Non-Involvement of Indian Agent as per Annexure-1.10
	ii)	Contents of Bid and Check List as per Annexure-1.12
	iii)	No Deviation Certificate as per Annexure-1.11
	iv)	Declaration/certificate regarding restrictions under rule 144 (xi) of GFR for bidders which shares a land border with India as per Annex-1. 18
	v)	Integrity Pact as per Annexure – 1.21
	vi)	Performa for declaration of sole proprietorship as per Annexure – 1.22
	vii)	Declaration regarding any relation(s) with employees of NFL as per Annexure – 1.23
	viii)	Declaration Form as per Annexure – 1.24
	ix)	A copy of PRICE SCHEDULE (BOQ) with prices/figures completely blanked out but with the word “Quoted” or “Not Applicable” against each head and duly stamped & signed on each page, strictly as per as per Excel BoQ provided in Cover-II in the Portal, failing which bid may be rejected.
	x)	Master Index and copies of all technical and commercial amendments/addendums if any issued, duly signed and stamped on each page as a token of having received and read all parts of the bidding document and having accepted and considered the same in preparing their bid.
SECTION-IV:	i)	Bidder shall furnish complete manpower requirement with break up for operation of plant during commissioning, trial runs, and guarantee tests.
	ii)	Bidder shall also furnish a complete break up of manpower requirement for the normal operation of the plant as per best operation practice.
SECTION-V:	i)	Technical Details/ documents specified under “Technical Information Required along with Bid”.
SECTION-VI:	i)	Any other information required in the Bidding Documents or considered relevant by the Bidder.

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For convenience, the Bid shall be compiled in the form of Specific Sections conforming to the above. In case of non-submission of above documents or submission of incomplete documents, the OWNER reserves the right not to evaluate such offers further and not to enter into correspondence in this regard after opening the Techno-commercial Unpriced Bid.

22.4.2 Under online submission, **Cover-II shall contain** :(**Price Bid** in excel BOQ form)

Price Bid (BOQ) [**in the form of excel file**] as given in the Bidding Document must be downloaded and saved at bidders' local PC / Laptop without any change. Bidders shall fill the required details/prices in BOQ, save it and upload the filled-in BOQ in the CPP portal only.

This part shall not contain any condition whatsoever failing which the Bids shall be liable to be rejected.

If the bidder fails to quote for any item of BoQ in their price bid and the same is required during execution of the contract, it will be implied that such item is included elsewhere in the quoted prices.

Note: Bidder is requested not to send/submit any hard copy of price bid.

23.0 OPENING OF BIDS

23.1 Bids shall be opened online at CPP Portal at Date and time specified in the Portal.



23.2 **Stage-I: Opening of COVER-I (Preliminary Examination & Review of Pre-Qualification Bid, Technical and Unpriced Commercial Bids)**

OWNER / CONSULTANT, after Preliminary Examination (w.r.t. submission of Tender fee, EMD, No Deviation Certificate, Integrity pact and Declaration of Local Content), will first review Pre-qualification bid. This will ascertain that the bidder fully meets the Qualifying Requirements, stipulated in ITB (Clause-8.0) to the Owner/Consultant's satisfaction. It will be based upon an examination of documentary evidence of Bidder's qualifications submitted by the Bidder in the bid, as well as such other information as the Owner deems necessary and appropriate.

Technical and Unpriced Commercial Bids shall be evaluated only for those bidders whose bids are found to be Pre-qualified based on the Pre-Qualification (PQ) Criteria.

Discussions with Bidders during Techno-Commercial Evaluation:

During evaluation and comparison of Technical and Commercial Bids, OWNER/CONSULTANT may, at its discretion, ask the Bidder for clarification on its Bid. The request for such clarification and the response shall be in writing either through fax or email.

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Further, OWNER / CONSULTANT may ask BIDDER to visit OWNER's/ CONSULTANT's office for Technical, Commercial or Financial discussions/clarifications.

BIDDER is expected to undertake such visits and participate in such meetings as and when called by the OWNER/CONSULTANT. All costs related to such visits shall be borne by BIDDER.

23.3 Stage – II: Opening of Price Bid of COVER-II

The date of the opening of the Price Bid shall be intimated to technically and commercially acceptable Bidders via CPP Portal. Bidders, willing to witness the Opening, may do the same by logging into CPP Portal. A summary of Bid opening can also be seen on the Portal.

The evaluation of the priced Bids shall be done as described under Clause No. 28.0 of the NIT.

23.4 If all the Bids as judged by the OWNER are unresponsive, the NIT may be declared void and a new procedure for selection of CONTRACTOR as deemed appropriate by OWNER may be adopted.

24.0 POLICY FOR BID UNDER CONSIDERATION

Bids shall be deemed to be "Under Consideration" immediately after they are opened and until such time that the official intimation of award / rejection is made by the OWNER to the Bidders. While the bids are under consideration, bidders and/or their representatives or other interested parties are advised to refrain from contacting by any means, the OWNER and/or his employees / representatives on matters related to the bids under consideration.



The OWNER, if necessary may obtain clarifications on the bids by requesting for such information from any or all the Bidders, either in writing or through personnel contact as may be necessary. **The Bidder will not be permitted to change the substance of the bid after the bid had been opened.**

25.0 EFFECT AND VALIDITY OF BID

25.1 The submission of any bid connected with these documents and specifications shall constitute an agreement that the Bidder shall have no cause of action or claim against the OWNER for rejection of his bid. The OWNER shall always be at liberty to reject or accept any bid or bids at his sole discretion and any such action will not be called into question and the Bidder shall have no claim in that regard against the OWNER.

25.2 The bids should be kept **valid for acceptance** for a period of **09 (Nine) Months** from the last due date of submission of offer. A Bid valid for shorter period may be rejected by the Owner as being non-responsive.

Under the exceptional circumstances, prior to expiry of the original Bid validity period, the OWNER may request the Bidder for a specified extension in the period of validity.

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The request and the responses thereto shall be made in writing or by telefax or by E-mail.

25.3 In the event of OWNER/ CONSULTANT seeking extension of period of validity of the Priced Bids, the validity of EMD shall also be suitably extended.

25.4 A Bidder agreeing to the request of OWNER seeking extension will not be required nor permitted to modify his bid, and will be required to extend the validity of his EMD correspondingly. However, Bidders request for revision/adjustment of Priced Bid under such circumstances may be considered by the OWNER/ CONSULTANT. The provisions of Clause-9.0 regarding discharge and forfeiture of EMD shall continue to apply during the extended period of Bid Validity.

26.0 COMPLETE SCOPE OF SUPPLIES / WORK

26.1 The complete scope of supplies and work/services has been defined in the bidding documents. Only those bidders who take complete responsibility and who bid for the complete scope of supplies and work/services as contained in the bidding document shall be considered for further evaluation.

26.2 If the contractor is required to engage a sub-contractor for any part of work, then such sub-contractors shall have prior proven experience of similar work and shall require specific approval by OWNER.

Following the notification of LOI/FOA, the CONTRACTOR will submit to the OWNER for approval the details of Sub-Contractors in line with requirement of **Annexure – 1.14.**



The list of construction Sub-Contractors proposed in the Bids by the Bidders shall be considered as indicative only.

26.3 If a proposed sub-contractor has been approved by the OWNER, the CONTRACTOR shall not replace such approved sub-contractor with another sub-contractor without obtaining the OWNER's prior approval for the proposed replacement.

26.4 Bidder shall ensure that the Project Execution Plan submitted by it are adequate for completing the work in all respects. All details as mentioned above shall be submitted along with Bid in the first instance.

27.0 CORRECTION OF ERRORS

Although there is zero possibility of arithmetic errors where Price Bids are submitted in the form of .excel (BoQ). However, if required, following methodology may be applied for arithmetic correction:

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- (i) When there is a difference between the rates in figures and words, the rate which corresponds to the amount worked out by the Bidder (by multiplying the quantity and rate) shall be taken as correct.
- (ii) When the rate quoted by the Bidder in figures and words tallies but the amount is incorrect, the rate quoted by the contractor shall be taken as correct and not the amount and the amount shall be re-calculated/ corrected accordingly.
- (iii) When it is not possible to ascertain the correct rate, in the manner prescribed above, the rate as quoted in words shall be adopted and the amount worked out, for comparison purposes.
- (iv) All errors in totaling in the amount column and in carrying forward totals shall be corrected.
- (v) In case of an error in output/display due to computational error in the Excel BoQ, the output figures/words shall be corrected manually using the rate filled by the Bidder in the unlocked cell (Blue color cell)

The amount stated in the Bid will be adjusted by the Owner / Consultant in accordance with the above procedure for the correction of errors. If the Bidder does not accept the corrected amount of Bid, its Bid will be rejected, and the EMD shall be forfeited.



28.0 EVALUATION AND COMPARISON OF BIDS

28.1 Preliminary Examination

- 28.1.1 The Owner will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required EMD has been furnished and pre-qualification criteria is met, whether the documents have been properly signed, whether validity of the Bid is in conformity with NIT and whether the bids are generally in order. Bids shall be evaluated for Pre-Qualification Criteria (PQC) first and Techno-Commercial Bid Evaluation shall be carried out, only for those Bids which shall meet the Pre-Qualification Criteria (PQC).

While evaluating the Bidder's conformity with Pre-Qualification Criteria, the following consideration shall be applied.

- a. Only such works shall be taken into consideration, the details of which have been submitted by the Bidder along with copy of Work Order/ notification for award/letter of intent, copy of completion certificate and proof that unit was in operation.
- b. Copy of work order/ notification for award of work is a mandatory document which establishes that the Bidder has been awarded a work which meets the minimum single contract mentioned under Experience Criteria, Clause no. 8 above.
- c. For evaluating, only such Financial details shall be taken into consideration,

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which have been submitted by the Bidder as per Bidding Form.

- 28.1.2 Prior to the detailed evaluation, the Owner will determine the substantial responsiveness of each Bid with reference to the bidding documents. For purpose of this article a substantially responsive Bid is one, which conforms to all the terms and conditions of the bidding documents without material deviations. The Owner's determination of a Bid's responsiveness is to be based on the contents of the Bid itself, without recourse to extrinsic evidence.
- 28.1.3 A Bid determined as substantially non-responsive is liable to be rejected by the Owner and may not subsequently be made responsive by the Bidder by correction of the non-conformity.
- 28.1.4 The Owner may waive any minor infirmity or non-conformity or irregularity in a Bid, which does not in their opinion constitute a material deviation.
- 28.1.5 After a preliminary screening based on both technical and un-priced commercial evaluation, Bidders will be short-listed. In the event that any clarifications are required, then such clarifications shall be obtained from such short listed Bidders only. Based on the clarifications, the technically acceptable Bidders may be asked to confirm the revised price or modification to the previous price if any.

28.2 General



- 28.2.1 The OWNER wishes to finalise the award of work of the facilities covered under this bidding documents within a limited time schedule. OWNER expects BIDDERS to confirm compliance to tender terms, conditions & Specifications, failing which the bids are liable to be rejected. Hence the BIDDERS in their own interest are advised to submit their bids complete in all respects conforming to all terms and conditions of the bid document.
- 28.2.2 Bids shall be evaluated based on the information / documents available in the bid. Hence, BIDDERS are advised to ensure that they submit appropriate and relevant supporting documentation along with their proposal in the first instance itself. Bids not complying to the requirements of bid documents are liable to be rejected. Bidders are advised to fill up all Annexures carefully and provide reference to all relevant documents given in their bid offer.

28.3 The financial comparison shall be arrived at using the following:

28.3.1 Lump sum Price (CAPEX)

TOTAL LSTK PRICE /TOTAL CONTRACT PRICE shall be the price along with GST as indicated by the bidder in the Price Schedule/BOQ (Part-I).

Note: Vendor's Recommended Operational Spares (Optional Price quoted in BOQ Part-III) shall not be considered for evaluation.

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28.3.2 Loading on account of Higher Time Schedule quoted for PRELIMINARY ACCEPTANCE

Wherever bidders have quoted PRELIMINARY ACCEPTANCE Period higher than the **20 Months** from the EFFECTIVE DATE OF CONTRACT, the loading shall be done @ 0.5 %per week or part thereof on TOTAL LSTK COST excluding Taxes and Duties for the excess period. For the purpose of loading, the time period in Months shall be converted in weeks by multiplying with 30.5 and dividing by 7.

This is without the prejudice to Owner's right to treat bids with PRELIMINARY ACCEPTANCE period beyond required PRELIMINARY ACCEPTANCE Period indicated in the NIT as non-responsive. **In any case, Bid with completion period exceeding 22 months shall not be acceptable.**

Earlier Completion Period shall get no credit.

This clause will come in effect for evaluation after the completion of Reverse Auctioning Process in CPP portal. This process of "Loading on account of Higher Time Schedule quoted" will be done manually, if applicable.



28.4 Reverse Auctioning Mode

28.4.1 OWNER/CONSULTANT shall be resorting to Reverse Auction for this tender. Reverse Auction shall be conducted among the techno-commercially qualified bidders. Price bids of all techno-commercially qualified bidders shall be opened and same shall be considered for Reverse Auction.

28.4.2 **Place for conducting Reverse Auction:** The eligible bidders can participate in the online reverse auction from any place of their choice and need not to visit OWNER/CONSULTANT office for this purpose. The reverse auction shall however be done on website: <https://etenders.gov.in/eprocure/app>. Though a bidder need not visit OWNER/CONSULTANT office for participating in this tender but in case OWNER opts to have negotiations with the L-1 bidder (Lowest bidder after conclusion of Reverse auction) as per clause no. 28.4.3 given below, such negotiations shall be held at OWNER -NFL Nangal office only. Prior intimation shall be given for the same.

28.4.3 **Starting/ Base price for Reverse Auctioning:** The opening price/ base price for reverse auction will be informed after the opening of Financial/ price bids. This shall be the lowest TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE (including GST) (**CAPEx**) received against the initial price bids submitted by participating bidders. The duration for the event would be 45 minutes. The Bid decrement would be **Rs. 2,00,000/-** per lumpsum value of TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE (including GST). If any bidder tries to bid in the last 5 minutes then the bid duration will increase by 5 minutes. There will be infinite extension if any bidder tries to bid in the last 5 minutes. OWNER/CONSULTANT shall be given one buyer login id to view the event.

28.4.4 After the reverse action, the final reduced price/ TOTAL LSTK PRICE (including GST) shall be proportionally adjusted against each line items of Supply, Service and Civil works of Part-II, BREAK-UP PRICE while award.

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29.0 PRICE VARIATION

The Bidder shall quote firm prices/ rates in the “BoQ”. Firm prices/rates shall not be subject to any escalation on any account till final acceptance of the plant except as otherwise specifically provided in the NIT/ Contract documents. Bids with variable prices may be disqualified.

30.0 REBATE

No suo-moto reduction in price(s) by bidders is permissible after opening of the price bid. If any Bidder unilaterally reduces the price(s) quoted by him in his bid after opening of price bids, such reduction shall not be considered for comparison of prices but shall be binding on the Bidder if he happens to be selected for award of work.

31.0 CONTACTING OWNER

A Bidder shall not contact the OWNER/CONSULTANT on any matter relating to his bid from the time of priced bid opening to the time that the Contract is awarded, unless requested to do so in writing. Any effort by a Bidder to influence the OWNER/CONSULTANT in the OWNER’s/ CONSULTANT’s decisions in respect of bid evaluation or contract award will result in the rejection of that Bid.

32.0 AWARD OF CONTRACT

32.1 Subject to ITB Clause 34.0, the OWNER will award the CONTRACT to the successful Bidder whose Technical and Commercial bid has been determined to be substantially responsive and Price Bid to be the lowest evaluated Bid, further provided that the Bidder is determined to be qualified to perform the CONTRACT satisfactorily.

32.2 After selection, Letter of Intent (LOI) / Fax on Acceptance (FOA) shall be released by the OWNER to the selected Bidder.



32.3 The Bidder shall enter into a Contract Agreement with the OWNER as per clause 33.0, failing which the Bid Security/EMD is liable to be forfeited.

32.4 OWNER reserves the right to vary the quantity of any of the Spares and/or delete any item of Spares altogether at the time of Award of Contract.

32.5 **The mode of contracting with the successful bidder will be a Single LSTK Contract on “Work Contract Service” basis.**

33.0 SIGNING OF CONTRACT

On acceptance of the bid of the successful bidder by the OWNER, such bidder shall be informed about it and a LOI/FOA issued. The successful bidder will be required to give his unconditional acceptance in writing to LOI within 15 (fifteen) days. Thereafter a contract agreement as per **Annexure 1.15** shall be executed between the OWNER and the BIDDER within fifteen (15) days from date of acceptance of LOI, CONTRACTOR shall sign the CONTRACT and return it to the OWNER. The copy of the CONTRACT shall be signed by an authorised officer of the CONTRACTOR in whose name Power of Attorney has been issued.

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34.0 OWNER'S RIGHT TO ACCEPT / REJECT BIDS

- 34.1 The OWNER reserves the right to accept or reject any Bid and to annul the bidding process and reject all Bids at any time prior to award of Order without thereby incurring any liability to the bidder(s) or any obligation to inform the bidder(s) of the ground of OWNER's action.
- 34.2 It is observed that many bidders indulge in trading in contracts by entering into undisclosed back-to-back arrangements for the whole or a substantial portion of a Contractor's obligations under the contract. Consequently, If a bidder proposes to enter into any such arrangements upon a successful award of work or has in place any such arrangement which will become operative upon the award of work, the bidder must make a complete disclosure of such arrangement or proposed arrangement in its proposal, and all provisions applicable to sub-supplier(s) in terms of bidding documents shall apply to such arrangements.
- 34.3 If the existence of such an undisclosed arrangement is reasonably apprehended by the OWNER in the case of a bidder, the OWNER may reject such bidder's bid as not responsive.
- 34.4 If such an undisclosed arrangement is discovered after the award of work, such arrangement(s) shall be deemed to constitute an assignment of contract and a ground of termination pursuant to the provisions of termination under the General Conditions of Contract.
- 34.5 OWNER/CONSULTANT reserves the right to accept or reject any tender in whole or part and/or accept other than the lowest quotation without assigning any reason.

35.0 SECURITY CUM PERFORMANCE BANK GUARANTEE



(Shifted to Clause 8.0 of GENERAL CONDITION OF CONTRACT)

36.0 INTEGRITY PACT

Bidders are required to unconditionally accept the "Integrity Pact (IP)", as per **Annexure-1.21**, (executed on plain paper) and submit the same duly signed on all pages by the bidder's authorized signatory along with the EMD / Documentary evidences in support of EMD exemption for MSEs. In case, **Annexure-1.21** duly signed & stamped is not found in the sealed envelope / techno-commercial bid and / or is not found as per the format required as per the bidding document, the bidder will be asked to furnish the same before price bid opening. Failure to comply with this requirement, the bid shall be rejected.

37.0 TRANSFER OF TENDER DOCUMENTS/PROPOSAL

- 37.1 **Transfer of Bid submitted by one BIDDER to another is not permitted. No alteration in the essence of a Bid, once submitted, shall be permitted.**
- 37.2 OWNER/CONSULTANT reserves the right to verify all statements/information submitted to confirm the Bidder's claim on experience on the performance of equipment offered and capabilities of the Bidder to perform the Scope of Work. OWNER may inspect similar facilities built by the Bidder. Bidder shall co-ordinate and arrange for visit. However all expenses of such visit of OWNER's Officials / OWNER's Representative will be borne by OWNER.

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- 37.3 OWNER/CONSULTANT shall not entertain any correspondence with any Bidder on acceptance or rejection of any Bid.
- 37.4 Oral statements made by the Bidder at any time regarding any matter including quality, or arrangement of the equipment or any other matter will not be considered and will not be binding on the OWNER/CONSULTANT.
- 37.5 Standard catalogue pages and other documents of the Bidder may be used in the Bid to provide additional information and data as deemed necessary by the Bidder.
- 37.6 Bidder will furnish the Bid with all relevant information's as called for. Bids with incomplete information are liable for rejection.
- 37.7 If at any later date, it is found that documents, information and data submitted by the Bidder in the Bid, and based on which the Bidder has been considered eligible or successful or has been awarded the Contract is incorrect or false to the extent that had the correct or true information been made available to the OWNER at the time of Bid evaluation, the bid would have been declared ineligible or unsuccessful, the Bidder shall be forthwith disqualified or, as the case may be, the contract awarded based on such incorrect or false information shall be cancelled and the EMD/PBG shall be liable to be forfeited.

38.0 INCOMPLETE AND LATE TENDER



Unsolicited /Incomplete /late tenders are liable to rejection without any further reference.

39.0 BENEFIT ON ACCOUNT OF CONCESSIONAL CUSTOMS DUTY

Bidder confirms that the entire benefit on account of Concessional Customs Duty on imported items, if any, shall be passed on to the OWNER.

40.0 PROVISION FOR PROCUREMENT FROM A BIDDER WHICH SHARES A LANDBORDER WITH INDIA.



The clause regarding provision for procurement from a bidder which shares a land with India is enclosed as Annexure-1.18.

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PART I: COMMERCIAL



SECTION – 2.0

GENERAL CONDITIONS OF CONTRACT



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	EXISTING SERVICES
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1.0 SCOPE OF CONTRACT



FOR DETAILED SCOPE OF CONTRACT, PLEASE REFER PART-II (TECHNICAL)

The present NIT specifies the requirement of selection of LSTK Contractor for the scope of work shall include Basic Design Engineering, Detailed Engineering including Hook-up with existing facilities for all equipment & accessories, Re-routing/Modification of any underground obstructions, if any, procurement of complete materials & bought-out items whatever deemed necessary for mechanical, civil, electrical & instrumentation, fabrication at shop/site as required, loading, unloading & transportation, storage at site, assembly, construction, erection of mechanical, electrical & instrumentation system, Mechanical Completion, inspection, testing, painting, insulation, obtaining all necessary statutory approvals, Pre-commissioning, commissioning, trial runs and demonstration of guarantees, calibration, interface & supply of complete New ammonia Horton sphere with new refrigeration system along with spares & maintenance tools etc at NFL, Nangal on a lump-sum turnkey basis on single point responsibility.

- 1.1 Carrying out Basic Engineering, Detailed Engineering, Conducting HAZOP Study and incorporating its recommendation in the Project, Supply of PLANT and Associated Facilities, EQUIPMENT, Machinery, accessories, auxiliaries, spares and other related items, packing, supplying, arranging comprehensive insurance, primary protection and testing of individual items and assembly where necessary, construction, erection, testing, PRE-COMMISSIONING and Commissioning, Reliability load test PERFORMANCE AND GUARANTEE TEST as per CONTRACT specifications, supply of final DRAWINGS & DOCUMENTS etc. on LSTK basis.
- 1.2 Arrange services of ocean transportation, carry out the services of port clearance, handling, loading on Tractor/ Trucks and inland transportation up to SITE, comprehensive insurance, unloading, storage at SITE, transportation within SITE, unloading, storage ,handling, site Assembly, fabrication, insulation, painting, testing, arranging commissioning spares, complete services of erection, structural and PRE-COMMISSIONING, COMMISSIONING and PERFORMANCE & GUARANTEE TEST RUNS, SLT for PLANT
- 1.3 The CONTRACTOR shall take all necessary steps and comply with all formalities to get the CONTRACT registered with the appropriate Indian Custom Authorities to have the various imported equipments including spares, assessed as applicable. Any Government Clearances/ Permissions shall be obtained by CONTRACTOR without any additional cost to OWNER.
- 1.4 The CONTRACTOR shall be responsible on completion of CONTRACT or whenever required to undertake Customs reconciliation work with Indian custom authorities and finalise the Customs assessment by furnishing the necessary Technical Documents, technical information etc. to the said authorities.

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- 1.5 Any additional equipment whether mentioned or not, but which is necessary for the satisfactory completion of the PLANT allowing subsequent operation and maintenance for achieving the guaranteed performance of the plant shall be supplied, erected and commissioned by CONTRACTOR at no additional cost to the OWNER as though such equipments were originally specified and formed part of scope of WORK.
- 1.6 The scope of CONTRACT shall include supply of spares and consumables solvents, catalysts, adsorbents, lubricants, chemicals for commissioning, sustained load test run, GTR. The scope of CONTRACT shall also include Insurance spares and Mandatory spares.
- 1.7 Handing over all spare parts to OWNER item-wise with item tags with information and in the manner desired by OWNER either upon receipt or after PRILIMINARY ACCEPTANCE OF PLANT at option of OWNER. CONTRACTOR shall also give such DRAWINGS, catalogues, sketches and literature that the OWNER shall specify in the CONTRACT.
- 1.8 Completeness of the EQUIPMENT shall be the responsibility of the CONTRACTOR. Any equipment, fittings and accessories which may not be specifically mentioned in the specifications or drawings but which are usual or necessary for the satisfactory functioning of the equipment (successful operation and functioning of the EQUIPMENT being CONTRACTOR'S responsibility) shall be provided by the CONTRACTOR without any extra cost.
- 1.9 The true intent and meaning of these documents is that CONTRACTOR shall in all respects design, engineer, manufacture and supply the EQUIPMENT in a thorough workmanship like manner and supply the same in prescribed time in accordance with the CONTRACT.
- 1.10 The CONTRACTOR shall furnish six (06) copies in English language of technical DOCUMENTS, final DRAWINGS, preservation instructions, operation and maintenance manuals, test certificates, spare parts catalogues, SOFTWARES and hardwares Editable soft copy for final drawings, CD, shall also be furnished along with above 06 copies. For all the documents and drawings the soft copy is to be given in the form of CD. The LSTK contractor shall give copies and CD's for each drawing/document as per Part-II, Section- 17 of NIT.
- 1.11 The DOCUMENTS to be submitted by the CONTRACTOR shall be firm and final when they are submitted as "As-built". The CONTRACTOR shall be responsible for any loss to the OWNER consequent to furnishing of the incorrect data/drawings.
- 1.12 All dimensions and weights should be in metric system.
- 1.13 All EQUIPMENTS to be supplied and WORK to be carried out under the CONTRACT shall conform to and comply with the provisions of relevant regulations/acts of

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Government of India as may be applicable to the type of EQUIPMENT/WORK carried out and necessary certificates shall be furnished.



- 1.14 The CONTRACTOR shall provide cross-sectional drawings wherever applicable to identify the spare part numbers and their location. The sizes of bearings, their make & number shall also be furnished.
- 1.15 Specifications, design and drawings issued to the CONTRACTOR along with tender specifications and CONTRACT are not sold or given but loaned. These remain property of OWNER or his assignees and are subject to recall by OWNER. The CONTRACTOR, his employees, and SUB-CONTRACTOR and his employees shall not make use of the drawings, specifications and technical information for any purpose at any time except for manufacture against the CONTRACT and shall not disclose, the same to any person, firm or corporate authorities, without written permission of OWNER. All such details shall be kept confidential.
- 1.16 CONTRACTOR shall pack, protect, mark and arrange for despatch of EQUIPMENT as per instructions given in the CONTRACT.

2.0 CONTRACT DOCUMENTS

The term 'CONTRACT DOCUMENTS' shall mean and include the following documents which shall constitute the Contract and shall be deemed to form an integral part of the Contract:



- a) Contract Agreement and its Appendices
- b) Letter of Intent (LOI)/Fax of Acceptance (FOA)
- c) Clarification and replies exchanged between Owner and Contractor
- d) The "Schedule of Prices" including Supplementary Price, if any submitted, by the Contractor
- e) Instruction to Bidders including Amendments, if any, to the NIT Document
- f) Special Conditions of Contract including Amendments, if any, to the NIT Document
- g) Part II (Technical) of the NIT document including Amendments, if any to the NIT Documents.
- h) Technical Specifications and Drawings including Amendments, if any, to the NIT Documents
- i) General Conditions of Contract including Amendments, if any to the NIT Document
- j) Integrity Pact (IP) signed between the Owner and the Bidder/Contractor

The above documents are intended to be correlative, complementary and mutually explanatory. The Contract shall be read as a whole.

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2.1 INTERPRETATION OF CONTRACT DOCUMENTS

- 2.1.1 Notwithstanding the sub-division of the CONTRACT document into these separate documents and/or volumes and/or heads, every part of each separate section/volume/head shall be deemed to be supplementary of every other part and shall be read with and into the CONTRACT so far as it may be practicable to do so.
- 2.1.2 If in respect of any commercial term or condition, if any provision in the GENERAL CONDITIONS OF CONTRACT is repugnant to or at variance with any provision(s) of the SPECIAL CONDITIONS OF CONTRACT and / or the Agreed Variations or if any provision of the SPECIAL CONDITIONS OF CONTRACT is repugnant to or at variance with any provision(s) of the Agreed Variations, and the two cannot be reconciled or otherwise co-exist, then unless a different intention appears, the provision(s) of the SPECIAL CONDITIONS OF CONTRACT shall be deemed to override the provision(s) of GENERAL CONDITIONS OF CONTRACT and the provision(s) of the Agreed Variations shall be deemed to override the provision(s) of the SPECIAL CONDITIONS OF CONTRACT, but only to the extent that such repugnancy in the GENERAL CONDITIONS OF CONTRACT cannot be reconciled with the SPECIAL CONDITIONS OF CONTRACT and/or Agreed Variations or to the extent that such repugnancy in the SPECIAL CONDITIONS OF CONTRACT cannot be reconciled with the Agreed Variations, as the case may be.
- 2.1.3 Without prejudice to the provisions of the GENERAL CONDITIONS OF CONTRACT, whenever in the Bidding documents it is mentioned or stated that the CONTRACTOR shall perform certain work or provide certain facilities, it is understood that the CONTRACTOR shall do so at his own cost and the Lumpsum Price shall be deemed to have included the cost of such performance and/or provision, as the case may be.
- 2.1.4 The MATERIALS, design and workmanship shall satisfy the applicable relevant Indian standards, the job specifications contained herein and the codes referred to by expression or implication. Where the job specifications stipulate requirements in addition to those contained in the standard codes and specifications, these additional requirements shall also be satisfied. In the absence of any standard/specification/code of practice for detailed specifications covering any part of the work covered in this tender, the instructions/directions agreed between OWNER and CONTRACTOR based on good international engineering practice shall be binding on the CONTRACTOR.
- 2.1.5 In the event of any ambiguity or conflict between the Contract Documents listed in clause 2.0 above, the order of precedence shall be the order in which the Contract Documents are listed in Clause 2.0 (CONTRACT DOCUMENTS) above.
- 2.1.6 Should there be any doubt or ambiguity in the interpretation of the CONTRACT documents or contradiction therein or should there be any discernable error or omission in any CONTRACT document, the CONTRACTOR shall, prior to commencing the relative work or supply, as the case may be, apply in writing to the

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Project Manager for his decision for resolution of the doubt, ambiguity or contradiction or correction of the error or making good the omission, as the case may be. Should the CONTRACTOR fail to apply to the PROJECT MANAGER for his decision as aforesaid prior to commencing the relative work or supply, the CONTRACTOR shall perform the said work or make the said supply, as the case may be, at his own risk, and the provisions of Clause 2.1.9 hereof shall apply to any such work performed or supply made by the CONTRACTOR.

- 2.1.7 Notwithstanding anything provided in Clause 2.1.6 hereof above, either the CONTRACTOR or any representative of the OWNER or CONSULTANT may, at any time prior to or during the execution of the work or supply of any material or any part thereof (if the CONTRACTOR has failed to make an application as provided for in Clause 2.1.6), apply to the PROJECT MANAGER in writing for his decision in resolution of any doubt, ambiguity or contradiction or for the correction of any error or for making good the omission as the case may be.
- 2.1.8 The decision of the PROJECT MANAGER on any application under Clause 2.1.6 or Clause 2.1.7 hereof shall be in writing and shall be final and binding upon the CONTRACTOR and shall form part of the CONTRACT documents, with the intent that the CONTRACT documents shall be read as though the said decision is and was at all times incorporated therein. It is clarified that in case the Contractor disagrees with the decision of the PROJECT MANAGER, the dispute shall be settled as per the provisions of Clause 39.0 of GCC.
- 2.1.9 In the event of the CONTRACTOR performing or executing any work or making any supply at variance with the decision of the PROJECT MANAGER as aforesaid, then such work shall, if the PROJECT MANAGER so consider necessary, be deemed to be a defective work/ supply and the provision of Clause 15.0 of GCC and associated clauses there under shall apply thereto.
- 2.2 Any work or supply shown, indicated or included in any description of the work, plans, drawings, Specifications and/or Price Schedule or other Contract or Bid documents shall be deemed to form part of the WORK and/or supply contracted for, as the case may be, notwithstanding failure to show, indicate or include such work or supply in any other or others among the documents aforesaid with the intent that the indication or inclusion of the work or supply within any one of the said documents shall be deemed to be a sufficient indication or inclusion of the work or supply, as the case may be, within the work and supply covered by the CONTRACT.
- 2.3 No verbal agreement, assurance, representation or understanding given by any employee or officer of the OWNER or so understood by the CONTRACTOR, whether given or understood before or after the execution of the contract, shall any-wise bind the OWNER or alter the CONTRACT documents unless specifically given in writing and signed by the OWNER or by the PROJECT MANAGER on behalf of the OWNER and CONTRACTOR'S authorized representative as an Agreed Variation and amendment of the relative term(s) in the contract documents.

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2.4 Clause headings given in this or any other contract documents are intended only as a general guide for convenience in reading and segregating the general subject of the various Clauses, but do not form part of the contract documents, with the intent that the Clause headings shall not govern the meaning or import of the Clauses there under appearing or confine or otherwise affect the interpretation thereof.

3.0 DEFINITION OF TERMS AND INTERPRETATION



In the **CONTRACT**, unless the context otherwise requires, the following expressions shall have the following meanings. The singular shall include the plural and the plural include the singular except where the context otherwise requires and the words 'he', 'him', and 'his' shall be taken to mean 'she', 'her' and 'hers' where appropriate.

1. **'APPROVAL'** shall mean and include the written approval by the OWNER of a documents, drawing or other particulars in relation to this CONTRACT.
2. **'BATTERY LIMIT'** shall mean the outer limits of boundaries of the areas within which the Plants and associated facilities shall be located.
3. **'BID'** shall mean the proposal/document that the BIDDER submits in the requested and specified form in the specification in response to this NIT.
4. **'BIDDER'** shall mean the firm/party who quotes in response to an invitation to bid, from the OWNER.



"Incorporated JV Company" and "Consortium" shall also have the same meaning as of "BIDDER" mentioned in this clause.
5. **'CHANGE ORDER'** means an order by which a change is ordered or other notification made to the Contractor in accordance with the CONTRACT.
6. **'CODES'** shall mean the following, including the latest amendments, and/or replacements, if any:
 - a) All relevant Indian Acts, and Rules and Regulations made there under;
 - b) ASME Codes
 - c) AIEE Codes
 - d) American Society of Testing of Materials (ASTM) Codes
 - e) Other internationally applicable standards and/or Regulations the subject matter of the CONTRACT.
 - f) Indian Employees Provident Fund Act,
 - g) Pollution Control norms of INDIA
 - h) Contract Labour (Regulation & Abolition) Act, 1971.

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- i) Payment of Minimum Wages Act
- j) Any other Laws including labour laws of INDIA applicable during execution of contract and any subsequent statutory modifications thereof.
- k) Any other Laws/codes/standards specified in the contract documents.
7. **'COMMERCIAL OPERATION'** shall mean the condition of operation in which the complete equipment covered under the CONTRACT is officially declared by the OWNER to be available for continuous operation at different loads upto and including rated capacity after completion of commissioning as per CONTRACT. Such declaration by the OWNER however, shall not relieve or prejudice the CONTRACTOR any of his obligations under the CONTRACT.
8. **'COMMERCIAL USE'** shall mean that use of the PLANT, which the CONTRACT contemplates or of which it is commercially capable.
9. **'COMMISSIONING'** shall mean the putting into operation of PLANT by CONTRACTOR with the assistance from OWNER'S Personnel.
10. Deleted
11. **'CONSULTANT'** shall mean the agency nominated/appointed by the OWNER for the project/job/WORKS.
12. **'CONTRACT'** shall mean the written agreement made between the OWNER and the CONTRACTOR for the execution of the WORK, including all attachments and annexures thereto and all documents incorporated by reference therein.
13. **'CONTRACTOR'** shall mean the successful Bidder whose bid has been accepted by the OWNER and who has been selected by the OWNER for the award of Works and shall include his heirs, legal representatives, successors and permitted assigns/entities.
14. **'CONTRACT PERIOD'** shall mean the time period (as extended by the OWNER from time to time wherever appropriate) during which the CONTRACT shall be executed as agreed to between CONTRACTOR and the OWNER in the CONTRACT.
15. **'CONTRACTOR'S EQUIPMENT'** means all equipment, construction plant, vehicles, temporary facilities, material, tools or things brought on to the Site by or on behalf of the Contractor for carrying out the Works but not for permanent incorporation in the Plant.

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16. **'CONTRACTOR'S SOFTWARE'** means standard Software owned by the CONTRACTOR.
17. **'CONTRACTOR'S WORKS' OR 'MANUFACTURER'S WORKS'** shall mean the place or places of work used by the CONTRACTOR/SUB-CONTRACTOR or their collaborator (s) for the manufacture of EQUIPMENT or performance of WORKS.
18. **'COST'** means the cost properly incurred by the Contractor in carrying out any of his obligations under the Contract, and 'Costs' shall be construed accordingly.
19. **'DAY'** shall mean a calendar day of 24 hours.
20. Deleted
21. **'DEFECT'** means any work done or any Material or the Plant or any part of it which does not comply with the CONTRACT.
22. **'DEFECT LIABILITY PERIOD'** shall mean a period of 12 months commencing from the date of PRELIMINARY ACCEPTANCE. CONTRACTOR shall warrant that the equipment and material supplied under the CONTRACT shall be new and free from any defect or deficiency with respect to design, material and workmanship. In the event of any, defect or deficiency arising during the defects liability period, CONTRACTOR shall repair or replace the defective or deficient equipment and materials at its own cost. In such event the defect liability period for the particular equipment shall be another 12 months from the date of acceptance by OWNER of such replaced/repared equipment/material.
23. **'DOCUMENTATION'** means any relevant documents in paper or electronic form, including drawings, technical software, images, designs, manuals or records.
24. **'DRAWINGS', 'PLAN'** shall mean all:
- Drawings furnished by the OWNER as a basis for proposals;
 - Supplementary drawings furnished by the OWNER to clarify and to define in greater detail the intent of the CONTRACT;
 - DRAWINGS submitted by the CONTRACTOR with his proposal provided such drawings are acceptable to the OWNER.
 - DRAWING furnished by the OWNER to the CONTRACTOR during the progress of the works; and
 - Engineering data and DRAWINGS submitted by the CONTRACTOR during the progress of the work provided such drawings are acceptable to the OWNER.



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25. **'EFFECTIVE DATE OF CONTRACT'** The date of issue of LOI shall be considered as EFFECTIVE DATE of the CONTRACT.
26. **'ENGINEER'S INSTRUCTIONS'** shall mean any drawings and/or instructions in writing, details, directions and explanations issued by the OWNER from time to time during the CONTRACT PERIOD to the CONTRACTOR/ SUB-CONTRACTOR for carrying out the WORK.
27. **'EXTENDED PERFORMANCE TEST PERIOD'** has the meaning stated in clause 18 of Special Conditions of Contract.
28. **'EQUIPMENT' OR 'STORES'** shall mean the equipment, machinery and structure of any kind which the CONTRACTOR is obliged to design, supply, deliver, unload, store at site, erect, set to work and test under the CONTRACT.
29. **'FINAL ACCEPTANCE'** shall mean that date when all of the conditions set forth in Clause 19 of SPECIAL CONDITIONS OF CONTRACT have been satisfied, all liabilities and obligations under this CONTRACT have been discharged, except those specially to be continued or performed after FINAL ACCEPTANCE, and OWNER has issued the FINAL ACCEPTANCE CERTIFICATE to CONTRACTOR.
30. **'FINAL ACCEPTANCE CERTIFICATE'** shall mean that certificate issued by the PROJECT MANAGER or OWNER to the CONTRACTOR subject to clause 19 of SPECIAL CONDITIONS OF CONTRACT at the end of the DEFECTS LIABILITY PERIOD.
31. **'FINAL COMPLETION'** shall mean the completion of guarantee tests and handing over of the PLANTS and facilities to OWNER.
32. **FINAL PROPOSAL** means the document containing up to date technical offer of CONTRACTOR and technical information, data, etc., including drawings as agreed to in writing between the CONTRACTOR and OWNER, which is annexed to CONTRACT.
33. **'FORCE MAJEURE'** has the meaning stated in Sub-clause 35.0.
34. **'GCC' or GENERAL CONDITIONS OF THE CONTRACT** shall mean all the terms and conditions forming part of this agreement as defined in the Part I Section 2
35. **'GUARANTEED COMPLETION DATE OF CONTRACT'** shall mean the date which is **22 months** after the EFFECTIVE DATE CONTRACT, subject to any extensions expressly provided for hereunder upon which date CONTRACTOR shall have achieved PRELIMINARY ACCEPTANCE and



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OWNER has issued the PRELIMINARY ACCEPTANCE CERTIFICATE.

36. **'INDIAN AGENT'** shall mean the person, firm or company nominated as such by the CONTRACTOR to represent the CONTRACTOR for this CONTRACT in India.
37. **'INITIAL OPERATION'** shall mean the first integral operation of the complete EQUIPMENT covered under the CONTRACT with sub-systems and supporting equipment in service or available for service and shall be undertaken as part of COMMISSIONING after completion of start-up activities.
38. **'INSPECTOR'** shall mean the duly authorised representative of the OWNER for stage wise or final inspection of WORKS or of EQUIPMENT or MATERIALS to be supplied under the CONTRACT.
39. **'LEGISLATION'** means all applicable laws, directives, codes, statutes, rules, ordinances, approvals, licences, decrees, authorizations, by-laws, regulations, standards and any other requirement of any governmental authority or agency whether international national, state, municipal, local or other government subdivision, having the force of law in any place where the WORKS or any part of the WORKS are being carried out.
40. **'MANUFACTURER'** shall mean a person or firm who is the producer and supplier of material and/ or designer and/or fabricator of equipment to either the OWNER, the CONTRACTOR or both under the CONTRACT.
41. **'MATERIALS'** means machinery, plant and other items of equipment and materials intended to form part of the PLANT and other things needed for its operation, to be supplied by the CONTRACTOR.
42. **'MECHANICAL COMPLETION'** shall mean completion of erection to such an extent that the PLANT is ready for commissioning. This shall happen when:
- A. The EQUIPMENT capable of producing to rated capacities are installed, aligned and grouted (wherever applicable) in accordance with drawings, specifications as per finally approved P&I Diagrams after HAZOP Studies and in accordance with all applicable codes, and laws.
 - B. All pressure EQUIPMENT are hydrostatically or pneumatically tested once either in CONTRACTOR'S shop or in the field in accordance with Technical Specifications.
 - C. All Catalyst/adsorbents are charged in the respective reactors.



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- D. All Tower packing & internals are installed.
- E. Fired Heater and Boilers are hydrostatically or pneumatically tested. All non-operating preferring checks are made in accordance with the manufacturer's instructions.
- F. Compressor, Pumps, Machinery etc. are cold aligned. Couplings are assembled and guards installed.
- G. Instruments, control system, instrument cable, safety interlock are installed, inspected and such non-operating checks are made as to ensure operability in the manner required for the process application. Instrument air lines are checked for correct hook up. Air lines are leak tested.
- H. Relief valves are installed prior to this, they will have been checked by the CONTRACTOR in the CONTRACTOR's shop.
- I. Piping is hydrostatically or pneumatically tested in accordance with the specifications. Special treatment such as chemical cleaning is done as required by drawing or specifications. Suction screens are installed and test blinds are removed. Spring support anchors and guide are checked for removal of all shipping locks.
- J. The electric system is installed and tested in accordance with and to the extent required by electrical specifications. All wiring is checked for correct hook up. Motor rotation is checked. All power system protective devices are set.
- K. Insulation and drying out are completed to the extent necessary to permit start of commissioning and start up.
- L. Pipe support system installed as per drawings.
- M. Painting is completed. EQUIPMENT /MACHINERY, piping duly marked and labelled.
- N. Safety equipments, systems are installed and checked for operations. Effluent management and treatment systems are installed and operational.
- O. All Emergency & Instrument power system are checked and operating.

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- P. All chemical & lubricants are charged into the system.
- Q. PRECOMMISSIONING has been completed.
- R. The PLANT is ready to take feed
- S. All packing and bed support materials are installed.
- T. Liquidation of all punch list applicable for achieving MECHANICAL COMPLETION. Balance items of punch list, if any, shall be liquidated as mutually agreed
- U. Temporary constructions facilities are removed to extent necessary to permit start of commissioning of Plant.

43. **'MONTH'** shall mean the calendar month.
44. **'NOTICE OF AWARD OF THE CONTRACT'/'LETTER OF INTENT'** shall mean the official notice issued by the OWNER notifying the CONTRACTOR that his bid has been accepted, subject to such conditions as may have been stated therein as agreed on between CONTRACTOR and OWNER and that the CONTRACTOR is required to sign the CONTRACT Agreement.
45. **'NOTICE IN WRITING', 'WRITTEN NOTICE'** shall mean a notice in written, typed or printed characters sent (unless delivered personally or otherwise proved to have been received) by registered post/ Speed Post to the last known private or business address or registered office of the addressee and shall be deemed to have been received when in the ordinary course of post it would have been delivered. Fax with Post copy confirmation.
46. **'OTHER CONTRACTOR/OTHERS'** shall mean any person(s) having a contract with the OWNER to design, supply, erect, set to work, or do any other thing to or in connection with any other plant and shall include their, heirs, legal representatives, successors and permitted assigns.
47. **'OWNER'** shall mean the **National Fertilizers Ltd. (NFL)** having its registered office at - Core-III, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110 003.
48. **'PERFORMANCE & GUARANTEE TESTS RUN (PGTR)'** shall mean all operational checks and tests required to determine and demonstrate

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capacity, efficiency and operating characteristics and proving guarantees for work cost as specified in the CONTRACT documents.

49. **'PLANT'** means HORTON SPHERE for storage of Ammonia and Associated Facilities which shall mean the process units as defined in the design basis as per PART-II, TECHNICAL, SECTION 3.0 of NIT.
50. **'PRELIMINARY ACCEPTANCE'** shall mean that following milestones have been achieved (i) MECHANICAL COMPLETION has occurred, (ii) PRE-COMMISSIONING and COMMISSIONING of the PLANT have been accomplished, (iii) the Sustained Load Test has been passed successfully, (iv) PGTR has been conducted and accepted by OWNER (v) All statutory approvals in the scope of Contractor, required to operate and maintain the PLANT have been obtained (vi) OWNER has received all DOCUMENTS required hereunder to start up, operate and maintain the PLANT (vii) OWNER has received all operations, maintenance, and spare parts manuals and instruction book necessary to operate and maintain the PLANT in a safe, efficient and effective manner (viii) all special tools and spare parts purchased by CONTRACTOR as provided herein have been delivered to OWNER; and (ix) CONTRACTOR has completed the training program of OWNERS personnel as required under this CONTRACT. (x) All demonstration runs have successfully completed.
51. **'PRELIMINARY ACCEPTANCE CERTIFICATE'** shall mean that certificate issued by the PROJECT MANAGER or OWNER to the CONTRACTOR following satisfaction of conditions under PRELIMINARY ACCEPTANCE, the acceptance of which commences the DEFECT LIABILITY PERIOD.
52. **"PRE-COMMISSIONING"** shall mean preparation of PLANT so that it is capable of operating on a continuous basis at or near rated capacity for carrying out COMMISSIONING activities.
53. **'PROJECT'** shall mean the Project specified in the Technical specification.
54. **PROJECT MANAGER** shall mean the person designated by the OWNER and shall include those who are expressly authorised by the OWNER to act for and on his behalf for operation of this CONTRACT.
55. Deleted.
56. **'PURCHASER'** shall mean OWNER
57. **'SCC'** or SPECIAL CONDITIONS OF THE CONTRACT shall mean all the terms and conditions forming part of this agreement as defined in the Part I Section 3
58. **'SITE'** shall mean and include the land and other places on, into or through

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which the EQUIPMENT and related facilities shall be erected and any adjacent land, paths, streets or reservoirs which may be allocated or used by the OWNER or CONTRACTOR in the performance of the CONTRACT.

59. **'SOFTWARE'** means all forms of software and firmware and their documentation.
60. **'SPECIFICATION'** shall mean collectively all the terms and stipulations in Conditions of the CONTRACT, the Technical Specifications, schedules, detailed descriptions, statement of Technical Data, performance characteristics, standards & codes etc., and subsequent addenda issued thereto before the date of closing of bid and all written agreements made or to be made pertaining to the method and manner of performing the Work or to the quantities and the qualities of the materials to be furnished under this CONTRACT.
61. **'START UP'** shall mean bringing the equipment covered under the CONTRACT from an inactive condition, when construction is essentially complete, to the state ready for initial operation. The start-up shall include preliminary inspection and checkout of EQUIPMENT and supporting sub-systems; perform calibration and corrective action and chemical cleaning of the plant/system/equipment covered under the CONTRACT.
62. **'SUB-CONTRACTOR'** shall mean any person or persons, or firm(s) including his/ their, heirs, legal representatives, successors and permitted assigns selected by the CONTRACTOR with prior written approval of the OWNER for undertaking any part of the Works under the CONTRACT or to whom any part of the CONTRACT is sublet by the CONTRACTOR with the consent in writing of the OWNER.
63. **'TAKE OVER', 'TAKING OVER' AND 'TAKEN OVER'** shall mean
- (i) OWNER taking possession of and use of the PLANT following issue of PRELIMINARY ACCEPTANCE CERTIFICATE.
 - (ii) OWNER, by exercising the option, takes possession of the PLANT after three (03) failed PERFORMANCE & GUARANTEE TESTS for reason attributable to CONTRACTOR.
64. **'TEMPORARY WORKS'** means all temporary works and structures of every kind construed at the Site and required for the provision and construction of the PLANT.
65. **'TEST ON COMPLETION'**, shall mean all such tests as prescribed in NIT/contract Documents to be performed by the CONTRACTOR have been carried out satisfactorily.
66. **'THIRD PARTY SOFTWARE'** means standard Software which is owned by a

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third party.

67. **'TOTAL CONTRACT PRICE/TOTAL LSTK PRICE'** shall mean the total price payable to the CONTRACTOR for the full and proper performance of its contractual obligations under the CONTRACT.

68. **'GST'** means any tax or cess or both imposed on the supply of goods or services or both under GST Law.

GST Laws' means IGST Act, GST (Compensation to the States for Loss of Revenue) Act, CGST Act, respective UTGST Act and respective SGST Act, 2017 and all related legislations, Rules, Notifications, Orders, etc.

69. **'WEEK'** shall mean continuous period of 7 (Seven) DAYS.

70. **'WORK' OR 'WORKS'** means the design, engineering and other services to be provided by the Contractor including, but not limited to, the provision and construction of the PLANT and any Temporary Works and the subsequent dismantling or removal of the Temporary Works when no longer required, and any other works to be carried out by the CONTRACTOR in accordance with the CONTRACT.

71. **'WRITING'** shall include any manuscript, typewritten or printed statement, under or over signature and/or seal as the case may be.



72. **'NOTICE INVITING TENDER (NIT)/ INVITATION TO BID/ BIDDING DOCUMENT'** means Tender as originally issued and any addendum/Amendment(s) issued thereafter.

73 **'PRICE REDUCTION CLAUSE'** means as defined in 31.0 of GCC

74. **'SUB-CONTRACT'** shall mean any subcontract issued by CONTRACTOR after acceptance of its BID for the execution of WORKS.

4.0 CONTRACT CONFIRMATION

4.1 On acceptance of the bid of the successful bidder by the OWNER, such bidder shall be informed about it and a LOI/FOA issued. The successful bidder will be required to give his unconditional acceptance in writing to LOI/FOA within 15 (fifteen) days. Thereafter a contract agreement as per **Annexure 1.15** shall be executed between the OWNER and the BIDDER within fifteen (15) days from date of acceptance of LOI/FOA, CONTRACTOR shall sign the CONTRACT and return it to the OWNER. The copy of

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the CONTRACT shall be signed by an authorised officer of the CONTRACTOR in whose name Power of Attorney has been issued.

- 4.2 After CONTRACT confirmation/signing, the terms and conditions contained therein take precedence over CONTRACTOR's bid conditions and all previous correspondence.
- 4.3 If after issuance of LOI/FOA, CONTRACTOR fails to deposit the SECURITY CUM PERFORMANCE BANK GUARANTEE within the time period specified in the CONTRACT, the OWNER reserves the right to cancel the CONTRACT and forfeit the EMD without prejudice to various rights and remedies the OWNER may be entitled to as per terms and conditions of CONTRACT and without being liable in any manner whatsoever to the CONTRACTOR.
- 4.4 The CONTRACT will be signed in triplicate, one copy each for CONTRACTOR, OWNER's Head Office and SITE office. All expenses for the preparation and stamping of CONTRACT shall be borne by the CONTRACTOR.

5.0 MODIFICATIONS IN CONTRACT



- 5.1 All modifications leading to changes in the CONTRACT with respect to technical or commercial aspects including terms of completion period shall be considered valid only when accepted in writing by OWNER by issuing amendment to the CONTRACT. Issuance of acceptance or otherwise in such cases shall not be any ground for extension of agreed completion date and also shall not affect the performance of CONTRACT in any manner except to the extent mutually agreed to, through a modification to CONTRACT.

The PARTIES shall have the right to modify or amend the CONTRACT subject to an adjustment in the CONTRACT PRICE and/ or COMPLETION DATE in accordance with the applicable provision of the CONTRACT, if any, or pursuant to mutual agreement.

- 5.2 OWNER shall not be bound by any printed conditions, provisions in the CONTRACTOR's bid forms or acknowledgement of CONTRACT, packing list and other documents which support to impose any condition at variance with or supplemental to CONTRACT.

6.0 USE OF CONTRACT DOCUMENTS AND INFORMATION

- 6.1 The CONTRACTOR shall not, without the OWNER's prior written consent, disclose the CONTRACT or any provision thereof, or any specification, plan, drawing, pattern, sample or information furnished by or on behalf of the OWNER in connection therewith, to any person other than a person employed by the CONTRACTOR in the performance of the CONTRACT. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purpose of such performance.

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6.2 The CONTRACTOR shall not without the OWNER's prior written consent, make use of any document or information enumerated in Clause 6.1 except for purpose of performing the CONTRACT.

6.3 Any document other than CONTRACT, itself, enumerated in Clause 6.1 shall remain the property of the OWNER and shall be returned (all copies) to the OWNER on completion of the CONTRACTOR's performance under the CONTRACT if so required by the OWNER.

7.0 PATENT INFRINGEMENT AND INDEMNIFICATION



7.1 PATENT INFRINGEMENT

7.1.1 CONTRACTOR shall at all times, indemnify and keep indemnified OWNER against all claims or suits and defend, at its own cost, any suit or action brought against OWNER and hold OWNER free and harmless against all costs of such claims or suits which may be made against OWNER in respect of any infringement of any rights protected by patent, copyright, trademarks, and trade secrets to the extent that such claim, suit, or action is a result of the use of CONTRACTOR's Technical Information for the construction, maintenance, and operation of PLANT and the use of CONTRACTOR's and/or any other process licensor's processes used in PLANT. OWNER shall pass on all claims made against it to CONTRACTOR for settlement.

7.1.2 CONTRACTOR declares that to the best of its knowledge and belief the use of CONTRACTOR's Technical Information for the construction, maintenance, and operation of PLANT and the use of CONTRACTOR's and/or any other process licensor's processes used in PLANT will not infringe any valid patent rights of a third party. However, if at any time such infringement arises, CONTRACTOR agrees to keep OWNER indemnified and harmless against such claims and costs thereof and make arrangements that will allow OWNER to continue the operation of PLANT.

7.1.3 OWNER shall promptly advise CONTRACTOR in writing of any claim of infringement or any action for infringement of patents brought against it by a third party and based upon the use of CONTRACTOR's Technical Information. If such use is in accordance with instructions given in writing by CONTRACTOR, CONTRACTOR shall undertake the defence, or assist OWNER in the defence, of the claim or suit up to final judgment or settlement.

7.1.4 CONTRACTOR shall undertake the defence on behalf of OWNER and shall have sole charge and direction of the defence, and shall bear all costs related thereto. CONTRACTOR shall further hold OWNER harmless from any damages or other sums that may become payable by OWNER under a final judgment or settlement. However, OWNER shall render to CONTRACTOR all reasonable assistance that may be required by CONTRACTOR in the defence, and shall have the right to be represented therein by advisory counsel of its own selection and at its own expense.

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7.1.5 In addition to the measures specified in Clause-7.1.4, CONTRACTOR may further, at its option, however, in reasonable consultation with OWNER, seek to abate the alleged infringement by modification of PLANT or its operation without adversely affecting the performance and/or secure for OWNER immunity from suit for infringement. In such case, CONTRACTOR shall bear/ reimburse OWNER for all costs related to said modification and to said immunity.

7.1.6 In the event that OWNER is legally restrained from operating PLANT on account of any infringement action or suit, CONTRACTOR shall take all possible actions to allow OWNER to operate and use PLANT.

7.1.7 Neither CONTRACTOR nor OWNER shall settle or compromise any suit or action without the written consent of the other if settlement or compromise obliges the other to make any payment or part with any property or assume any obligations or surrender any rights or to be subjected to any injunction by reason of such settlement or compromise.



7.1.8 Notwithstanding any other provisions under this CONTRACT, the liabilities arising on account of patent infringement shall be unlimited and all costs to these liabilities shall be borne by contractor.

7.2 INDEMNITIES

7.2.1 INDEMINIFICATION FOR LIABILITIES

7.2.1 CONTRACTOR Indemnification for Liabilities

To the fullest extent permitted by Law, CONTRACTOR assumes liability for, and agrees to indemnify, protect, save and hold harmless OWNER from and against any and all Liabilities (including, any strict liability) arising out of acts or omissions of CONTRACTOR or its personnel or its agents in the performance of its obligations under the CONTRACT causing bodily injury, sickness, disease or death, damage to or loss of any property, whether or not involving damage to WORKS or SITE that may be imposed on, suffered or incurred by or asserted against OWNER and in any way relating to or arising out of (i) WORK, any EQUIPMENT (ii) the presence, discharge, treatment, storage, transportation, disposal, escape or release of any Hazardous Substance, or the threat thereof, at, to or from SITE after commencement of work (any hazardous substance already existing at SITE before commencement of WORK excluded) (iii) The performance of WORK, or as a result of personal injuries (including wrongful death); (iv) the violation by CONTRACTOR or any SUB-CONTRACTOR/VENDOR of any Government Approval or applicable Law relating to WORK (v) any breach of CONTRACT with any SUB-CONTRACTOR/VENDOR, provided, however, that CONTRACTOR shall not be required under this Clause to indemnify OWNER for any liability arising out of or resulting from events or circumstances occurring or existing after PRELIMINARY ACCEPTANCE OF PLANT

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.However the CONTRACTOR shall indemnify the OWNER where the liability arises from an act or omission of CONTRACTOR or any SUB-CONTRACTOR/VENDOR or any other Person directly or indirectly employed by either of them or anyone for whose acts either of them may be liable that was a contributory cause of such liability after PRELIMINARY ACCEPTANCE of the PLANT.

CONTRACTOR shall ensure that in addition to “Erection All risk policy” the coverage in respect of workmen compensation,(including medical treatment cost) Medi claim Policy, Professional Indemnity (with the amount of minimum excess) or any other law, rule or regulation as applicable, has been appropriately taken..

7.2.2 **CONTRACTOR Indemnification for Taxes**

It is specifically understood that CONTRACTOR hereby accepts and assumes exclusive liability for and save and hold OWNER harmless from and against of all Taxes arising from the performance of WORK, and all such Taxes shall be deemed to be included in TOTAL CONTRACT PRICE..

7.2.3 **Indemnification by SUB-CONTRACTOR/VENDOR**

CONTRACTOR shall obtain from each SUB-CONTRACTOR/VENDOR, which is an affiliate, and shall use all reasonable efforts to obtain from each SUB-CONTRACTOR/VENDOR, an indemnification materially similar in form and substance to Clause-7.1, and Clause-7.2.2 of which the OWNER shall be named as beneficiary.



7.2.4 **Payment of Amounts under this Clause**

Except to the extent covered by insurance, all amounts payable and due by CONTRACTOR to OWNER under this Clause shall be deducted from CONTRACT PRICE or any other amounts owed by OWNER to CONTRACTOR here under. If such amounts payable by OWNER to CONTRACTOR are less than the amounts payable and due by CONTRACTOR under this Clause, CONTRACTOR shall be liable to OWNER for such excess and shall pay such amount to OWNER immediately suomoto or upon demand as the case may be.

7.2.5 **Permits and Certificates**

CONTRACTOR shall procure, at its expense, all necessary permits, certificates and NOCs etc licences required by virtue of all applicable laws, regulations, ordinances and other rules in force at the place where any of the works is to be performed, and CONTRACTOR further agrees to hold OWNER harmless from liability or penalty which might be imposed by reason of any asserted or established violation of such laws, regulations, ordinances or other rule. OWNER shall provide the necessary help in obtaining permits for CONTRACTOR's personnel to undertake any work in India in connection with CONTRACT.



7.2.6 **Mechanics Lien**

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CONTRACTOR agrees to indemnify and hold harmless OWNER against all labourer's material, man's and/or mechanic's liens arising from its work, and shall keep the premises of OWNER free from all such claims, liens and encumbrances.

8.0 SECURITY CUM PERFORMANCE BANK GUARANTEES

- 8.1 Within 30 days after receipt of CONTRACT by CONTRACTOR, the CONTRACTOR shall furnish to the OWNER a SECURITY CUM PERFORMANCE BANK GUARANTEE in the form of a bank guarantee for faithful completion of Project, as per terms and conditions of the CONTRACT, issued by any Indian Scheduled bank (except Co-operative and Gramin bank) or branch of any Foreign bank in India, for an amount equivalent to **10% (Ten Percentage)** of the TOTAL CONTRACT PRICE.
- 8.2 The proceeds of Security cum Performance Guarantee shall be appropriated by the OWNER as compensation for any loss resulting from the CONTRACTOR's failure to complete their obligations under the CONTRACT without prejudice to any of the rights or remedies the OWNER may be entitled to as per terms and conditions of the CONTRACT.
- 8.3 The SECURITY CUM PERFORMANCE BANK GUARANTEE shall be denominated in the currency/currencies of the CONTRACT.
- 8.4 The SECURITY CUM PERFORMANCE BANK GUARANTEE in the form of a bank guarantee shall be valid for the duration upto the DEFECT LIABILITY PERIOD plus Nine (09) months. The SECURITY CUM PERFORMANCE BANK GUARANTEE shall be suitably extended in event of repair/replacement of equipment or any part thereof during DEFECT LIABILITY PERIOD to take care of extended warranty period of repair/replacement. The SECURITY CUM PERFORMANCE BANK GUARANTEE will be discharged by the OWNER against the failure of CONTRACTOR in performing its performance obligation including any warranty obligation under the CONTRACT. For any component replaced during DEFECT LIABILITY PERIOD, the component should work satisfactorily for a period of 12 months from the date of replacement. The SECURITY CUM PERFORMANCE BANK GUARANTEE shall be retained by OWNER during the currency of CONTRACT as indicated above, **or till settlement of all the accounts thereof whichever is later.** In case of any dispute or differences not settled within the validity of SECURITY CUM PERFORMANCE BANK GUARANTEE, then the CONTRACTOR shall arrange to get the SECURITY CUM PERFORMANCE BANK GUARANTEE extended for the period asked for by OWNER. In case SECURITY CUM PERFORMANCE BANK GUARANTEE is not extended as asked, OWNER shall have the sole discretion to 'call in' the bank to pay the whole or part of the amount of SECURITY CUM PERFORMANCE BANK GUARANTEE. The above deposit shall be deemed to be security for the faithful performance of the CONTRACT and for the purpose of section 74 of the Indian contract act, 1872 and for the extension of that section. The CONTRACT shall be deemed to be bond given by the CONTRACTOR for the performance of essential duty. In the event of breach of any of the terms and conditions of the CONTRACT, OWNER shall have the right to draw from the SECURITY CUM PERFORMANCE BANK GUARANTEE whole or part of the value of SECURITY CUM PERFORMANCE BANK GUARANTEE.

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The amount so drawn shall not in any way affect any remedy to which OWNER may otherwise be entitled or any liability incurred by CONTRACTOR under the contract or any law for the time being in force relating thereto or bearing here upon. This SECURITY CUM PERFORMANCE BANK GUARANTEE shall be refunded after CONTRACT has been successfully completed and certificate to this effect has been issued by OWNER. It shall be lawful for OWNER if any differences or dispute is likely to arise to defer payment of the SECURITY CUM PERFORMANCE BANK GUARANTEE or any portion thereof which may be due for release until such differences and dispute has been finally settled or adjusted. SECURITY CUM PERFORMANCE BANK GUARANTEE amount shall not bear any interest.

NOTE



- 1) Any bank guarantee such as SECURITY CUM PERFORMANCE BANK GUARANTEE / ADVANCE BANK GUARANTEE shall be issued by any Indian Scheduled bank (except Co-operative and Gramin bank) or branch of any Foreign bank in India,.
- 2) The non-judicial Stamp paper of appropriate value or equivalent document value prevailing in the country of the CONTRACTOR shall have to be purchased in the name of the bankers executing the bank guarantee and not in the name of the CONTRACTOR. .

8.4.1 Bidder shall also arrange confirmation of Bank guarantee (including all amendments) by their issuing bank through SFMS mode directly to the NFL Banker i.e. ICICI Bank Ltd, Senior Mall, Sector-18, and Noida, UP, 201301, IFSC Code ICI0000031, as per following details:-

- i) IFN 760 COV for issuance of Bank Guarantee.
- ii) IFN 767 COV for amendment of Bank Guarantee.
- iii) Issuing bank shall mention NFL beneficiary code as NFLNational04022015 in filed 7037 COV/IFN 767COV”

8.5 Rights of the OWNER to forfeit Security-cum-Performance Guarantee:

- i) Whenever any claim against the CONTRACTOR for the payment of a sum of money arises out or under the CONTRACT, the OWNER shall be entitled to recover such sum by appropriating in part or whole the Security-cum-Performance Guarantee of the CONTRACTOR. In the event of the security being insufficient or if no security has been taken from the CONTRACTOR, then the balance or the total sum recoverable, as the case may be shall be deducted from any sum then due or which at any time thereafter may become due to the CONTRACTOR. The CONTRACTOR shall pay to the OWNER on demand any balance remaining due.
- ii) All compensation or other sums of money payable by the CONTRACTOR to the OWNER under terms of this CONTRACT may be deducted from or paid by the encashment or sale of a sufficient part of his Security-cum-Performance Guarantee or from any sums which may be due or may become due to the CONTRACTOR by the OWNER of any account whatsoever and in the event of his Rights of the OWNER to forfeit Security-cum-Performance Guarantee:

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9.0 Deleted

10.0 MANNER OF EXECUTION OF CONTRACT

10.1 All documents as per Clause 2.0 of GCC shall be included in the CONTRACT document and detailed specifications be inserted as mutually agreed between OWNER and CONTRACTOR.

10.2 Every page of the CONTRACT agreement shall be initialled by the authorised representatives of OWNER and CONTRACTOR under the Seal of their respective Companies.

10.3 The CONTRACT agreement shall be prepared on stamp paper as per specified Form of Contract as per **Annexure- 1.15**.

10.4 The CONTRACTOR shall present the above CONTRACT so prepared in three copies along with proper power of attorney and other requisite material on the day of signing the agreement.

10.5 One signed copy shall be returned to CONTRACTOR while the other two including the original shall be retained by OWNER.

10.6 Notwithstanding anything mentioned in any other clause, any conditions imposed from time to time by Government of India shall be followed by the CONTRACTOR.

11.0 Deleted



12.0 ASSIGNMENT OR SUBLETTING OF CONTRACT AND SUB-CONTRACTING

12.1 Neither CONTRACTOR nor OWNER shall assign CONTRACT or any part of it or any share of interest therein, without the prior written consent of the other party. This consent shall not be unreasonably denied.

12.2 CONTRACTOR shall not subcontract the whole or any part of WORK without the prior written consent of OWNER provided always that CONTRACTOR may subcontract any part of WORK to any of its affiliates or subsidiaries in which event CONTRACTOR shall remain fully responsible to OWNER for the work performed by such affiliates or subsidiaries.

12.3 Sub-Contracts and Purchase Orders

12.3.1 General

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All vendors, suppliers, consultants and SUB-CONTRACTORS providing equipment, materials, construction equipment, or services to CONTRACTOR under a SUBCONTRACT, purchase order or similar purchase form or arrangement with CONTRACTOR for the performance of the WORK under this CONTRACT are herein referred as "SUB-CONTRACTORS"/ "VENDORS", and any such SUBCONTRACTS, purchase orders and similar purchase forms and arrangement entered into by or on behalf of CONTRACTOR with SUB CONTRACTORS/VENDERS are herein referred to as "SUBCONTRACTS" provided that none of OWNER's CONTRACTORS or SUBCONTRACTORS shall be deemed to be a SUBCONTRACTORS under of the CONTRACTOR. The CONTRACTOR shall be obligated to select SUBCONTRACTORS it retains in connection with the performance by CONTRACTOR of the WORK from a SUBCONTRACTORS list which would be finalised and approved by the OWNER in the FINAL PROPOSAL. OWNER and CONTRACTOR may by mutual agreement add to or delete from such list from time to time and approve any successor or replacement of any person listed on such list or any other vendor, supplier, material-man, consultant or SUBCONTRACTOR.



12.3.2 Approval of Major SUB-CONTRACTOR/VENDOR

12.3.2.1 The vendor list for procurement of EQUIPMENT and the list of SUB-CONTRACTOR shall be as attached in the NIT. Any changes to such list of VENDOR/SUB-CONTRACTOR shall require the prior approval of OWNER. CONTRACTOR shall provide name, address, fax/telex number and name of contact person of major VENDOR/SUB-CONTRACTOR for use in future, to OWNER. Vendors, Subcontractors as per agreed Vendor list are not subject to approval.

12.3.2.1.1 Under normal circumstance a bidder shall not be allowed to source any equipment/machinery from the vendors other than the Owners approved vendor list. However, in exceptional circumstance the bidder may suggest additional vendors meeting the following requirement for the approval of Owner.



- a. The BIDDER should specify, while pre-qualifying the Vendors, that during the past 15 years the Vendor should have supplied at least two similar plant equipments or machinery. The BIDDER should satisfy themselves that sufficient documentary proof is submitted by the Vendors in support of this criterion. However, in case of critical equipment, in addition to above criterion, the Vendor should also be prequalified by Process Licensor.
- b. The Bidder would be ultimately responsible for verifying the credentials, the quality of the equipment, machinery and timely supply.

12.3.2.2 The review, approval and consent by OWNER as to the agreed SUB-CONTRACTOR's/VENDOR List or as to CONTRACTOR's entering into any SUB-CONTRACT / PURCHASE ORDER shall not relieve CONTRACTOR of any of its duties, liabilities or obligations under this CONTRACT and CONTRACTOR shall be

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liable hereunder to the same extent as if any such Subcontract had not been entered into.



- 12.3.2.3
- (a) CONTRACTOR shall provide to OWNER such information concerning the SUB-CONTRACTORS as OWNER may from time to time reasonably request and shall ensure that each SUBCONTRACT contains provisions in all material respects not less stringent than the provisions of the CONTRACT and shall include terms and provisions required to be included pursuant to the CONTRACT. In the event of termination of the CONTRACT under Clause 34.0 herein, CONTRACTOR shall forthwith deliver to OWNER a copy of each SUBCONTRACT.
- (b) CONTRACTOR shall supervise and direct the work of all SUB-CONTRACTORS/VENDORS and shall be responsible for all design; engineering; procurement; manufacturing; transportation; delivery; fabrication; construction; commissioning; start-up and testing means, erection; operation, maintenance, repair; methods; techniques; sequences and procedures of; and for co-coordinating the work of SUB-CONTRACTORS/ VENDORS.
- (c) If CONTRACTOR fails to correct, or commence to correct and prosecute the correction with due diligence of deficient or defective work performed by any SUB-CONTRACTOR/VENDOR within reasonable time (provided it doesn't materially impact safe operation of plant), after receipt by CONTRACTOR of a notice from OWNER with respect thereto, OWNER may (but shall not be obligated to), after seven days following receipt by CONTRACTOR of an additional notice, and without prejudice to any other right or remedy take all reasonable steps to remedy such defective or deficient work at risk and cost of CONTRACTOR.
- (d) CONTRACTOR shall require all SUB-CONTRACTORS/VENDORS to perform the SUB-CONTRACTS in accordance with the relevant requirements of the CONTRACT including FINAL PROPOSAL, all APPLICABLE LAWS and APPLICABLE PERMITS, Prudent Utility Practice, Good Engineering Practices, the requirements of the NIT, and all Warranties of SUB-CONTRACTORS/VENDORS and Manufacturers and all insurance policies relating to the PLANT or the WORK.
- (e) CONTRACTOR shall be solely responsible for paying each SUB-CONTRACTOR/VENDOR and any other person to whom any amount is due from CONTRACTOR for services, equipment, construction equipment, materials or supplies otherwise related to or inconvenience with the PLANT or the WORK. CONTRACTOR shall take all reasonable steps and actions to ensure that such services, equipment, construction equipment materials and supplies and the like have been or will be received, inspected and approved and that such services have been or will be properly performed.

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- (f) In performing the duties incidental to its responsibilities hereunder, CONTRACTOR shall issue to the SUB-CONTRACTORS/VENDORS such directives and impose such restrictions as may be required to obtain such compliance/approvals/licences etc. herewith and with the terms of the SUBCONTRACTS.

12.3.2.4 SUB-CONTRACTOR/VENDOR and Manufacturer Warranties

- (a) CONTRACTOR shall, ensure that all equipment and other items used in connection with the performance of the WORK or incorporated in the PLANT (other than minor items) will be purchased in compliance with CONTRACT Technical Specification and Requirements in order to allow the Plant to achieve the Guarantee and Warrantee as provided for in the CONTRACT, unless otherwise agreed with Owner. Any residual warranty from sub-contractor/vendor shall be passed to the OWNER after expiry of DEFECT LIABILITY PERIOD.
- (b) Neither CONTRACTOR nor its SUBCONTRACTORS/VENDORS, nor any person under the control of either thereof, shall take any action which could release, void, impair or waive any Guarantee or Warranty on EQUIPMENT or services relating to the PROJECT or the WORK. Any residual warranty from subcontractor/vendor shall be passed to the OWNER after expiry of DEFECT LIABILITY PERIOD.
- (c) Nothing in this clause shall derogate from the obligations of CONTRACTOR to provide the Guarantees and Warranties described in, and to comply with the provisions hereinabove.
- (d) CONTRACTOR shall, based on its part professional judgement enforce all guarantees and warranties provided hereunder to the fullest extent thereof till such time they are transferred to the OWNER pursuant to sub-clause (g) below.
- (e) Upon the expiration or termination of any of the guarantees or warranties provided by CONTRACTOR pursuant to the CONTRACT, the CONTRACTOR shall assign, and hereby assigns, effective as of such date, or otherwise make available, to OWNER all of CONTRACTOR's rights under all such SUBCONTRACTOR's residual Guarantees and warrantee as per 12.3.2.4(a) & (b) (except to the extent CONTRACTOR has thereof provided warranty services to OWNER and is enforcing CONTRACTOR's rights with respect to such services under the applicable guarantee or warranty) and shall deliver to OWNER copies of all contracts providing for such guarantees and warranties.
- (f) CONTRACTOR, in accordance with the CONTRACT, shall require all SUB-CONTRACTORS/VENDORS to be covered by the insurance specified in the CONTRACT, during the time in which they are engaged in performing WORK.



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- (g) CONTRACTOR shall require all SUB-CONTRACTORS/VENDORS to release and waive any and all rights of recovery against OWNER including its affiliates, subsidiaries, employees, successors, permitted assigns, insurers and underwriters) and against CONTRACTOR and all other SUB-CONTRACTORS/ VENDORS which the releasing SUB-CONTRACTOR/ VENDOR may otherwise have or acquire, in or from or in any way connected with any loss covered by policies of insurance maintained or required to be maintained pursuant to this the CONTRACT (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance. CONTRACTOR shall further require all SUB-CONTRACTORS/VENDORS to include in all policies of insurance maintained by the SUB-CONTRACTORS/VENDORS clauses providing that each underwriter shall release and waive all of its rights of recovery, under subrogation or otherwise, against OWNER, its promoters, affiliates, subsidiaries, employees, successors, permitted assigns, insurers and underwriters, and against CONTRACTOR and all other SUB-CONTRACTORS/VENDORS.
- (h) OWNER shall not be deemed by virtue of the CONTRACT to have any contractual obligation to or relationship with any SUB-CONTRACTOR/VENDOR.

12.3.2.5 **CONTRACTOR's Liability for approved sub contractor**

The review by and approval and consent of, OWNER as to the approved SUB-CONTRACTORS list or as to CONTRACTOR entering into any SUB-CONTRACT with any approved SUB-CONTRACTOR or as to any WORK done or supply made or services provided by any such approved SUB-CONTRACTOR/VENDOR shall not relieve CONTRACTOR of any of his duties, liabilities or obligations under this CONTRACT, and CONTRACTOR shall be liable hereunder to the same extent as if any such SUB-CONTRACT had not been entered into. Any inspection review or approval by OWNER permitted under this CONTRACT of any portion of the work or of any work in progress by CONTRACTOR or SUB-CONTRACTORS/VENDORS shall not relieve CONTRACTOR of any duties, liabilities or obligations under this CONTRACT.

- 12.3.3 All WORK performed or EQUIPMENT supplied by SUB-CONTRACTOR/ VENDOR shall be pursuant to an appropriate SUB-CONTRACT, PURCHASE ORDER or similar agreement which shall, as appropriate, contain provisions that:
- 12.3.3.1 Preserve and protect all the rights of OWNER here under for WORK to be performed or EQUIPMENT to be supplied under PURCHASE ORDER or SUB-CONTRACT.
- 12.3.3.2 Require that such WORK be performed or EQUIPMENT be fabricated, supplied and installed in strict accordance with the applicable requirements of this CONTRACT.

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12.3.3.3 Obligate such SUB-CONTRACTOR/VENDOR to consent to and be bound by those obligations under this CONTRACT which by their terms are intended to also obligate such SUB-CONTRACTOR/VENDOR, including the provisions of this Clause.

12.3.3.4 Require such SUB-CONTRACTOR/VENDOR to provide and maintain adequate insurance consistent with requirements for companies of similar size and performing similar services. Permit the assignment of such SUB-CONTRACT/PURCHASE ORDER by CONTRACTOR to OWNER

12.3.3.5 Include a price list (which shall be valid for a period of at least for 06 months from the date of commissioning) covering all operational spares and replacement parts relating to the subject matter of such PURCHASE ORDER or SUB-CONTRACT.

12.3.3 **CONTRACTOR Responsible for WORK**

12.3.4.1 CONTRACTOR is responsible for WORK, and that the performance thereof conforms in all respects to the requirements of this CONTRACT, regardless of any failure of any SUB-CONTRACTOR/VENDOR to perform or any disagreement between any SUB-CONTRACTOR/VENDOR or between any SUB-CONTRACTOR/VENDOR and CONTRACTOR. CONTRACTOR shall furnish such information relative to its SUB-CONTRACTOR/VENDOR (including copies of unpaid SUB-CONTRACT or PURCHASE ORDER) as OWNER may request.

12.3.5 **Damages**

12.3.5.1 It is within the discretion of Contractor, that CONTRACTOR shall agree to hold all SUBCONTRACTOR/ VENDOR, including all persons directly or indirectly employed by them, responsible for any damages due to breach of CONTRACT caused by them or any negligent act and to diligently endeavour to effect recoveries in such damages.



13.0 **STANDARDS**

“The goods and services supplied under this CONTRACT shall conform to the standards mentioned in the technical specifications and when no applicable standard is mentioned, the standards shall conform to the Bidder’s / manufacturer’s/licensor’s standards. “

14.0 **INSTRUCTIONS, DIRECTIONS**

14.1 The materials described in CONTRACT are to be supplied according to the standards, data sheets, tables, specifications and drawings attached hereto and/or enclosed with the CONTRACT itself and according to all conditions both general and specific enclosed with the CONTRACT, unless any or all of them shall have been modified or cancelled in writing as a whole or in part.

- A) All instructions and orders to CONTRACTOR shall, excepting what is herein provided, be given by OWNER/ CONSULTANT
- B) All the work shall be carried out under the direction of OWNER and according to the CONTRACT requirements..

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- C) All communications including technical/ commercial clarifications and/ or comments shall bear reference to the CONTRACT.
- D) Invoice for payment against CONTRACT shall be addressed to OWNER.
- E) The CONTRACT number shall be shown on all invoices, communications, packing lists, containers and bills of lading etc.



15.0 INSPECTION, TESTING AND EXPEDITING

- 15.1 The OWNER or his representatives shall have their right to inspect and/or to test the goods to conform to the specifications laid down in the CONTRACT. The SPECIAL CONDITIONS OF CONTRACT and/ or the TECHNICAL SPECIFICATIONS shall specify what inspections and test the OWNER require and where they are to be conducted. The OWNER shall notify the CONTRACTOR in writing of the identity of any other representatives retained for this purpose. Expediting by OWNER's representative in no way relieves the CONTRACTOR of his obligation under the terms and conditions of this CONTRACT.
- 15.2 The inspections and tests may be conducted on the premises of the CONTRACTOR or his SUB-CONTRACTOR at point of completion and/or at the good's final destination. When conducted on the premises of the CONTRACTOR or his SUBCONTRACTOR, all reasonable facilities and assistances including access to drawings and production data shall be furnished to the inspector at no charge to the OWNER.
- 15.3 CONTRACTOR shall be held responsible for any possible delay in the approval or testing phase as well as for any possible delay in the remittance of necessary certificates. Delay on the part of the above mentioned institutions will not be considered a case of 'Force Majeure'.
- 15.4 Participation or presence of OWNER or their representatives at any tests or their failure to be present at or to witness any tests to be undertaken pursuant here to shall not in any way or manner relieve or release the CONTRACTOR from any of its warranties, guarantees or other obligations under the CONTRACT.
- 15.5 Copies of all test results/report of the tests shall be furnished promptly by the CONTRACTOR to the OWNER.



16.0 TIME SCHEDULE AND PROGRESS REPORTING

16.1 Time Schedule Network/Bar Chart

- 16.1.1 Together with the CONTRACT confirmation, CONTRACTOR shall submit to OWNER, his time schedule regarding the documentation, supply and manufacture of equipment and materials as well as information of his SUBCONTRACTS to be placed with third parties, including the dates on which CONTRACTOR intends to issue such SUB CONTRACTS. A complete activity-wise time schedule shall be furnished by the contractor to meet the completion time quoted in months from the date of notification of award.

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- 16.1.2 The time schedule will be in the form of a network or a bar chart clearly indicating all main or key events regarding documentation, supply of raw materials, manufacturing, testing, delivery, erection & commissioning.
- 16.1.3 The original issue and subsequent revisions of CONTRACTOR's time schedule and or SUB-CONTRACTORS' time schedules shall be sent in four copies (of which one shall be reproducible) to OWNER.
- 16.1.4 The time schedule network/bar chart shall be updated at least every month using the latest 'Project Management software', i.e. Primavera (latest version), acceptable to the OWNER.
- 16.2 Progress Trend Chart/Monthly Report**
- 16.2.1 CONTRACTOR shall report fortnightly to OWNER, the progress of the execution of CONTRACT and achievement of targets set out in time bar chart.
- 16.2.2 The progress will be expressed in percentages shown in the progress trend chart.
- 16.2.3 The first issue of the progress trend chart will be forwarded together with the time bar chart along with CONTRACT confirmation.
- 16.2.4 The monthly reporting will bear the updating of the progress trend chart.
- 16.2.5 OWNER or his representatives shall have the right to inspect CONTRACTOR's premises to evaluate the actual progress of work on the basis of CONTRACTOR's time schedule documentation.
- 16.2.6 Irrespective of such inspection, CONTRACTOR shall advise OWNER at the earliest possible date of any anticipated delay in the programme indicating the reasons thereof and corrective measures proposed thereto.
- 16.2.7 The time for completion and phased time schedule shall be subject to and in accordance with the provision of Sub-Clauses 16.2.8, and 16.2.9 below.
- 16.2.8 Neither OWNER nor CONTRACTOR shall be considered in default in performance of their obligations if such performance is prevented or delayed by FORCE MAJEURE conditions as stated in Clause 35.0.
- 16.2.9 Should the CONTRACTOR's preparation for the commencement of the work or any portion of it or its subsequent rate of progress be from any cause whatsoever, so slow and reasons for delay solely attributed to the contractor, the CONTRACTOR will not be

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able to complete the work or any portion thereof within the stipulated time for completion, the provisions of Clause 34 of GCC shall apply.

17.0 CONTRACTOR TO INFORM HIMSELF FULLY

The CONTRACTOR in fixing his rate shall for all purpose whatsoever reason may be, deemed to have himself independently obtained all necessary information for the purpose of preparing his tender and his tender as accepted shall be deemed to have taken into account all contingencies as may arise due to such information or lack of same. The correctness of the details, given in the Tender Document to help the CONTRACTOR to make up the tender is not guaranteed. The CONTRACTOR shall be deemed to have examined the CONTRACT DOCUMENTS, to have generally obtained his own information in all matters whatsoever that might affect the carrying out of the works at the schedules rates and to have satisfied himself to the sufficiency of his tender. Any error in description of quantity or omission there from shall not vitiate the CONTRACT or release the CONTRACTOR from executing the work comprised in the CONTRACT according to DRAWINGS and SPECIFICATIONS at the scheduled rates. He is deemed to have known the scope, nature and magnitude of the WORKS and the requirements of materials and labour involved etc., and as to what all works he has to complete in accordance with the CONTRACT documents whatever be the defects, omissions or errors that may be found in the DOCUMENTS. The CONTRACTOR shall be deemed to have visited surroundings, to have satisfied himself to the nature of all existing structures, if any, and also as to the nature and the conditions of the Railways, Roads, Bridges and Culverts, means of transport and communication, whether by land, water or air, and as to possible interruptions thereto and the access and egress from the site, to have made enquiries, examined and satisfied himself as to the sites for obtaining sand, stones, bricks and other materials, the sites for disposal of surplus materials, the available accommodation as to whatever required, depots and such other buildings as may be necessary for executing and completing the works, to have made local independent enquiries as to the sub-soil, subsoil water and variations thereof, storms, prevailing winds, climatic conditions and all other similar matters effecting these works. He is deemed to have acquainted himself as to his liability of payment of Government Taxes, Customs duty and other charges, levies etc. Any neglect or omission or failure on the part of the CONTRACTOR in obtaining necessary and reliable information upon the foregoing or any other matters affecting the CONTRACT shall not relieve him from any risks or liabilities or the entire responsibility from completion of the works at the scheduled rates and times in strict accordance with the CONTRACT. It is, therefore, expected that should the CONTRACTOR have any doubt as to the meaning of any portion of the CONTRACT DOCUMENT he shall set forth the particulars thereof in writing to OWNER in duplicate, before submission of tender. The OWNER may provide such clarification as may be necessary in writing to CONTRACT, such clarifications as provided by OWNER shall form part of CONTRACT DOCUMENTS. No verbal agreement or inference from conversation with any effect or employee of the OWNER before, during or after the execution of the CONTRACT agreement shall in any way affect or modify and of the terms or obligations herein contained. Any change in layout due to site conditions or technological requirement shall be binding on the CONTRACTOR and no extra claim on this account shall be entertained.

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18.0 SUITABILITY OF PLANT FOR INTENDED PURPOSE

- 18.1 It is a condition of the CONTRACT and the CONTRACTOR warrants that the PLANT will be suitable in all respects for the purpose mentioned or inherent in the specification and as defined in the CONTRACT.
- 18.2 Without limiting the generality of the foregoing clause, the CONTRACTOR shall ensure before complying with any direction, that compliance by the CONTRACTOR with that direction will not render the plant unsuitable in any respect for the aforesaid purposes or otherwise prevent the CONTRACTOR from carrying out the CONTRACT in accordance with the terms thereof.
- 18.3 The CONTRACTOR shall give notice to the OWNER within Twenty one (21) days after receipt of any requirement or direction which he considers will render the plant unsuitable in any respect or is not in accordance with the meaning and intent of the CONTRACT otherwise prevent the CONTRACTOR from carrying out the CONTRACT as aforesaid and submit to the OWNER a proposal or proposals for modifying the requirement or direction. Failure to file an objection within the allotted time will be considered as acceptance of the OWNER decision and the decision shall become final and binding.

19.0 FEES FOR ROYALTIES AND PATENT RIGHTS

19.1 Payment Due to be Included in CONTRACT PRICE

- 19.1.1 All payments for royalties, patent rights and fees due to or payable for or in connection with any matter or thing used or required to be used in performance of the CONTRACT or to be supplied under the CONTRACT, whether payable in one sum or by instalments or otherwise, shall be included by the CONTRACTOR in the prices named in the CONTRACT and shall be paid by CONTRACTOR to whom such payments may be due or payable.
- 19.1.2 The CONTRACTOR, if licensed under any patent covering equipment, machinery, materials or compositions of matter to be used or supplied or methods and process to be practiced or employed in the performance of this CONTRACT, agrees to pay all royalties and license fees which may be due with respect thereto. If any equipment, machinery, materials, composition of matters, be used or supplied or methods and processes to be practiced or employed in the performance of this CONTRACT, is covered by a patent under which the CONTRACTOR is not licensed then the CONTRACTOR before supplying or using the equipment, machinery materials, composition method or processes shall obtain such licenses and pay such royalties and license fees as may be necessary for performance of this CONTRACT. In the event the CONTRACTOR fails to pay any such royalty or obtain any such license, any suit for infringement of such patents which is brought against the CONTRACTOR or the OWNER as a result such failure will be defended by the CONTRACTOR at his own

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expense and the CONTRACTOR will pay any damages and costs awarded in such suit. The CONTRACTOR shall promptly notify the OWNER if the CONTRACTOR has acquired the knowledge of any plant under which a suit for infringement could be reasonably brought because of the use by the OWNER of any equipment, machinery, materials, process, methods to be supplied hereunder. The CONTRACTOR agrees to and does hereby grant to OWNER, together with the right to extend the same to any of the subsidiaries of the OWNER as irrevocable, royalty free license to use in any country, any invention made by the CONTRACTOR or his employee in or as result of the performance of the WORK under the CONTRACT.

19.2 **Payment to the CONTRACTOR by OWNER**

19.2.1 Final payment to the CONTRACTOR by the OWNER will not be made while any such suit or claim remains unsettled. In the event any apparatus or equipment or any part thereof furnished by the CONTRACTOR is in such suit or proceedings, held to constitute infringement, and its use is enjoined, the CONTRACTOR shall, at his option, and at his own expense, either procure for the OWNER the right to continue use of the said apparatus, equipment or part thereof, replace it with non-infringing apparatus or equipment or modify it, so that it becomes non-infringing.

20.0 **ACTS OF PARLIAMENT, LOCAL AND OTHER AUTHORITIES REGULATIONS AND BYE-LAWS**

20.1 **Complying With Regulations**



20.1.1 Throughout the execution of the WORK, the CONTRACTOR shall comply with the requirements of all applicable laws and regulations and subsequent statutory modifications thereof bye-laws or orders made there under and to the requirements of public, municipal and other authorities in any way affecting or applicable to the work. The OWNER shall, when requested by the CONTRACTOR, give all reasonable assistance to the CONTRACTOR in obtaining information concerning local conditions.

20.1.2 Before making any departure from the specification or drawings which may be necessary to conform to such requirements, the CONTRACTOR shall give the OWNER written notice specifying the departure proposed to be made and the reason for making it and applying for instructions thereon from owner. If the CONTRACTOR does not receive such instructions from owner within thirty (30) days, he shall conform to those requirements and inform the OWNER accordingly.

20.2 **Notices and Fees**

The CONTRACTOR shall give all notices required to be given by the Acts, regulations, bye-laws, orders and requirements referred to in sub-clause 20.1 of this clause and shall pay all fees payable in connection herewith.

21.0 **TIME - PROJECT SCHEDULE**

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21.1 Without prejudice to anything contained in the CONTRACT the time and the date of completion of the works as stipulated in the CONTRACTOR's proposal and accepted by the OWNER shall be deemed to be of the utmost importance .The CONTRACTOR shall so organise his resources and perform his work as to complete it not later than the date agreed to.

21.2 The contractor shall submit the primavera level 4 schedule within thirty (30) days or as specified elsewhere reckoned from effective date of the CONTRACT.

The primavera level 4 schedule shall be for OWNER's review and be based on a level 2 schedule as attachment to the CONTRACT. Such level 2 schedule shall show the execution periods for (i) engineering, (ii) procurement & delivery of equipment and materials, (iii) civil & erection and (iv) commissioning, testing.

Bidder consortium shall be contractually obliged to issue a primavera level 4 schedule, provided that such schedule shall not (i) accelerate the OWNER obligations (to be agreed upon prior to Contract award) (ii) change the agreed GUARANTEED COMPLETION DATE (date to be agreed upon prior to Contract award)

21.3 The above primavera level 4 schedule shall be periodically reviewed and reports shall be submitted by the CONTRACTOR as directed by the OWNER.



22.0 CONTRACT PRICE

22.1 OWNER shall pay to CONTRACTOR a lump-sum fixed CONTRACT PRICE, for the due and faithful performance of CONTRACTOR's obligations under the CONTRACT. CONTRACT PRICE provided for in this Clause covers entire consideration payable to CONTRACTOR for all obligations of CONTRACTOR. The CONTRACT PRICE is fixed and firm and not subject to any escalation during the contract period unless and otherwise specified in the Contract documents.

22.2 CONTRACT PRICE is inclusive of cost of all travel, accommodation, living costs and all other expenses of management and personnel of CONTRACTOR, SUB-CONTRACTOR, VENDOR and their agents for travelling to and from plant SITE and other places/countries as may be necessary for the proper performance of CONTRACTOR's responsibilities under CONTRACT and shall also include all costs and expenses incurred in attending such meetings in connection with CONTRACT as OWNER may reasonably require.

22.3 CONTRACT PRICE is inclusive of cost of all CONTRACTOR's EQUIPMENT, materials, services, etc. required to complete WORK under CONTRACT.

22.4 The price quoted shall be firm and fixed without any escalation whatsoever on any account except the statutory variations in Taxes levied by the Government of India

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within GUARANTEED COMPLETION DATE and otherwise specified in the CONTRACT.

- 22.5 All taxes, duties, licence fees and other such levies as may be applied to the CONTRACT both in CONTRACTOR's country and in India, including Custom Duty, Works Contract Tax and all applicable taxes and duties under GST on bought out items, , corporate income tax in respect of the performance of the CONTRACT as well as income tax on the personnel deputed by the CONTRACTOR to India in connection with the CONTRACT, are to the account of the CONTRACTOR.

23.0 DEDUCTIONS FROM CONTRACT PRICE

All costs, damages or expenses which the OWNER may have paid for which, under the CONTRACT, the CONTRACTOR is liable, will be claimed by the OWNER. All such claims shall be billed by the OWNER to the CONTRACTOR regularly as and when they fall due. Such claims shall be paid by the CONTRACTOR within fifteen days of the receipt of the corresponding bills and if not paid by the CONTRACTOR within the said period, the OWNER may then deduct the amount from any bill due or becoming due by him to the CONTRACTOR under the CONTRACT or may be recovered by action of law or otherwise, if the CONTRACTOR fails to satisfy the OWNER of such claims.

24.0 Deleted

25.0 PAYMENT TERMS



- 25.1 The payment to CONTRACTOR for the performance of the WORKS under the CONTRACT will be made by OWNER as per the guidelines & conditions specified herein in Section 3 of PART-1 i.e. SPECIAL CONDITIONS OF CONTRACT.

25.2 Schedule of Payment

The CONTRACTOR shall submit billing schedule which is to be approved by the OWNER. The CONTRACTOR shall submit all invoices for a particular month under a single covering letter (once in a month) based on the billing schedule duly certified by OWNER with related documents.

25.3 Due Date for Payment

OWNER will make progressive payments as and when the payment is due as per the terms of payment set forth in the CONTRACT. Payment will become due and payable by OWNER within 30 days from the date of receipt of CONTRACTOR'S bill/invoice by OWNER provided the documents submitted are complete in all aspects and are submitted as per billing schedule.



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26.0 TAXES, PERMITS & LICENCES

- 26.1 The CONTRACTOR shall be liable and pay all taxes, duties, levies, lawfully assessed against the OWNER or the CONTRACTOR in pursuance of the CONTRACT. The CONTRACTOR shall be solely responsible for all taxes that may be levied on the CONTRACTOR's turnover & profit or on the earnings of any of his employees or personnel engaged by him and shall hold the OWNER indemnified and harmless against any claims that may be made against the OWNER in this behalf. The OWNER does not undertake any responsibility whatsoever regarding any taxes levied on CONTRACTOR and/or his personnel by Centre/State/Local Authorities. The Taxes shall be deducted where the said provisions shall be applicable and/or obligatory on the part of the OWNER.
- 26.2 For CONTRACTORS who have to bring equipment and material from outside **Punjab**, will have to obtain necessary registrations and take appropriate steps as required under **Punjab** State Laws.
- 26.3 CONTRACTOR is responsible for obtaining Customs clearance permit for temporary importation on re-export basis of CONTRACTOR'S EQUIPMENT, tools and tackles etc. If any duties, taxes and expenses are payable on this, the same will be to CONTRACTOR'S account.

27.0 PACKING, FORWARDING AND SHIPMENT

- 27.1 The CONTRACTOR shall give complete despatch information concerning the weight, size, content of each package including any other information the OWNER may require.
- 27.2 The CONTRACTOR, wherever applicable shall after proper painting, pack and crate all equipment in such a manner as to protect it from deterioration and damage during air, sea, rail and road transportation to the site and storage at the site till the time of erection. The CONTRACTOR shall be held responsible for all damages due to improper packing.
- 27.3 The CONTRACTOR shall notify the OWNER of the date of each shipment from his works, and the expected date for arrival at the site for the information of the OWNER. The CONTRACTOR will be responsible for arranging any requirement of over-dimensional, special rail/road wagon/trailor for transporting.
- 27.4 The CONTRACTOR shall also give all shipping information concerning the weight, size and content of each package including any other information the OWNER may require. CONTRACTOR shall the follow the guidelines of Ministry of Road Transport and Highways (MORTH), India, for the shipping/transportation of the all packages/ consignments.

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27.5 The CONTRACTOR shall prepare detailed packing lists of all packages and containers, bundles and loose materials forming each and every consignment despatched to the site. The CONTRACTOR shall further be responsible for making all necessary arrangements for loading, unloading and other handling, right from works till the SITE and also till the EQUIPMENT is erected, tested and commissioned. The CONTRACTOR shall be solely responsible for proper storage and preservation of all equipments & machineries etc.

27.6 The CONTRACTOR shall be solely responsible for generation of E-way bills, wherever applicable, for all the packages and containers as required under the GST Laws.

28.0 INSURANCE



28.1 CONTRACTOR shall take in the joint name of CONTRACTOR and OWNER comprehensive transit insurance for imported and indigenous goods. Transit-cum-Storage-Erection Insurance or its equivalent and third party liability insurance policies shall be taken with reputed underwriters to cover ALL RISK whatsoever during the whole period starting with dispatch of GOODS from CONTRACTOR's warehouses/ Ex works in foreign country to CIF port of shipment for imported GOODS and EXW at Contractor's works for indigenous GOODS and shall further cover for performing services in India for transportation, loading, unloading, assembly, erection, testing COMMISSIONING of PLANT till care and custody is transferred to OWNER.

28.1.1 **CONTRACTOR shall take appropriate insurance cover, under its Third Party Liability for at least Rs. 5.00 Crore and for Owner's existing plants/facilities for a value not less than Rs. 10.00 Crore.**

28.1.2 CONTRACTOR shall ensure that in addition to "Erection All risk policy", the coverage in respect of workmen compensation, ESI/Health Insurance, Professional Indemnity (with the amount of minimum excess) has been appropriately taken.

28.2 CONTRACTOR shall be fully responsible for pursuing and settling all claims under the underwriters. In the event of accident, injury, damage or loss likely to form a claim under the above insurance policies, CONTRACTOR shall, as quickly as possible submit the insurance claims by underwriters under intimation to OWNER. CONTRACTOR shall also keep OWNER fully informed about progress of each such case. CONTRACTOR shall undertake immediate repair and replacement of the equipment lost in transit, storage, assembly, erection and COMMISSIONING of PLANT pending settlement of claim thereafter by the underwriters.

28.3 The CONTRACTOR at his cost shall arrange, secure and maintain all insurance as may be pertinent to the works and obligatory in terms of law to protect his interest and interest of OWNER in the project, against all perils detailed herein. The Form and the limit of such insurance as defined herein together with the under-writer in each case shall be acceptable to the OWNER and OWNER's acceptance shall not be

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unreasonably withheld. However, irrespective of such acceptance, the responsibility to maintain adequate insurance coverage at all times including third party liability during the period of contract shall be as of CONTRACTOR alone. The contractor's failure in this regard shall not relieve him of any of his contractual responsibilities and obligations. The insurance covers to be taken by the CONTRACTOR shall be in the joint names of OWNER and the CONTRACTOR. The CONTRACTOR shall, however, be authorised to deal directly with insurance company or companies and shall be responsible in regard to maintenance of all insurance covers.

28.4 All insurance other than marine insurance for transportation outside India is to be covered from IRDA approved insurance company registered in India. There should be a single cover for marine cum inland transit, storage and erection up to PRELIMINARY ACCEPTANCE OF PLANT.

However adequacy, credibility and maintenance of Insurance policies is sole responsibility of CONTRACTOR and CONTRACTOR shall keep the OWNER indemnified against any such failure.



All insurance covers shall be taken by CONTRACTOR in joint name of CONTRACTOR and OWNER.

Alternatively, the CONTRACTOR has the option to take separate Insurances as

1. Marine Cargo Insurance for transit of all imported and indigenous goods from Ex Works at Contractor's/ CONTRACTOR's works to Site.
2. Erection and All Risk (EAR) Insurance
3. Third Party Liability Insurance



Marine Cargo Insurance and Third Party Liability Insurance can be a part of Global Policy of the CONTRACTOR. However certificate of endorsement in favour of OWNER shall be provided by the CONTRACTOR from the insurance company. These two global policies of Marine Cargo Insurance and Third Party Liability Insurance shall be counter guaranteed by Indian Insurance Company. However, Erection and All Risk (EAR) is to be covered from Insurance Company registered in India and shall be separate dedicated policies for OWNER.

28.5 Any loss or damage to the equipment during handling, transportation, storage, erection, putting the equipment into satisfactory operation and all activities to be performed till the successful completion of trial operation of the plant shall be to the account of the CONTRACTOR. The CONTRACTOR shall be responsible for reference of all claims and make good the damages or loss by way of repairs and/or replacement of the equipment, damaged or lost. The transfer of title shall not in any way relieve the CONTRACTOR of the above responsibility during the period of CONTRACT. The CONTRACTOR shall provide the OWNER with copies of all insurance policies and documents taken out by him in pursuance of the CONTRACT. Such copies of documents shall be submitted to the OWNER immediately after such insurance coverage. However, if Marine cargo insurance or Third party liability Insurance is a part of their global policies; insurer certificate (including the main terms of policy) shall be submitted by CONTRACTOR. The CONTRACTOR shall also inform the OWNER in the writing at least thirty (30) days in advance regarding the expiry/ cancellation and/or

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change in any of such documents and ensure revalidation, renewal etc. as may be necessary well in time. However adequacy, credibility and maintenance of Insurance policies is the sole responsibility of CONTRACTOR and CONTRACTOR shall keep the OWNER indemnified against any such failure.

- 28.6 License /facilities, to the extent it remains the responsibility of the OWNER, in respect of supplies to be made by the foreign CONTRACTOR from outside India required for purposes of replacement of equipment lost in transit and /or during erection and /or during storage shall be made available by the OWNER. CONTRACTOR shall however, be required to follow the procedure as may be laid down by the Owner to facilitate him arranging such license /facilities. The perils required to be covered under the insurance shall include, but not be limited to fire and allied risks, miscellaneous accidents (erection risks) workman compensation risks, loss or damage in transit, theft, pilferage, riot and strikes and malicious damages, civil commotion, weather conditions, accidents of all kinds, war risks (during ocean transportation only) etc. The scope of such insurance shall be adequate to cover the replacement/reinstatement cost of the equipment for all risks till the equipment is taken over by the OWNER. The insurance policies to be taken should be on replacement value basis and/or incorporating escalation clause. Notwithstanding the extent of insurance cover and the amount of claim available from the underwriters, the CONTRACTOR shall be liable to make good the full replacement/rectification of all equipment/materials and to ensure their availability as per project requirements without additional financial liability to the OWNERS. The workman compensation policy taken by the SUB-CONTRACTOR of the CONTRACTOR shall be passed on to the OWNER.
- 28.7 CONTRACTOR shall at its own cost and initiative at all times upto the successful completion of PRELIMINARY ACCEPTANCE, take out and maintain all insurable liability, including but not limited to third party insurance and liabilities under the Motor Vehicles Act, Worker's Compensation Act, Fatal Accidents Act, Personal Injuries Insurance Act, Emergency Risk Insurance Act and/or other Industrial Legislation from time to time in force in India with Insurance Company(ies), such policy(ies) shall not be of lesser limits hereunder specified with reference to the matters hereunder specified, namely.
- a. Workmen's Compensation Insurance to the limit to which compensation may be payable under the laws of Republic of India.
- 28.8 All cost on account of insurance liabilities covered under the CONTRACT will be to the contractors account and will be included in the CONTRACT PRICE. The CONTRACTOR, while arranging the insurance, shall ensure to obtain all discounts on premium, which may be available for higher volume or for reason of financing arrangement of the project.
- 28.9 Irrespective of single or separate insurances, the CONTRACTOR shall take the same in the joint name of OWNER and CONTRACTOR, with OWNER as Primary Beneficiary and CONTRACTOR as Joint Beneficiary, to cover all risk including marine cum erection insurance (MCE), workmen compensation/ Employees State insurance (ESI) under ESI Act 1948 for Contractor's personnel, fire risk policy etc. till handing

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over of PLANT to OWNER duly commissioned and tested. However, for CONTRACTOR's EQUIPMENT, CONTRACTOR can be the sole beneficiary.

Further, OWNER shall have the first right over the claim amount for all insurance claims, where owner has made part or full payment to the contractor.

28.10 The CONTRACTOR shall be fully responsible for pursuing and settling all claims with the underwriters. In the event of accident, injury, damage or loss likely to form a claim under the above insurance policies, the CONTRACTOR shall as quickly as possible submit such details as are necessary for settling such claims by underwriters and shall also provide information and assistance necessary to settle the claim. The CONTRACTOR shall also keep OWNER fully informed about progress of each such case.

28.11 The charges quoted on account of insurance in the price bid shall be considered for the purpose of evaluation. However if owner opts to take policy, the contract price shall be adjusted to the extent of cost of insurance quoted in the price bid.



29.0 GUARANTEES

29.1 It shall be a condition of the CONTRACT and the CONTRACTOR shall guarantee that the plant shall achieve the requirement as set forth herein and as per Part II, Technical of NIT .

29.2 The CONTRACTOR shall guarantee that the Plants, Equipment and machineries will be new and in accordance with the CONTRACT documents and free from defects in design, material & workmanship and shall give Defect Liability for a period of Twelve (12) calendar months commencing immediately upon PRELIMINARY ACCEPTANCE as per Clause 17 of SCC. The CONTRACTOR's liability shall be limited to the replacement of any defective parts in the equipment of his own manufacture or those of his SUBCONTRACTOR under normal use and arising from faulty design, materials and/ or workmanship provided always that such defective parts are not repairable at the site and are not in the meantime essential in the commercial use of the plant. Such replaced defective parts shall be returned to the CONTRACTOR unless otherwise arranged.



29.3 After the issue of the PRELIMINARY ACCEPTANCE CERTIFICATE, in the event of an emergency where, in the judgement of the OWNER, delay would cause serious loss or damage, repairs or adjustments may be made by the OWNER or a third party chosen by the OWNER without advance notice to the CONTRACTOR and the documented and direct cost of such work shall be paid by the CONTRACTOR but only to the extent that the repair or adjustment was due a defect attributable to CONTRACTOR.

29.4 The cost of any special or general overhaul rendered necessary during the guarantee period due to defects for which CONTRACTOR is liable under CONTRACT in the

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PLANT or defective work carried out by the CONTRACTOR shall be borne by the CONTRACTOR.

- 29.5 The acceptance of the equipment by the OWNER shall in no way relieve the CONTRACTOR of his obligation under this clause.
- 29.6 In the case of those defective parts which are not repairable at site but are essential for the commercial use of the equipment and machineries, the CONTRACTOR shall mutually agree to a programme of replacement or renewal which will minimise interruption to the maximum extent, in the operation of the equipment and machineries.
- 29.7 At the end of the DEFECTS LIABILITY PERIOD or the extended DEFECTS LIABILITY PERIOD, the CONTRACTOR's liability ceases. In respect of goods supplied by the SUB-CONTRACTORS to the CONTRACTOR where a long guarantee (more than 12 months) is provided by such CONTRACTORS, the OWNER shall be entitled to the benefit of such longer guarantees.
- 29.8 During the guarantee period, the CONTRACTOR shall provide if required by the OWNER the services of operation engineers to advise the OWNER for such period and in such number as may be mutually agreed upon. The CONTRACTOR's operation engineers shall also train the OWNER's personnel, act as a liaison between the OWNER and the CONTRACTOR, assist the OWNER in ordering and obtaining spare parts, generally monitoring operation and maintenance and trouble shooting and supervising repair work under guarantee.
- 29.9 The provisions of Clause 48 including the cost of transport, insurance etc. shall be implemented at the CONTRACTOR's expenses.
- 29.10 The provisions contained in clause 48 will not be applicable. a) If after handing over of the PLANT the OWNER has not operated the equipment according to generally approved industrial practices and in accordance with the conditions of operation specified and in accordance with operation and maintenance manuals if any; b) In cases of normal wear and tear of the parts to be specifically mentioned by the CONTRACTOR in the offer.
- 29.11 **Guarantees for Time of Completion**
- The CONTRACTOR shall guarantee the date of PRELIMINARY ACCEPTANCE of the WORKS calculated from the EFFECTIVE DATE OF THE CONTRACT, for the purpose of determining pre-determined Price Reduction on account of delay in completion. No damages will be levied on account of delay in contractual completion for the reasons not attributable to the CONTRACTOR.
- 29.12 **Performance Guarantees**
- CONTRACTOR shall guarantee the performance of PLANT as specified in the Part-2 (Technical Part) of the NIT.

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29.13 **Design and Vendors' Sub-Contractors' Guarantees**

29.13.1 CONTRACTOR shall guarantee the design and engineering work carried out by him against mistakes, errors, defective specifications, inadequacy and other such items which lead to the supply of inadequate PLANTS and Facilities. In case of detection of such mistakes, errors, deficiencies etc. the CONTRACTOR shall redo the design and/or engineering work to overcome all such mistakes, errors, deficiencies etc. at no extra cost to OWNER.

29.13.2 CONTRACTOR shall be responsible for all the items of the EQUIPMENT procured by him from VENDORS/ SUB-CONTRACTORS. Further, CONTRACTOR shall replace or repair any item of EQUIPMENT which is demonstrated to be defective under normal operating conditions within DEFECT LIABILITY PERIOD.

30.0 **LIABILITY FOR ACCIDENTS AND DAMAGES**



30.1 Under the CONTRACT, the CONTRACTOR shall be responsible for loss or damage to the PLANT and provide new equipment and machineries in lieu of equipment/machineries lost/damaged beyond repairs, free of cost until the PLANT is handed over after successful completion of performance & guarantee tests.

30.2 The CONTRACTOR shall indemnify the OWNER in respect of all damage or injury to any person or to any property (other than property forming part of the Work) and against all actions, suits, claims, demands, costs, charges and expenses arising in connection therewith which shall have been occasioned by the negligence of the CONTRACTOR or any SUB-CONTRACTOR, or by defective design (other than a design made, furnished or specified by the OWNER and which the CONTRACTOR has disclaimed responsibility in writing within a reasonable time after receipt of the OWNER's instructions) material or workmanship, any breach of the CONTRACTOR's obligations.

31.0 **PRICE REDUCTION CLAUSE**

31.1 If for reasons not attributable to the OWNER or due to conditions not constituting Force Majeure as defined in this CONTRACT, the Work is not completed in accordance with the provisions hereof, within and in accordance with the Time Schedule/ time for Completion as indicated in the terms and conditions of the CONTRACT, it is agreed that the OWNER shall be entitled to recover and/or the Contractor shall pay to the OWNER, without prejudice to any other rights or remedy available to the OWNER, the following amount as per Price Reduction clause.

31.1.1 A sum equivalent to 0.5% of the TOTAL CONTRACT PRICE for every complete week or part thereof, for delay in completion of "PRELIMINARY ACCEPTANCE" of Plant by the CONTRACTOR, subject to a maximum 5% of TOTAL CONTRACT PRICE (excluding GST) inclusive of escalation and contingencies, if any.

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31.2 If the CONTRACTOR fails to achieve the condition mentioned in the **Clause 2.4 Section -13 Performance Test Run, Part II- Technical**, then following penalty shall be imposed:

- If the Pressure of liquid ammonia in new Horton sphere being maintained between 3.41 to 3.45 kg/cm²g with maximum 2 (Two) refrigeration compressor in line, then penalty of 2.5% of the TOTAL CONTRACT PRICE (excluding GST) shall be imposed.
- If the Pressure of liquid ammonia in new Horton sphere being maintained between 3.46 to 3.50 kg/cm²g with maximum 2 (Two) refrigeration compressor in line, then penalty of 5% of the TOTAL CONTRACT PRICE (excluding GST) shall be imposed.
- If the Pressure of liquid ammonia in new Horton sphere not being maintained within 3.50 kg/cm²g with maximum 2 (Two) refrigeration compressor in line, then this will not be acceptable and CONTRACTOR has to make necessary changes in the Plant to achieve the Horton Sphere pressure within acceptable limits with two compressor in line, as mention in the Clause 2.4 Section -13 (Performance Test Run) of Part II Technical of NIT.

31.3 The amounts, as set in clause 31.0 is agreed upon and fixed by the parties due to difficulties in ascertaining, on the date hereof, the exact amount that will be actually incurred by the OWNER in such event, and parties hereby agreed that amount specified herein are a genuine pre-estimate made by the parties of the loss and damage which the OWNER would have suffered and as by way of mutually determined reasonable compensation payable to the OWNER and without the OWNER required to establish and prove the actual loss/ damage suffered by the Owner, not in the nature of penalty and shall be applicable regardless of the amount of such deduction in value actually sustained by the OWNER.



31.4 The parties agree and acknowledge that the amount set of in clause 31.0 above may be recovered by the OWNER from the amount to be paid to the Contractor and the TOTAL CONTRACT PRICE shall stand reduced by such amount.

31.5 Price Reduction represents, without prejudice to the respect of the contractual obligation under the CONTRACT by CONTRACTOR, the sole and exclusive remedy of OWNER for such delay. GST at the prevailing rate, if applicable, on "PRICE REDUCTION CLAUSE" shall be recovered extra from the CONTRACTOR on the amount of such damages levied as per the Contractual terms.

OWNER shall raise separate Tax Invoice for recovery of Price Reduction along with applicable GST.

32.0 OVERALL CEILING ON TOTAL LIABILITY

32.1 The maximum overall liability under the CONTRACT shall be limited to 10% of CONTRACT PRICE, excluding liabilities for extra cost incurred due to Termination of

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CONTRACT and carrying out balance work at the risk and cost of the CONTRACTOR, re-engineering, make good, mechanical warranty and patent infringement as per relevant Clauses of CONTRACT.

32.2 Notwithstanding anything contained elsewhere in CONTRACT or implied to the contrary:

a) CONTRACTOR shall, in no circumstances, be liable in respect of any indirect and or consequential damages or losses such as but not limited to Loss of Revenue, Loss of Contract, Loss of Production suffered by OWNER in connection with or arising out of performance of WORK under CONTRACT.

b) OWNER shall, in no circumstances, be liable in respect of any indirect and or consequential damages or losses such as but not limited to Loss of Revenue, Loss of Contract, Loss of Production suffered by CONTRACTOR in connection with or arising out of performance of WORK by CONTRACTOR under the CONTRACT.

33.0 TIME EXTENSION OF CONTRACT



33.1 The CONTRACTOR shall promptly notify the PROJECT MANAGER any event or conditions which might delay the completion of erection work in accordance with the approved schedule and the steps being taken to remedy such situation.

33.2 If the Work is delayed at any time in the commencement or during the progress of the WORK by any act, delay or neglect solely attributable to OWNER or his employees, or by any other contractor utilised by the OWNER or by conditions FORCE MAJEURE, the time of completion shall be extended by OWNER (without levy of Price reduction clause 31.0 above) in writing for a reasonable period as may be mutually agreed upon application from the CONTRACTOR immediately on occurrence of such special circumstances but not later than 14 working days and not towards the end of the CONTRACT period.

33.3 OWNER shall have the right to suspend the WORK in whole or in part for such time as may be necessary in order that WORKS shall be well and properly executed. In such events, suitable extension of time shall be granted to CONTRACTOR. However, should the cumulative period of suspension exceed 60(sixty) days during the scheduled duration of CONTRACT, the CONTRACTOR shall be compensated as mutually agreed in addition to extension of time, provided the suspension is caused due to reasons not attributable to CONTRACTOR.

34.0 TERMINATION OF CONTRACT

34.1 **Termination due to Legal Incapacity**

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If the CONTRACTOR goes into liquidation or has an administrator order made against him or carries on his business or any part of it under an administrator or receiver or manager for the benefit of the creditors or any of them, without prejudice to any other rights or remedies, the OWNER may forthwith by notice in writing terminate the CONTRACT.

34.2 Termination due to Default by CONTRACTOR

34.2.1 If the CONTRACTOR is in default in that he:



- (a) Neglects to execute the work or part of the work; or
- (b) without reasonable cause, suspends or abandons the carrying out the works, either partly or wholly, before their completion; or
- (c) Fails to proceed regularly and diligently with the works; or
- (d) Defaults in the performance or observance of any conditions or terms of the CONTRACT or neglects to carry out any order, instruction, direction or determination which the OWNER is empowered to give or make under the CONTRACT and which is given or made in writing to the CONTRACTOR, or
- (e) Conceals or submit any false documents or information furnished by the CONTRACTOR regarding past experience and or contents of any documents etc. are found false.

then, for S.No. a) to d) above without prejudice to any other rights or remedies which the OWNER may possess, the OWNER may, by notice in writing (which shall specify with reasonable particularity the neglect, default or refusal on the part of the CONTRACTOR) require the CONTRACTOR:

- i) to put forward his proposals for
 - a) Rectifying such neglect, default or refusal as the case may be and
 - b) Commence and diligently pursue the rectification of the default.

34.2.2 If within 30 days after the posting of the notice against clause no. 34.2.1 (a) to (d) above addressed to the CONTRACTOR, the CONTRACTOR fails to comply with the notice or for defaults mentioned at clause no. 34.2.1 e) above, if in the opinion of the OWNER, the CONTRACTOR's reasons or proposals are not satisfactory then the OWNER, without prejudice to any other rights that he may have under the CONTRACT against the CONTRACTOR, may either:

- a) DETERMINE THE CONTRACT in which event the CONTRACT shall stand terminated and shall cease to be in force and effect on and from the date appointed by the OWNER on that behalf, whereupon the CONTRACTOR shall stop forthwith any of the CONTRACTOR's work then in progress, except such WORK as the OWNER may, in writing, require to be done to safeguard any property or WORK, or installations from damage, and the OWNER, for its part, may take over the work remaining unfinished by the CONTRACTOR and complete the same through a fresh contractor or by other means, at the risk and cost of the CONTRACTOR, and any of his sureties if any, shall be liable to the OWNER for any excess cost occasioned by such work having to be so taken over and completed by the



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OWNER over and above the cost at the rates specified in the schedule of quantities and rate/prices.

- b) WITHOUT DETERMINING THE CONTRACT, take over the work of the CONTRACTOR or any part thereof and complete the same through a fresh contractor or by other means at the risk and cost of the CONTRACTOR. The CONTRACTOR and any of his sureties are liable to the OWNER for any excess cost over and above the cost at the rates specified in the Schedule of Quantities/ rates, occasioned by such works having been taken over and completed by the OWNER.

In such events of Clause 34.2.2 (a) or (b) above.

- (i) The whole or part of the Contract Performance Security furnished by the CONTRACTOR is liable to be forfeited without prejudice to the right of the OWNER to recover from the CONTRACTOR the excess cost referred to in the sub-clause aforesaid, the OWNER shall also have the right of taking possession and utilising in completing the works or any part thereof, such as materials equipment and plants available at work site belonging to the CONTRACTOR as may be necessary and the CONTRACTOR shall not be entitled for any compensation for use or damage to such materials equipment and plant.
- (ii) The amount that may have become due to the CONTRACTOR on account of work already executed by him shall not be payable to him until after the expiry of Six (6) calendar months reckoned from the date of termination of CONTRACT or from the taking over of the WORK or part thereof by the OWNER as the case may be, during which period the responsibility for faulty materials or workmanship in respect of such work shall, under the CONTRACT, rest exclusively with the CONTRACTOR. This amount shall be subject to deduction of any amounts due from the CONTRACT to the OWNER under the terms of the CONTRACT authorised or required to be reserved or retained by the OWNER.
- (iii) Before determining the CONTRACT as per Clause 34.2.2 (a) or (b) provided in the judgement of the OWNER, the default or defaults committed by the CONTRACTOR is/are curable and can be cured by the CONTRACTOR if an opportunity given to him, then the OWNER may issue Notice in writing calling the CONTRACTOR to cure the default within such time specified in the Notice.
- (iv) The OWNER shall also have the right to proceed or take action as per 34.2.2 (a) or (b) above, in the event that the CONTRACTOR becomes bankrupt, insolvent, compounds with his creditors, assigns the CONTRACT in favour of his creditors or any other person or persons, or being a company or a corporation goes into voluntary liquidation, provided that in the said events it shall not be necessary for the OWNER to give any prior notice to the CONTRACTOR.
- (v) Termination of the CONTRACT as provided for in sub- clause 34.2.2(a) above shall not prejudice or affect their rights of the OWNER which may have accrued upto the date of such termination.

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34.2.3 In case of termination of CONTRACT herein set forth (under clause 34.2) except under conditions of Force Majeure and termination after expiry of contract, the CONTRACTOR shall be put under holiday/delist/black list as detailed below from the date of termination by OWNER to such CONTRACTOR.

34.2.3.1 In case, a CONTRACTOR repeatedly fails to perform, commits, breach of CONTRACT/tender conditions, causes abnormal delays, supplies sub-standard material, fails to rectify/settle discrepancies / deficiencies in the services/work within a reasonable time, the particular contractor should be debarred/delisted from the approved list of contractors for a limited period of one to two years after giving due notice for non-performance and notice of default.

34.2.3.2 In case, a CONTRACTOR is found guilty of bribery, corruption, dishonesty, malpractice, submission of forged documents, misrepresentation, spurious supplies, fails to refund the amount due to the Company, fails to return the material issued for reprocessing/maintenance, such contractor will be blacklisted for a maximum period of 3 years.

34.2.3.3 In case of delisting / permanent delisting / Black Listing, a show cause notice to the effect shall be duly served to the party.

34.3 **Duration of suspension of payment due to CONTRACTOR:**

34.3.1 Owner shall have right to suspend making any payments to the contractor for the portion of WORK having a bearing with Contractor default during the period of rectification of the defaults.



34.4 **Work taken out of the hands of the CONTRACTOR**

34.4.1 **Employment of other contractors:**

If the OWNER takes action under sub-clause 34.2.2 he may complete the work or any part of it by contracting with or employing any person or persons to execute further and complete work or any part of it and to provide all equipment, materials and labour as may be necessary for such further execution and completion. If practicable the further execution and completion shall be carried out in accordance with the specification and at prices obtained under competitive conditions.

The OWNER may also take possession of and permit such person or persons to use for the purposes of the CONTRACT only such materials, tools and equipment and all other things on or about the SITE which are the property of the CONTRACTOR as are requisite and necessary for such further execution and completion, and the CONTRACTOR shall have no right to any compensation or allowance in respect thereof.

On the completion of such work, all tools and equipment and the surplus of the materials so taken possession of shall be handed over to the CONTRACTOR but without payment or allowance for the fair wear and tear they may have sustained in the meantime, provided that if there by a deficiency as referred to in sub clause 34.4.2 of

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this clause, and if the CONTRACTOR fails to make good such deficiency such of the tools, equipment and materials as are necessary to make good the deficiency may be sold and a sufficient part of the monies received retained by the OWNER and applied in payment of such deficiency.

In addition the OWNER shall be entitled:



- a) To take possession of and remove from the CONTRACTOR's premises within a reasonable period anything (including but without limiting the generality thereof any design, drawings, specification, material or other goods) the property which is vested in the OWNER pursuant to the CONTRACT;
- b) To full particulars of any sub-contract made by the CONTRACTOR with any person for the execution of any portion of the WORKS and to peruse and copy any instrument (including but without limiting the generality thereof any agreement, letter or other paper) relating to any such SUB-CONTRACT made by the CONTRACTOR with any person for the execution of any portion of the WORKS.
- c) To pursue and copy any standard working drawing or other drawing or data necessary in the opinion of the OWNER for completion of the WORKS and the property which is not vested to the OWNER pursuant to the CONTRACT provided that the OWNER shall in no case make use of any copy made pursuant to sub paragraphs (b) or (c) hereof other than for the purpose of completing the WORKS and that on the fulfilment of the whole of the obligations of the CONTRACTOR under the CONTRACT the OWNER shall return to the CONTRACTOR any such copy.

The CONTRACTOR shall offer to the OWNER all rights of access and all reasonable facilities to enable the OWNER to remove any such thing or pursue or copy any such instrument, drawing or data and shall supply such particulars on request by the OWNER in that behalf.

For the purposes of sub-clause 34.3.2 the cost incurred by the OWNER in and about for such removal, perusal or copying or obtaining such particulars shall be deemed to be part of the cost of carrying out that portion of the work taken out of the CONTRACTOR's hands.

34.4.2 **Extra cost to the OWNER of completing work for deduction:**

On completing the terminated portion of WORK as provided under Article 34.4.1 the OWNER shall ascertain the reasonable and direct costs based on the documentary evidence of the cost incurred but such amount shall not include any extra cost due to departures from the specification unless such departures were necessitated by the CONTRACTOR's default. Should the amount so ascertained be greater than the CONTRACT PRICE which would have been paid to the CONTRACTOR, if the whole of the work had been carried out by him, the difference between the two amounts shall be deducted from any monies which may then be or thereafter become due to the

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CONTRACTOR or which may have been deposited by him as security under the CONTRACT, and if such monies be less than the amounts to be deducted the deficiency shall be paid by the CONTRACTOR to the OWNER and which may be recovered as provided in sub-clause 34.4.2 of this clause or by way of Arbitration.

34.5 **Preservation of rights of the OWNER**

No action taken by the OWNER under sub clause 34.3 and 34.4 of this clause shall vitiate the CONTRACT or shall operate to the prejudice of the right of the OWNER to recover from the CONTRACTOR or to deduct from any monies which may be or may become due to the CONTRACTOR all sums of money which may be or may become due to the OWNER under the CONTRACT as damages, penalties or otherwise.



34.6 Should the OWNER decide to terminate the CONTRACT under subclause 34.2.2(b) of this clause, he may do so under notice in writing as from the date of such notice, and the termination shall be without prejudice to any right that may have occurred to the OWNER or to the CONTRACTOR under the CONTRACT.

34.7 **Termination of Contract on Account of OWNER's Convenience**

34.7.1 The OWNER, may, by written notice send to the CONTRACTOR, terminate the CONTRACT, in whole or in part, at any time for his convenience. The notice of termination shall specify that termination is for the OWNER's convenience, the extent to which performance of work under the CONTRACT is terminated and the date upon which such termination becomes effective.

34.7.2 Upon receipt of the notice of termination under GCC Clause 34.7.1, the CONTRACTOR shall either immediately or upon the date specified in the notice of termination.

- (a) cease all further work, except for such work as the OWNER 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 OWNER pursuant to paragraph (d)(ii) below.
- (c) remove all CONTRACTOR's Equipment from the Site, repatriate the CONTRACTOR's and its SUB-CONTRACTORS' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition.
- (d) In addition, the CONTRACTOR, subject to the payment specified in GCC Clause 34.7.2.1, shall
 - (i) deliver to the OWNER the parts of the PLANT executed by the CONTRACTOR up to the date of Termination.

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(ii) to the extent legally possible, assign to the OWNER all right, title and benefit of the CONTRACTOR to the PLANT and Equipment as at the date of termination, and, as may be required by the OWNER, in any subcontracts concluded between the CONTRACTOR and its SUB-CONTRACTORS.

(iii) deliver to the OWNER all non-proprietary drawings, specifications and other documents prepared by the CONTRACTOR or its Sub-CONTRACTORS as at the date of termination in connection with the PLANT.

34.7.2.1 In the event of termination of the Contract under GCC Clause 34.7.1, the OWNER shall pay to the CONTRACTOR the following amounts:

- (a) the Contract Price, properly attributable to the parts of the PLANT executed by the CONTRACTOR as of the date of termination
- (b) the costs reasonably incurred by the CONTRACTOR in the removal of the CONTRACTOR's Equipment from the Site and in the repatriation of the CONTRACTOR's and its SUB-CONTRACTORS' personnel
- (c) any amounts to be paid by the CONTRACTOR to its SUB-CONTRACTORS or Vendors in connection with the termination of any subcontracts or supply agreement including any cancellation charges
- (d) costs incurred by the CONTRACTOR in protecting the PLANT and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Clause 34.7.2



34.7.3 Termination for Insolvency

OWNER may at any time terminate CONTRACT giving written notice to CONTRACTOR, , if CONTRACTOR becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has occurred or will accrue thereafter to OWNER.

If the Contract is terminated under GCC Sub-Clauses 34.7.3, the OWNER shall pay to the CONTRACTOR all payments specified in GCC Sub-Clause 34.7.2 as reasonable compensation for all loss or damage sustained by the CONTRACTOR arising out of, in connection with or in consequence of such termination.

34.7.4 Termination by CONTRACTOR due to default of OWNER

If the OWNER has failed to pay the CONTRACTOR any sum due under the Contract within the specified period or commits a substantial breach of the CONTRACT, the CONTRACTOR may give a notice to the OWNER that requires payment of such sum or specifies the breach and requires the OWNER to remedy the same, as the case may be. If the OWNER fails to pay such sum or fails to remedy the breach or take steps to remedy the breach within thirty (30) days after receipt of the CONTRACTOR's

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notice then the CONTRACTOR may give a notice to the OWNER thereof, and if the OWNER has failed to pay the outstanding sum or to remedy the breach within thirty (30) days of such notice, the CONTRACTOR may by a further notice to the OWNER, terminate the CONTRACT.

If the CONTRACT is terminated under GCC Clause 34.7.4, the OWNER shall pay to the CONTRACTOR all payments specified in GCC Clause 34.7.2 as reasonable compensation for all loss or damage sustained by the CONTRACTOR arising out of, in connection with or in consequence of such termination.



34.8 **Surviving Obligations**

Termination of this CONTRACT (a) shall not relieve CONTRACTOR of its obligations with respect to the confidentiality as set forth in this CONTRACT, (b) shall not relieve CONTRACTOR of any obligation hereunder which expressly or by implication survives termination hereof, and (c) except as otherwise provided in any provision of this CONTRACT expressly limiting the liability of CONTRACTOR, shall not relieve CONTRACTOR of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of CONTRACTOR prior to the effectiveness of such termination or arising out of such termination, and shall not relieve CONTRACTOR of its obligations as to portions of SERVICES already performed or of obligations assumed by CONTRACTOR prior to the date of termination, except as otherwise agreed by OWNER in writing.

- 34.8.1 Termination of this CONTRACT (a) shall not relieve OWNER of its obligations with respect to the confidentiality as set forth in this CONTRACT, (b) shall not relieve OWNER of any obligation hereunder which expressly or by implication survives termination hereof, and (c) shall not relieve OWNER of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of OWNER prior to the effectiveness of such termination or arising out of such termination.

35.0 **FORCE MAJEURE**

- 35.1 The terms and conditions agreed upon under the contract shall be subject to Force Majeure. Neither the CONTRACTOR nor NFL shall be considered in default in the performance of their obligation contained therein, if such performance is prevented or delayed or restricted or interfered with by reason of War, Hostilities, Acts of Public Enemy, Civil Commotion, Strike, Lockouts, Epidemics/Pandemics, Accidents, Fires, Explosions, Flood, Earthquake, regulation or ordinance or requirement of any Government or any sub-division thereof or authority or representative of any such Govt., and/or due to technical snag/reasons or any other Act whatsoever, whether similar or dissimilar to those enumerated beyond the reasonable control of the parties hereto or because of any act of GOD. The party so affected, upon giving prompt notice to other party of such conditions and cause thereof from within 15(Fifteen) days of occurrence of such event, shall be excused from such performance to the extent of such prevention, delay, restriction or interference for the period it persists provided that the party so affected shall use its best efforts to avoid or remove such causes of non-performance if possible and shall continue performance hereunder with the utmost dispatch whenever such causes are removed.

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If the performance in whole or in part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 90(Ninety) days, either party may at its option terminate the contract by giving notice to the other party.

For delays arising out of Force Majeure neither NFL nor the CONTRACTOR shall be liable to pay extra costs or to make good any losses incurred consequent to the happening of any of the event, provided it is mutually established that Force Majeure condition did actually exist.



36.0 NO WAIVER OF RIGHTS

Neither the inspection by the OWNER or any of their officials, employees, or agents nor any order by the OWNER for payment of money or any payment for or acceptance of, the whole or any part of the WORKS by the OWNER nor any extension of time, nor any possession taken by the OWNER shall operate as a waiver of any provision of the CONTRACT, or of any power herein reserved to the owner or any right to damages herein provided, nor shall any waiver of any breach in the CONTRACT be held to be a waiver of any other subsequent breach.

37.0 BANKRUPTCY AND LIQUIDATION OF CONTRACTOR OR BUSINESS UNDER RECEIVERSHIP

If the CONTRACTOR becomes insolvent or bankrupt, or have a receiving order made against him, or compound with his creditors, or being a corporation commence to be wound up not being a member's voluntary winding up for the purpose of reconstruction or carry on his business under a receiver/liquidator etc for the benefit of his credit, the CONTRACTOR shall within fourteen (14) days notify the OWNER accordingly. On the occurrence of any of the happenings stated in the first sentence of this clause, the OWNER shall be at liberty to:

- a) Determine the CONTRACT forthwith by notice in writing to the CONTRACTOR or to the receiver or liquidator or to any person in whom the CONTRACT may have become vested, and act in the manner provided in clause 34.1 (proceedings or default) or,
- b) Give to such receiver, liquidator or other person in writing the option for a period of one month of carrying out the CONTRACT subject to his providing a guarantee for the due and faithful performance of the CONTRACT upto the CONTRACT value of the work for the time being remaining unexecuted and subject to his taking all reasonable steps to prevent stoppage of the work. In the event of stoppage of the work, the period of the option under this clause shall be fourteen (14) days only.

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38.0 CERTIFICATE NOT TO AFFECT RIGHT OF OWNER AND LIABILITY OF CONTRACTOR.

No interim payment certificate of the OWNER nor any sum paid on account by the OWNER nor any extension of time for execution of the WORKS granted by the OWNER shall affect or prejudice the rights of the OWNER against the CONTRACTOR or relieve the CONTRACTOR of his obligations for the due performance of the CONTRACT or be interpreted as approval of the WORK done or of the equipment furnished and no certificate shall create liability on the OWNER to pay for alterations, amendments, variations, or additional works not ordered, in writing, by the OWNER or discharge the liability of the CONTRACTOR for the payment of damages whether due, certified or not or any sum against the payment of which he is bound to indemnify the OWNER and the Consultant nor shall any such certificate nor the acceptance by him of any sum paid on account or otherwise affect or prejudice the rights of the CONTRACTOR against the OWNER.

39.0 SETTLEMENT OF DISPUTES

39.1 Except as otherwise specifically provided in the CONTRACT all disputes concerning questions of fact arising under the CONTRACT shall be considered by the OWNER subject to a written request by CONTRACTOR to the OWNER.

39.2 Any disputes or differences including those considered as such by only of the parties arising out of or in connection with the CONTRACT shall be to be extent possible settled amicably between the parties.



39.3 If, after 30 DAYs from the commencement of such informal negotiations OWNER and CONTRACTOR are unable to resolve amicably the dispute, either party may require that the dispute be referred for resolution to the arbitration as described under clause 40 below.

40.0 ARBITRATION

40.1 For Indian Vendors /Parties

“Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof shall be resolved amicably though negotiations by the Parties. A “Notice of Dispute” shall be given by the party seeking resolution of a dispute to other party. If the dispute is not resolved within Thirty **(30) days** from the notice, the dispute shall be referred to arbitration as per the procedure mentioned herein below:

A written notice shall be given by the contractor invoking arbitration to National Fertilizers Limited through Designated Authority i.e. Unit Head/Director/C&MD.

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Where the claim including determination of interest, if any, being claimed upto the date of commencement of arbitration does not exceed Rs. Five crore, the reference shall be made to a sole arbitrator. The parties shall mutually agree on the name of sole arbitrator. In case of disagreement upon the name of the sole arbitrator, the appointment of Sole Arbitrator shall be done in accordance with the provisions of Arbitration & Conciliation Act, 1996.

Where the claim including determination of interest, if any, being claimed, upto the date of commencement of arbitration exceeds Rs. Five crore, the reference shall be made to arbitral tribunal consisting of three arbitrators. Each party shall nominate one arbitrator each within **30 days** from the date of receipt of notice of invocation of arbitration and two nominated arbitrators shall appoint the presiding arbitrator within **30 days** thereafter. If a Party to the dispute refuses or neglects to nominate an arbitrator on its behalf within the period specified, or the two arbitrators fails to nominate Presiding arbitrator, appointment of Arbitrator(s) shall be done in accordance with the provisions of Arbitration & Conciliation Act, 1996.

The Arbitration proceeding shall be governed by the Arbitration & Conciliation Act, 1996 and any further statutory modification or re-enactment thereof and the rules made thereunder.

It is agreed by and between the parties that in case a reference is made to the Arbitrator for the purpose of resolving the disputes/differences arising out of the contract by and between the parties hereto, the Arbitrator shall not award interest on the awarded amount more than the rate SBI PLR/Base Rate applicable to NFL on date of award of contract.

The seat and venue of arbitration shall be at Nangal, District: Rupnagar(Pb.)

The cost of the proceedings shall be equally borne by the parties, unless otherwise directed by the arbitral tribunal. The decision of the arbitral tribunal shall be final and binding on all parties.”



40.1.1 **Arbitration for Foreign Vendors /Parties:**

“Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“SIAC”) in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (“SIAC Rules”) for the time being in force, which rules are deemed to be incorporated by reference in this clause.

The seat and venue of the arbitration shall be at New Delhi, India.

The language of the arbitration shall be English.

This Contract shall be governed by and construed in accordance with the Laws of India.”

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40.1.2 **Arbitration for CPSEs and Government Department:**

"In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs) / Port Trusts inter se , and also between CPSEs and Government Departments / Organizations (excluding disputes relating to Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for its resolution through AMRCD as mentioned in DPE OM No. 5/000312019-FTS-10937 dated 14th December 2022 and decision of AMRCD on the said dispute will be binding on both the parties.

40.2 **Continuation of Work and payments during Arbitration**

WORK shall be continued by CONTRACTOR during the arbitration proceedings unless the matter itself is the subject of Arbitration. Or unless the matter itself is such that WORK cannot practically be continued until the decision of the arbitrator is obtained and CONTRACTOR shall remain liable and bound in all respects under the Contract. Except as otherwise expressly provided in CONTRACT, no payment due and payable by OWNER shall be withheld on account of such arbitration proceedings unless it is the subject matter or one of the subject matters.

41.0 **GOVERNING LAWS, LANGUAGE AND MEASURES**

41.1 CONTRACT shall be governed and construed according to the Indian Law as in force and shall be subject to the jurisdiction of the Court in **Nangal, Punjab**.



41.2 The governing language for all communication, notices, Technical Information, etc. pertaining to CONTRACT shall be English. Any literature, correspondence, documents, etc., shall be considered only if its accompanied by English translation. For the purpose of interpretation English translation shall govern and be binding on all parties.

41.3 The metric system of measurement shall be used exclusively in the CONTRACT.

42.0 **RELEASE OF INFORMATION**

The CONTRACTOR shall not communicate or use in advertising, publicity, sales releases or in any other medium, photographs or other reproduction of the WORKS under this CONTRACT or descriptions of the SITE, dimensions, quantity quality or other information, concerning the work unless prior written permission has been obtained from the OWNER. Notwithstanding the above, CONTRACTOR is entitled, under intimation to OWNER, to make such public Announcements, as it may be bound to in compliance with the Law, the Rules and any Governmental Agency or Stock Exchange Regulation etc., for time being in force the CONTRACTOR is subjected to.

43.0 **COMPLETION OF CONTRACT**

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Unless otherwise terminated under the provisions of any other relevant clause, this CONTRACT shall be deemed to have been completed at the expiry of the DEFECT LIABILITY PERIOD.

44.0 ENFORCEMENT OF TERMS

The failure of either party to enforce at any time any of the provisions of this CONTRACT or any rights in respect thereto or to exercise any option herein provided, shall in no way be construed to be a waiver of such provisions, rights or options or in any way affect the validity of the CONTRACT. The exercise by either party of any of its rights herein shall not preclude or prejudice either party from exercising the same or any other right it may have hereunder.

45.0 OWNER'S DECISION

45.1 In respect of all matters which are left to the decision of the OWNER including the granting or withholding of the certificates, the OWNER shall, if required to do so, by the CONTRACTOR, give in writing a decision thereon.

45.2 In each case involving a financial commitment the written APPROVAL of the OWNER alone shall be binding.

45.3 In matters of difference of opinion on a decision passed by the OWNER to the CONTRACTOR stipulations of Clause 39.0 shall govern.

46.0 CO-OPERATION



46.1 Co-operation with OWNER

The CONTRACTOR and OWNER shall co-operate with each other in the discharge of their respective obligation under the CONTRACT with the aim of satisfactory completing the PLANT and the WORKS in accordance with the CONTRACT.

46.1.1 The parties shall deal fairly, openly and in good faith with each other. Subject to Clause 53 (Secrecy), each party shall disclose information which the other might reasonably need to order to exercise its rights and to perform its obligations under the CONTRACT. In particular, each party shall promptly disclose full information to the other concerning any matter which will or may prevent the Plant and Works being completed in accordance with the CONTRACT. The parties shall work together in a manner consistent with their respective obligations under the CONTRACT to resolve or mitigate any such problem.

46.1.2 OWNER shall be at liberty to object to employment of any person at SITE and the objection shall be communicated in writing and CONTRACTOR shall make immediate arrangements for removal of such person.

46.2 Cooperation with other contractors

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The CONTRACTOR shall not object to the execution of the work by other contractors or tradesmen engaged by OWNER and offer them every facility for the execution of their several works simultaneously with CONTRACTOR's work provided however that CONTRACTOR's WORK is not hampered by such cooperation. CONTRACTOR shall at all times provide sufficient fencing, notice boards, lighting and watchmen to protect and warn the public and guard the works and in default there of OWNER may provide such facilities at CONTRACTOR's cost, if such failure is attributable to CONTRACTOR.

The CONTRACTOR shall agree to cooperate with the OWNER and other contractors and freely exchange with them such technical information, provided that such contractor is bound towards CONTRACTOR on confidentiality and limited use obligations not less stringent than those accepted by OWNER under the CONTRACT and LICENSE AGREEMENT and shall not be a competitor of CONTRACTOR and its licensors, as is necessary to obtain the most efficient and economical design and to avoid unnecessary duplication of efforts. The OWNER shall be provided with three (3) copies of all correspondence addressed by the CONTRACTOR to other SUB-CONTRACTORS in respect of such exchange of technical information.



47.0 SUSPENSION OF WORK

47.1 The OWNER reserves the right to suspend and reinstate execution of the whole or any part of the WORK without invalidating the provisions of the CONTRACT. Orders for suspension or reinstatement of the WORKS will be issued by the OWNER to the CONTRACTOR in writing. The time for completion of the WORKS will be extended for a period equal to the duration of the suspension.

47.2 If such suspension of WORK by OWNER delays or is likely to delay the progress of WORK or the carrying out of WORK under CONTRACT resulting in additional expenses or increased liability to CONTRACTOR, the OWNER shall pay to the CONTRACTOR all reasonable expenses, mutually agreed between OWNER and CONTRACTOR, arising from suspension of the work by an order in writing of the OWNER provided that such suspensions of work is more than a cumulative period of Sixty (60) days and provided that such suspension is not due to some fault on the part of the CONTRACTOR or a SUB-CONTRACTOR.

48.0 REPLACEMENT OF PARTS AND MATERIALS DEFECTIVE/DAMAGED/LOST DURING TRANSIT/ ERECTION AND COMMISSIONING.

48.1 If during the progress of the WORKS, the OWNER shall decide and inform in writing to the CONTRACTOR that the CONTRACTOR has manufactured any plant or part of the plant unsound or imperfect or has furnished any plant inferior to the quality specified, the CONTRACTOR on receiving details of such defects or deficiencies shall at his own expense, within seven (7) days of his receiving the notice or otherwise within such time as may be reasonably necessary for making it good, proceed to alter, reconstruct or remove such work and furnish fresh equipment upto the standards of the specifications. In case the CONTRACTOR fails to do so, the OWNER may on

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giving the CONTRACTOR seven (7) days' notice in writing of his intentions to do so, proceed to remove the portion of the works so complained of and at the cost of the CONTRACTOR perform all such work or furnish all such equipment provided that nothing in this clause shall be deemed to deprive the OWNER of or affect any rights under the CONTRACT which the OWNER may otherwise have in respect of such defects and deficiencies.

48.2 The CONTRACTOR's full and extreme liability under this clause shall be satisfied by the payments to the OWNER of the extra cost, of such replacement procured including erection as provided for in the CONTRACT, such extra cost being the ascertained difference between the price paid by the OWNER for such replacements and the CONTRACT price portion for such defective plants and repayments of any sum/ paid by the OWNER to the CONTRACTOR in respect of such defective plant.

48.3 If the material/ equipment or any portion thereof is damaged or lost during transit and handling, storage, erection, commissioning at site, the replacements of such material / equipment shall be effected by the CONTRACTOR within a reasonable time to avoid unnecessary delay in the COMMISSIONING of the EQUIPMENT and without waiting for realisation of cost of damages from the insurance company, appointed by him for this purpose. This will not alter the schedule of commissioning & guarantee tests in any way.



49.0 DEFENCE OF SUITS

49.1 If any action in Court is brought against the OWNER or an officer or agent of the OWNER for the failure omission or neglect on the part of the CONTRACTOR to perform any acts, matters, covenants or things under the CONTRACT, or for damage or injury caused by the alleged omission or negligence on the part of the CONTRACTOR, his agents representatives or his SUB-CONTRACTORS or in connection with any claim based on lawful demands of SUB-CONTRACTORS, workmen, suppliers or employees, the CONTRACTOR shall in all such cases indemnify and keep the owner and/ or his representative harmless from all losses damages, expenses or decrees arising out of such action.

49.2 The OWNER shall have full power and right at his discretion to defend or comprise any suit or pay claim or demand brought or made against him as aforesaid whether pending or threatened as he may consider necessary or desirable and shall be entitled to recover from the CONTRACTOR all sums of money including the amount of damages and compensation and all legal costs, charges and expenses in connection with any compromise or award which shall not be called into question by the CONTRACTOR and shall be final and binding upon him.

50.0 CONTRACTOR'S RESPONSIBILITIES

50.1 In consideration of payment by the OWNER, the CONTRACTOR shall regularly and diligently carry out and complete the WORKS in accordance with the CONTRACT.

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50.2 All work carried out by the CONTRACTOR shall be carried out with sound workmanship and materials, safety and in accordance with good engineering practice, applicable Legislation and codes.
The Work shall be carried out in accordance with the Contract requirements, as per Clause 50.4.

50.3 The CONTRACTOR shall set out the PLANT by reference to points, lines and levels of reference as defined in the approved SPECIFICATION.

50.4 The PLANT/WORKS as completed by the CONTRACTOR shall in every respect comply with the requirements defined in the Specification or any other provision of the CONTRACT.

50.5 If any time during the performance of the CONTRACT the CONTRACTOR is of the opinion that a change to the WORKS or the design or method of operation of the PLANT

(a) is necessary to eliminate a potential defect in the PLANT or a specific hazard to any person or party in the performance of the WORKS or in the operation of the PLANT which has occurred or would otherwise occur' or

(b) would improve operating or life cycle costs of the PLANT; or

(c) would otherwise be beneficial to the OWNER;

the CONTRACTOR shall bring the matter to the attention of the PROJECT MANAGER stating the reasons for his opinion and where appropriate submit his proposals for a Variation in accordance with Clause 3 of SPECIAL CONDITIONS OF CONTRACT.



50.6 The CONTRACTOR shall at all times have and maintain adequate resources available for the proper and timely execution of the WORKS, including financial resources, and competent, appropriately experienced and physically capable staff and labour whether employed by the CONTRACTOR, any SUB-CONTRACTOR or third parties.

50.7 The CONTRACTOR shall provide and maintain records as specified in the CONTRACT.

Unless otherwise agreed, the CONTRACTOR shall, at intervals of not more than one calendar month, report to the PROJECT MANAGER on the progress of the WORKS, supporting his reports with appropriate Documentation including any revisions to the approved programme.

50.8 The CONTRACTOR shall maintain, and cause SUB-CONTRACTORS to maintain, a quality assurance system as specified in the CONTRACT. The existence of such a quality assurance system shall not relieve the CONTRACTOR from any of his other duties, obligations or liabilities under the CONTRACT. The CONTRACTOR shall also prepare and implement a validation plan, if such a requirement is specified in the CONTRACT.

51.0 PROGRESS REPORTS AND PHOTOGRAPHS

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51.1 The CONTRACTOR shall furnish six (6) prints each of progress photographs of the work done in his shop/site. Photographs shall be taken when and where indicated by the PROJECT MANAGER. Photographs shall be approximately 8 inches by 10 inches in size, including a margin on one 10 inch side for binding. Adequate number of photographs shall be submitted indicating various stages of manufacture and erection. Each photograph shall contain the date, the name of the CONTRACTOR and the title of the view taken.

51.2 Required number of monthly progress reports, in prescribed proforma, shall be submitted by the CONTRACTOR to the PROJECT MANAGER for review. These shall detail the status of design, procurement of raw materials and bought outs, approval of the CONTRACTOR's drawings, manufacture of the equipment, statutory approvals taken, inspection of equipment/material, completed despatches, materials received at site, damages, if any, during transit, actions taken or replacement of damaged equipment, progress of erection work and programme of work for succeeding month and statement showing position of payment.

52.0 SPARES



All the necessary commissioning spares shall be included in the scope of CONTRACT. Further bidder shall quote for Mandatory Spares/ Insurance spares and other requirements for spares as per Part-II, Technical, Sec.-13.0 of NIT.

53.0 SECRECY

The technical information, drawings, specifications and other related documents forming part of the NIT or the CONTRACT or such of those materials prepared during the execution of the project including photographs, micro-films, design, calculations etc. are the property of the OWNER and shall not be used for any other purpose, except for execution of contract. All rights, including rights in the event of grant of a patent and registration of designs are reserved. The technical information, drawings, specifications, records and other documents shall not be copied, transcribed, traced or reproduced in any other form or otherwise in whole and/or duplicated, modified, divulged and / or disclosed to a third party nor misused in any other form whatsoever, without the OWNER's previous consent in writing except to the extent required for the execution of this CONTRACT. Such technical information, drawings specifications and other related documents furnished shall be returned to the OWNER with all approved copies and duplicates, if any, immediately after they have been used for the agreed purposes.

For avoidance of any doubt it may be clarified that this clause relate to documents prepared by OWNER.

In the event of any breach of this provision, the CONTRACTOR shall indemnify the OWNER from any loss, cost or damage or any other claim whatsoever from any parties claiming from or through them in respect of such breach.

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All intellectual property rights in documents and calculations prepared by CONTRACTOR shall at all times exclusively vest with CONTRACTOR and be used by OWNER in accordance with the CONTRACT.

53.2 Records of Contract Documents

53.2.1 The CONTRACTOR shall at all times make and keep sufficient copies of the DRAWINGS, Specifications and CONTRACT documents for him to fulfil his duties under the CONTRACT.

53.2.2 The CONTRACTOR shall keep on each SITE at least three copies of each and every Drawing, Specification and CONTRACT Document in excess of his own requirement and those copies shall be available at all times for use by the OWNER and PROJECT MANAGER and by any other person authorized by the OWNER who have a need to know the same for the PROJECT, who shall be provided an adequately sized site office or offices, for the safe-keeping and use of such documents, by the CONTRACTOR throughout the duration of the CONTRACT. Where one or more of CONTRACTOR'S yards/offices/offshore spreads are deployed in the WORKS, all requirements of the CONTRACT and CONTRACTOR'S obligation under the CONTRACT shall apply equally at each yard/office/offshore spread so deployed..

54.0 CORRESPONDENCE

54.1 All correspondence from the CONTRACTOR to the OWNER shall be as per the correspondence distribution schedule. All communications including technical-commercial clarification and/or comments shall be addressed to OWNER and shall always bear reference to CONTRACT.

54.1.1 Correspondence on technical and commercial matters shall be dealt with in separate letters and each copy of the letter shall be complete with all Annexure, if any.

54.2 Any notice to the CONTRACTOR under the terms of the CONTRACT shall be served by registered mail/Speed Post, fax , or courier.

54.3 Any notice to the OWNER shall be served from the CONTRACTOR's Principal office in the same manner.



54.4 Any written order or instruction of OWNER or his duly authorised representative, communicated to authorised representative of the CONTRACTOR at site office shall be deemed to have been communicated to the CONTRACTOR at his legal address.

54.5 A notice shall be effective when delivered or on date of the notice, whichever is later.

55.0 MATERIALS AND EQUIPMENT

55.1 Materials

55.1.1 CONTRACTOR shall supply, to the OWNER, all materials required for incorporation in the permanent works as determined by the CONTRACTOR, within the scope of work, to be necessary to establish, commission and operate (so far as concerns mandatory

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spares) the PLANT/ Unit delivered on CIF basis at Indian port of CONTRACTOR's choice in respect of imported materials and delivered ex-factory at the price of materials specified in the Price Schedule. It is hereby clarified that the said contract shall include a contract for the sale and supply within the price of all materials (and any recoveries in respect thereof under any policy of insurance) required for the replacement of any defective materials and any materials lost, damaged or destroyed during transit, storage, fabrication, erection or otherwise prior to the issue of PRELIMINARY ACCEPTANCE CERTIFICATE.

55.1.2 **INVOICES**



CONTRACTOR's invoices shall be raised as per the approved billing schedule.

- (a) The CONTRACTOR's invoice shall be in the format with all the requisite information as prescribed under GST Laws.
- (b) Before raising GST invoices post appointed date, CONTRACTOR shall coordinate with the OWNER with respect to address and GSTIN number on which such invoices have to be raised.

55.1.3 The CONTRACTOR shall be responsible at his own cost and initiative within the scope of services, to take delivery of the materials from the port of delivery in India in respect of imported materials and from the factory or ware-house or other place(s) of delivery in respect of indigenous materials and to transport these to the CONTRACTOR's stockpiles, godowns or other places of storage approved by the PROJECT MANAGER, and to transport the same from said godowns or place(s) of storage to the work site for installation in the permanent WORKS.

55.1.4 The work of delivery and transportation of materials shall include (but not be limited to) the following:

- i) Clearance of the goods through custom and port clearance including filling and/or filing of all custom manifests, bills of entry, and custom declarations and other documents as may be required for the clearance of the goods from customs or port authorities, for which purpose the OWNER shall, from time to time, grant to the CONTRACTOR or the CONTRACTOR's designate(s), such authority(ies) as may be reasonably required by the CONTRACTOR in this behalf.
- ii) Stevedoring, clearing, forwarding and handling services as required for clearing, forwarding and handling imported and indigenous materials and consignments including payment at CONTRACTOR's cost of any demurrage, wharfage, port charges, siding charges, retention charges, detention charges or other charges whatsoever and howsoever designated or levied by any railway, air-port, ship and/or other authorities for or in connection with the loading, unloading or detention of any materials or vessels or other means of

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transport beyond the free period or unloading, clearance, retention or detention or loading, as the case may be, provided by the relevant authority(ies) or carrier(s) in this behalf.

- iii) All works and operations necessary to lift and to remove the material from port, ware-house, railway or other siding, factory or other places of delivery, loading, handling, transporting and unloading and safely stacking, placing or storing the same at approved godowns, yards or other place(s) of storage including lashing or other-wise securing or protecting the same in transit and during and in storage.
- iv) Supply, procurement, mobilization, and deployment of all labour thereof, equipment & machinery necessary for lifting, loading, handling, removing, transporting, unloading, stacking or securing the materials.
- v) Transit and storage insurance of all materials for the full replacement value thereof delivered at site.
- vi) All acts, deeds, matters or things required to fulfil all local, municipal and other statutory authorities with respect to the transportation of any materials through or into any State, municipal, local or other barriers or limits or for the import of the materials or any of them within the limits of such barrier, including payment of octroi/ entry tax or other local toll, terminal and/or entry or other taxes payable on the passage or entry of the materials through or within any local limits, for which purpose the OWNER shall give the CONTRACTOR and/or CONTRACTOR's designate(s) any and all authority(ies) as may be reasonably required in this behalf. If Road Permits, Entry Permits, Transit Permits or the like for the transportation of any materials is to be obtained in the name of the OWNER, the OWNER shall at the request of the CONTRACTOR sign and provide such documents as are required to be furnished by the OWNER to obtain the Permit(s).
- vii) All other acts, deeds, matters and things whatsoever ancillary, auxiliary or incidental to the above including but not limited to the grading of the site and/or creation of temporary approaches and ramps etc. as may be required.

55.2 GENERAL PROVISION WITH REGARD TO MATERIALS

55.2.1 The CONTRACTOR shall, within the scope of work, undertake the following activities and responsibilities with respect to and in addition and without prejudice to the activities and responsibilities under Clause 55.1 and associated clauses there under in respect of materials:

- i) The CONTRACTOR shall in taking delivery, ensure compliance of any condition for delivery applicable to deliveries from the concerned authority or carrier, and shall be exclusively responsible to pay and bear any detention,



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demurrage or penalty or other charges payable by virtue of any delay or failure by the CONTRACTOR in lifting the materials or in observing any of the conditions aforesaid, and shall keep the OWNER indemnified from and against all consequences thereof



- ii) The CONTRACTOR shall maintain a day-to-day account of all materials indicating the daily receipt(s), consumption(s) and balance of each material and category thereof. Such account shall be in the format, if any, prescribed by the PROJECT MANAGER and shall be supported by all documents necessary to verify the correctness of the entries in the account. Such account shall be maintained at the CONTRACTOR MANAGER's office and site(s) and shall be open for inspection and verification (by verification of documents in support of the entry as also by feasible verification of the stock) at all times by the PROJECT MANAGER with authority at all times without obstruction to enter into or upon any godown or other place(s) or premise(s) where the materials or any part of them are lying or stored and to inspect the same himself and or through his representative(s).
- iii) All materials shall be taken delivery of, held, stored and utilised by the CONTRACTOR as Trustee of the OWNER, and delivery of the material to the CONTRACTOR shall constitute an entrustment thereof to the CONTRACTOR, with the intent that any utilization, application or disposal thereof by the CONTRACTOR otherwise than for permanent incorporation in the contractual works in terms of the contract shall constitute a breach of trust by the CONTRACTOR.
- iv) All MATERIALS, including materials in respect of which licences / release orders/permits/ authorization have been accorded in the name of the OWNER shall, without prejudice to the responsibility/liability of the CONTRACTOR in respect thereof, vest in the OWNER
- upon shipment from the country of manufacture [FOB basis] with respect to the items to be procured or supplied from the source outside India and,
 - ex-works VENDOR shop with respect to the items to be procured in India.

and the CONTRACTOR shall be deemed to be acting on behalf of the OWNER, importer of records, and as an agent of the OWNER in respect of deliveries taken by the CONTRACTOR

- v) The CONTRACTOR shall at all times be exclusively responsible for any and all losses, damages, deterioration, misuse, wastage, theft, or other application or misapplication or disposal of the materials or any of them contrary to the provisions hereof and shall keep the OWNER indemnified from and against the same and shall forthwith at its own cost and expenses replace any such material, lost, damaged, deteriorated, misused, wasted, stolen, applied, mis-applied and/or disposed as aforesaid with other material of equivalent quality and quantity delivered to site at the CONTRACTOR's risks and costs in all respects.

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- vi) The CONTRACTOR shall take out, at his own cost and keep in force at all times, during transit, handling, storage, and erection upto completion in all respect of the work, policy(ies) with Insurance Company(ies) approved by the OWNER for the full replacement value of the materials at site against the risks hereinafter specified. Such policies shall be in the joint names of the OWNER and the CONTRACTOR, with exclusive right in the OWNER to receive all monies due in respect of such policy(ies) and with right in the OWNER (but without obligation to do so) to take out and pay the premia for any such policy(ies) and deduct the premia and any other costs and expense in this behalf from the monies for the time being due or in future becoming due to the CONTRACTOR.
- a) Notwithstanding anything herein provided, the CONTRACTOR shall be and remain solely and exclusively liable to repair, restore or replace, as the case may be, the materials damaged or destroyed as a result of any act or omission, notwithstanding the existence or otherwise of any policy(ies) of insurance aforesaid, with the intent that any policy(ies) of insurance aforesaid taken out by the CONTRACTOR or by the OWNER, on default by the CONTRACTOR, shall not anyway absolve the CONTRACTOR from his full liability up to and until issue of the Completion Certificate as provided for herein in respect of the works, the work(s) and all materials incorporated therein shall be and remain at the risks of the CONTRACTOR in all respects, including (but not limited to) accident, lightning, earth-quake, fire, storm, flood, tempest, riot, civil commotion and/or war or otherwise with respect to the materials, but shall constitute merely an additional security and not a substitution of liability.
- b) It shall be the exclusive responsibility of the CONTRACTOR to lodge and pursue any or all claims in respect of the insurance aforesaid.
- c) The CONTRACTOR shall, as a condition to the certification of any Running Account Bill, satisfy the OWNER/ Project Manager of the existence of one or more policy(ies) of insurance, covering the materials as specified herein. The policy(ies) of insurance aforesaid shall cover all insurable risks, including but not limited to, any loss or damage commencing from the supplier's ware house in handling, transit, storage and during erection, theft, pilferage, riot, civil commotion, force majeure (including earth quake, flood, storm, cyclone, tidal wave, lightening and other adverse weather conditions), accidents of kinds, fire, war risks and explosion.
- d) Wherever total damages/loss of EQUIPMENT/MATERIAL, would occur, the CONTRACTOR will be entitled to payment of all payments received from the underwriters. However, following amounts shall be withheld:
1. The amount paid to the CONTRACTOR under the CONTRACT in respect of EQUIPMENT/MATERIAL damaged/lost (excluding the pro-rata advance(s) already paid to the CONTRACTOR.
 2. Custom Duties and other taxes and duties which have already been paid by the OWNER.
- e) In the event the claim money settled is less than the total of the amount in 1 & 2 above, then the entire claim money settled will be withheld by the OWNER and

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the balance shall be retained out of the subsequent payments due to the CONTRACTOR.

The aforesaid withheld amount shall be released to CONTRACTOR on fulfillment of corresponding conditions under terms of payment.



Subsequent payments, if any, due under the CONTRACT shall be regulated by the relevant terms of payment.

- f) In case of damage to any equipment/material during any stage, the CONTRACTOR upon rectification of the damaged equipment to the satisfaction of the OWNER shall be paid to the extent of full claims settled by the underwriters.
- g) For avoidance of doubt it is clarified that the insurance settlement amount shall not be used by OWNER as income or profit.
- vii) Notwithstanding anything herein provided and notwithstanding the transference of all risks in respect of the materials to the CONTRACTOR, the ownership in respect of the material shall at all times be and remain in the OWNER.
- viii) An inventory shall be made by the CONTRACTOR of all surplus construction materials and empties including but not limited to scrap, wastages and unserviceable material supplied and/or remaining in the hands of the CONTRACTOR upon completion of the CONTRACT for whatsoever reason, and the CONTRACTOR shall forthwith, upon being required to do so, place the OWNER in undisputed possession of and transport the said material to the OWNER's stores or otherwise as reasonably directed by the PROJECT MANAGER.
- ix) If the CONTRACTOR shall default in replacing at the job site, free of any cost to the OWNER, any material lost, damaged, deteriorated, misused, wasted, short, stolen, misapplied or disposed of within the provisions hereof above, or shall fail to return to the OWNER any surplus material or empties within the provision hereof above, the CONTRACTOR shall be liable to pay to the OWNER the cost of such materials or empties delivered at OWNER's stockpile/godown

55.3.0 **BILLS OF MATERIALS**

55.3.1 The CONTRACTOR shall furnish to the OWNER a detailed Bill of Materials specifying the materials, which on preliminary determination made by the CONTRACTOR, will be required to be incorporated in the permanent works in order to establish the WORKS/ Unit and to operate the PLANT/Unit (to the extent of the mandatory spares), including construction materials.

55.3.2 Each item entered in the Bill of Materials shall be priced, so far as possible, in conformity with the details given in this behalf in the priced bid. The Bill of Materials and said price break-up therein and in the price bid are intended only to form a basis for the purpose of calculating on account payments and for calculating payments due

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to the CONTRACTOR under Clause 34.0 of GCC upon cancellation of contract, and for no other purpose.



55.3.3 The OWNER shall review or cause to be reviewed the prima facie adequacy, sufficiency, validity and/or suitability of the materials listed in the Bill of Materials for the works for which they are intended, and of the prices indicated in the Bill of Materials in respect thereof. Such review shall be performed in conjunction with the design, engineering, specification and other technical reviews to be done by the OWNER and all provisions applicable thereto with reference to critical drawings shall be applicable to the review of the Bill of Materials.

55.3.3.1 The priced Bill of Materials as approved by the OWNER shall constitute the Bill of Materials envisaged in the contract documents. However, no such approval shall, in any manner, absolve the CONTRACTOR of his full responsibility under the CONTRACT to sell and supply to the OWNER at and within the price of materials quoted in the Price Schedule, all materials required for the permanent incorporation in the works and which are required to establish, commission and operate (to the extent of mandatory spares) the PLANT/ Unit in accordance with the CONTRACT and the specifications, complete in all respects including spares, tools, tackles and testing equipment, so far as included within the scope of supply, whether or not any particular material is actually included within or omitted in the Bill of Materials and whether or not the price thereof is included in the price indicated in the Bill of Materials and whether or not the price thereof is in conformity with the price thereof indicated in the Bill of Materials. The review and approval of the Bill of Materials and the prices therein are intended only for the satisfaction of the OWNER that the priced Bill of Materials, prima-facie covers the materials required to be supplied by the CONTRACTOR within the scope of supply.

55.3.4 The Bill of Materials shall be subject to amendment in both items and prices in so far as necessary consequent upon any amendment in any relevant related technical particulars, and upon any amendment, the amended Bill of Materials as approved by the OWNER, shall thereafter constitute the Bill of Materials as envisaged in the CONTRACT documents, provided that unless the amendment results from a CHANGE ORDER and/or agreed variation, no such amendment shall anyway impose any liability on the OWNER to pay customs and other import duties in excess of the customs and other import duties payable on the value of imported materials as indicated in the Price schedule but for such amendment.



55.4 **SUPPLY OF MATERIALS**

55.4.1 The CONTRACTOR shall supply the materials required to be supplied within the Contractor's scope of supply for incorporation in the permanent works in accordance with and to meet the requirements in quality, quantity and other particulars of the descriptions, specifications, plans, drawings, designs and other documents applicable thereto, and the CONTRACTOR shall be deemed to have undertaken that all materials selected, procured and supplied by the CONTRACTOR within the scope of supply shall be of the best quality and workmanship and shall be capable of producing the

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designed desired results and to perform the designed and desired functions to meet the contractual requirements in all respects for the project.

- 55.4.2 The CONTRACTOR shall undertake and complete the supply of materials within the scope of supply to meet the scheduled progress and requirements of the WORK within the scope of work.
- 55.4.3 Within 30 (thirty) days from the EFFECTIVE DATE OF CONTRACT, the CONTRACTOR shall submit to the OWNER for approval in respect of each work or groups of work, a detailed Delivery Schedule in Graphical or other suitable form giving dates of starting and finishing the various supplies relating to the WORK, providing sufficient margin to cover for contingencies. The PROJECT MANAGER and the CONTRACTOR shall thereafter, within 14 (Fourteen) days, settle the Delivery Schedule which shall form part of the CONTRACT with attendant obligations upon the CONTRACTOR to make the various deliveries/supplies involved on or before the date(s) mentioned in respect thereof in the Delivery Schedule.
- 55.4.4 All materials shall be deemed to have been accepted only when the material is received at the project site and accepted by the PROJECT MANAGER. Such acceptance shall however, be subject to the terms and conditions hereof, including the right of rejection and/or replacement as elsewhere herein specified.
- 55.4.5 Deleted.
- 55.4.6 Any reference in the CONTRACT documents to the “approved Delivery Schedule” or to the “Delivery Schedule” shall mean the approved Delivery Schedule specified in Clause 55.4.3 above or the Delivery Schedule prepared and issued by the PROJECT MANAGER, whichever shall be in existence.
- 55.4.7 Within 7 (Seven) days of the occurrence of any act, event or omission which, in the opinion of the CONTRACTOR, is likely to lead to delay in the commencement or completion of delivery of any particular material or of all material and is such as would entitle the CONTRACTOR for an extension of the time specified in this behalf in the Delivery Schedule(s), the CONTRACTOR shall inform the PROJECT MANAGER in writing of the occurrence of the act, event or omission and date of commencement of such occurrence. Thereafter, if even upon the cessation of such act or event or the fulfilment of the omission, the CONTRACTOR is of opinion that an extension of time specified in the Delivery Schedule related to particular material(s) or in relation to all materials is necessary, the CONTRACTOR shall within 7 (Seven) days after the cessation or fulfilment as aforesaid make a written request to the PROJECT MANAGER for extension of the relative time specified in the Delivery Schedule and the PROJECT MANAGER shall at any time, prior to completion of the work, extend the relative time of completion in the Delivery Schedule for such period(s) as he considers necessary, if he is of reasonable opinion that such act/event/omission constitutes a ground for extension of time in terms of the CONTRACT and that such act/event/omission has in fact resulted in insurmountable delay to the CONTRACTOR.

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55.4.8 Notwithstanding the provisions of Clause 55.4.7 hereof, the OWNER may at any time after the completion of the work in all respects at the request of the CONTRACTOR made by way of appeal either against a decision of the PROJECT MANAGER taken under Clause 55.4.7 or against the PROJECT MANAGER's refusal to take a decision under the said clause, if satisfied of the existence of any ground(s) justifying the delay/omission, extend the date of delivery of any materials for such period(s) as the OWNER may consider necessary.

55.4.9 Subject as elsewhere herein or in the CONTRACT documents, otherwise expressly provided, only the existence of force majeure circumstances as defined in Clause 55.4.10 hereof, shall afford the CONTRACTOR a ground for extension of time for delivery of materials, and specifically without prejudice to the generality of the foregoing:

- i) Inclement or unforeseen weather, strike or lock-out (except as provided in Clause 55.4.10), shutdown, third party breach, delay in payment or commercial hardship shutdown or idleness or other impediment in progress or completion of the supply or work due to any reason whatsoever shall not afford the CONTRACTOR a ground for extension of time or relieve the CONTRACTOR of his/its full obligations under the CONTRACT.
- ii) No delay whatsoever in the supply of any material by the CONTRACTOR or any of the CONTRACTOR's vendors, suppliers or SUB-CONTRACTORS shall anyway entitle the CONTRACTOR to any extension of time for completion or to any claim for additional costs, remuneration or damages or compensation notwithstanding that an increase in the time of performance of the CONTRACT is involved by virtue of the delay or failure and notwithstanding that any labour, machinery or equipment brought to or upon the job site by the CONTRACTOR or any SUB-CONTRACTOR is rendered idle by such delay.

55.4.10 "Force Majeure" shall mean an event beyond the control of the CONTRACTOR and not involving the CONTRACTOR's fault or negligence and not foreseeable as per Clause 35.0 of GCC.

55.4.11 No assurance, representation, promise or other statement by any personnel, Engineer or representative of the OWNER regarding the extension of time for the supply by the CONTRACTOR of any material within the CONTRACTOR's scope of supply shall be binding upon the OWNER or shall constitute an extension of time for the supply of any material(s) within the provision of Clause 55.4.7 or Clause 55.4.8 hereof, unless the same has been communicated by the PROJECT MANAGER to the CONTRACTOR in writing under Clause 55.4.7 or by the CEO / C&MD/ Managing Director under Clause 55.4.8 and the writing specifically states that it constitutes an extension of time within the provisions of Clause 55.4.7 or 55.4.8, as the case may be. Without prejudice to the foregoing, it is clarified that the mere agreement, acceptance or prescription of a Delivery or other Schedule containing an extended time of commencement or

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completion in respect of the entire delivery(ies) or any of them shall not anyway constitute an extension of time in a terms of the CONTRACT so as to bind the OWNER or relieve the CONTRACTOR of all or any of his liabilities under CONTRACT, nor shall constitute a promise on behalf of the OWNER or a waiver by the OWNER of any of its rights in terms of the contract relative to the performance of the CONTRACT within the time specified or otherwise, but shall be deemed only (at the most) to be a guidance to the CONTRACTOR for better organising his work on a recognition that the CONTRACTOR has failed to organise his supplies and/or make the same within the time specified in the Delivery Schedule.

55.4.12 If the CONTRACTOR fails to supply the materials in accordance with the dates in this behalf specified in the Delivery Schedule which has an impact on the critical path of the schedule, the CONTRACTOR shall provide the OWNER with a suitable plan to recover the delay, but without prejudice to any other rights, discount or remedy available to the OWNER in respect of such delay or failure.



55.4.13 **MAKE OF MATERIALS**

- i) All equipment and materials to be supplied under this CONTRACT shall be from approved vendors as indicated in the Bidding Document or as otherwise approved by the PROJECT MANAGER / OWNER.
- ii) Wherever any item is specified by a brand name, manufacturer or vendor, the make mentioned shall be for establishing type, function and quality desired. Other makes will be considered, provided sufficient information is furnished to the OWNER/ PROJECT MANAGER, to assess the makes proposed by the CONTRACTOR as equivalent and acceptable and approved by PROJECT MANAGER.
- iii) Where the makes of materials are not indicated in the Bidding document, the CONTRACTOR shall furnish details of proposed makes and supplies and supply the same after obtaining the OWNER's/ PROJECT MANAGER's approval.

55.5 **CERTIFICATE OF VERIFICATION AND GOOD CONDITION**

55.5.1 The CONTRACTOR shall, before supply of material covered within the scope of supply, at his own risks, costs and initiative, undertake or cause to be undertaken all tests, analysis and inspections as shall be required to be undertaken with regard to the materials under the specifications and any codes, practices, orders and instructions with respect thereto and shall cause the results thereof to be recorded, reported or certified, as the case may be, and shall not offer for delivery or deliver any material(s) which has/have not passed such tests/analysis or inspection and which are not accompanied by the tests results, reports and/or certificates in this behalf provided in the applicable specifications, code(s) and/or practices.

55.5.2 On arrival of the material at site the CONTRACTOR shall give written notice thereof to the PROJECT MANAGER or Inspection Agency notified by the OWNER in this behalf,

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to inspect the materials, and shall keep in readiness for inspection, the materials and the relevant tests results, reports and certificates hereto.

55.5.3 Notwithstanding any other provisions in the contract documents for analysis or tests of materials and in addition thereto, the CONTRACTOR shall, if so required by the PROJECT MANAGER or Inspection Agency in writing at his own risks and costs, analyse, test, prove and weigh all materials (including materials incorporated in the works) required to be analysed, tested, proved and/or weighed by the PROJECT MANAGER or Inspection Agency in this behalf and shall have such analysis or tests conducted by the agency(ies), or authority(ies) if any specified by the PROJECT MANAGER or Inspection Agency. The CONTRACTOR shall provide all equipment, labour, materials and other things whatsoever required for testing, preparation of the samples, measurement of work and/or proof of weighment of the materials as directed by the PROJECT MANAGER or Inspection Agency.



55.5.4 If on Inspection or proof, analysis or tests as aforesaid the PROJECT MANAGER or Inspection Agency nominated by the OWNER in this behalf is prima facie satisfied that the material received is in conformity with the material requirements of the Bill of Materials and description given in the shipping documents and in the CONTRACTOR's invoices in this behalf and that the test reports/results/certificates given in respect thereof are prima facie in conformity with the relevant result/reports/certificates required in respect thereof in terms of the specifications and/or relevant codes and practices, and that the material appears to be prima facie in good order and condition, the PROJECT MANAGER shall issue to CONTRACTOR, a Certificate of Verification and Good Condition in respect of such material, and this shall constitute the Certificate of Verification and Good Condition elsewhere envisaged in the CONTRACT documents.

55.5.5 Such certificate is only intended to satisfy the OWNER that prima facie the material supplied by the CONTRACTOR is in order and shall not anyway absolve the CONTRACTOR of his/its full responsibility under the CONTRACT in relation thereto, including in relation to specification fulfillment and/or performance or other guarantees.

55.5.6 Notwithstanding that any area(s) or source(s) has/have been suggested by the OWNER to the CONTRACTOR from which any material for incorporation in the WORKS can be obtained, the CONTRACTOR shall independently satisfy himself of the suitability, accessibility and sufficiency of the source(s) of supply suggested by the OWNER and suitability of the material available from such source(s) with the intent that any suggestion as aforesaid shall not anyway relieve the CONTRACTOR of his full liability in respect of the suitability and quality of the material(s) obtained from said source(s) and the CONTRACTOR shall obtain material(s) there from and incorporate the same within the permanent works entirely at his own risks and costs in all respects, with the intent that any such suggestion by the OWNER shall only be by way of assistance to the CONTRACTOR and shall not entail any legal responsibility or liability upon the OWNER.

55.6 **MATERIALS WITHIN THE CONTRACTOR'S SCOPE OF SUPPLY**

55.6.1 The OWNER does not warrant or undertake the provisions of any materials and the CONTRACTOR shall not imply, by conduct, expression or assurance or by any other

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means, any promise or obligation on the part of the OWNER in his respect understood by the CONTRACTOR.

55.7 Deleted



55.8 **PACKING AND FORWARDING**

(a) IMPORTED SUPPLIES

- The CONTRACTOR wherever applicable, shall, after proper painting, pack and crate all materials for shipment in a manner suitable for export to a tropical, humid climate in accordance with internationally accepted export practices and in such a manner so as to protect them from damage and deterioration in transit by road, rail and/or sea and during storage at the site till the time of erection. Without prejudice to any other liabilities or obligations of the CONTRACTOR, the CONTRACTOR shall be responsible for all damage(s) to the materials due to improper packing.
- The CONTRACTOR shall notify the OWNER and PROJECT MANAGER of the date of each shipment from the port of embarkation as well as of the expected date of arrival of such shipment at the designated port of arrival only for the OWNER's/ PROJECT MANAGER'S information.
- The CONTRACTOR's notification shall give complete shipping information concerning the weight, size and content of each package and such other information as the OWNER may require.
- The packing material used should be duly certified by a Phytosanitary Certificate issued as per international norms.
- Insurance Certificate (2 copies) or copy of MCE Policy
- Third Party Inspection Release Note or Inspection Certificate as per QAP approved by OWNER/ PROJECT MANAGER or waiver certificate issued by OWNER/ PROJECT MANAGER (2 copies).

(b) INDIGENOUS SUPPLIES

- The CONTRACTOR shall, wherever applicable, after proper painting, pack and crate all items in such a manner as to protect them from deterioration and damage during rail and road transportation to the site and during storage at the site till the time of erection. Without prejudice to any other liabilities or obligations of the CONTRACTOR, the CONTRACTOR shall be responsible for all damage(s) due to improper packing.

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- The CONTRACTOR shall notify OWNER/ PROJECT MANAGER of the date of each shipment from the works and expected date of arrival at the site for the information of OWNER/ PROJECT MANAGER.
- The CONTRACTOR's notification shall also give all shipping information concerning the weight, size and content of each packing and such other information as the OWNER/ PROJECT MANAGER may require.
- The following documents shall be sent to the OWNER/ PROJECT MANAGER within 10 (ten) days from the date of shipment :
 - Invoice (2 copies)
 - Packing List (2 copies)
 - Test Certificate (4 copies)
 - Railway Receipt/Lorry Receipt (2 copies)
 - Insurance Certificate (2 copies) or copy of MCE Policy
 - Third Party Inspection Release Note or Inspection Certificate as per QAP approved by OWNER/ PROJECT MANAGER or waiver certificate issued by OWNER/ PROJECT MANAGER (2 copies).

55.9 EQUIPMENT



55.9.1 The CONTRACTOR shall be exclusively responsible to arrange for importation into India in its own name on drawback or re-export or other basis all equipment, if any, required to be imported into India for the purposes of the WORK and to pay and bear the customs, import and other duties and levies (if any) payable thereon or in respect thereof, and will be solely responsible for the timely and proper compliance of all applicable terms and conditions and formalities relative thereto.

55.9.2 The CONTRACTOR shall within 4 (four) months from the date of receipt of Acceptance of Bid, furnish to the PROJECT MANAGER a list of the said equipment which he proposes to import into India on a draw-back/re-export basis for the purposes of the work, together with complete details thereof. The OWNER may without obligation or responsibility furnishes to the Import Licensing Authorities in India its recommendations relative to import of such equipment which the OWNER considers necessary for the work. The OWNER may also without obligation or responsibility render such assistance as may be reasonably required by the CONTRACTOR from the OWNER to enable the CONTRACTOR to obtain the relative Import License(s)/Permit(s) for the importation of the said equipment on a draw-back/re-export basis.

55.10 MISCELLANEOUS IMPORTS

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- 55.10.1 The CONTRACTOR shall be exclusively responsible at his own costs and initiative to arrange for importation into India, to import into India, to pay Custom duties and Port and other charges and levies, to clear from Customs and to transport to job site all consumables, spares for the CONTRACTOR's equipment and other materials and things whatsoever not covered under the OWNER's obligation provided that the OWNER may, without obligation or responsibility, render the CONTRACTOR such assistance by way of recommendation to the Import Control authorities in India or otherwise as may be reasonably required by the CONTRACTOR from the OWNER to enable the CONTRACTOR to obtain Import License(s)/Permit(s) for importation of such consumables, spares, material and other items as the OWNER considers necessary for importation by the CONTRACTOR for the purpose of the CONTRACT, taking into account local availability.
- 55.10.2 Any obligation undertaken or recommendation, facility or assistance provided by the OWNER to the CONTRACTOR for or in relation to the importation of any equipment or material whatsoever into India by or on behalf of the CONTRACTOR pursuant to the provisions hereof or otherwise shall be without any responsibility or liability whatsoever upon the OWNER and without right in the CONTRACTOR to raise any claim or demand or to seek extension of time on account of any delay or failure on the part of the OWNER or any delay or failure by the CONTRACTOR in obtaining Import License(s) and/or permits for importation thereof into India.
- 55.10.3 All materials and equipment Imported into India by or on behalf of the CONTRACTOR for and in connection with the WORK and any obligation undertaken or recommendation, facility or assistance provided by the OWNER relative thereto shall be on the clear understanding that the MATERIALS and EQUIPMENT shall be utilised only for and relative to the performance of the WORK covered by the CONTRACT.
- 55.10.4 All the EQUIPMENT and temporary works and MATERIALS when brought to or erected on the job site, shall be exclusively intended for execution of WORKS and the CONTRACTOR shall not remove the same or any part thereof, except for the purpose of moving it from one part of the job site to another, without the prior consent in writing of the PROJECT MANAGER.
- 55.10.5 Upon completion of the works, the CONTRACTOR shall within the scope of work remove from the job site all the equipment and temporary works remaining thereon.
- 55.10.6 All EQUIPMENT, MATERIALS and temporary works shall at all times be and remain at the risks of the CONTRACTOR in all respects. The OWNER shall not, at any time, be liable for the loss or destruction of or damage to any EQUIPMENT, temporary works or MATERIALS for any reason whatsoever.
- 55.11 UTILITIES AND CONSUMABLES ETC.**
- 55.11.1 Subject to any other provision to the contrary in the CONTRACT, the CONTRACTOR shall be and remain at all times exclusively responsible within the scope of work to provide all utilities, consumables, permits, licenses, easements and facilities and other items and things whatsoever required for or in connection with the WORK, including but not limited to those indicated by expression or implication in the bid documents

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and/or other CONTRACT documents or howsoever otherwise as shall be or may from time to time be necessary for or in connection with the WORK.

Construction Water, Service Air and Construction Power shall be provided, free of cost, by OWNER at a single point at Battery Limit.

56.0 MEASUREMENTS, CERTIFYING INSPECTIONS AND PAYMENTS

56.1 Final Measurements:

56.1.1 Within 15 (fifteen) days from the date of issue of Final Test Certificate in respect of the WORK, or of any portion of the WORKS, section, group or job site, as the case may be, Final Measurements for the WORKS covered by the Final Test Certificate shall be jointly taken by the PROJECT MANAGER and the CONTRACTOR as herein provided.

56.1.2 If the CONTRACTOR fails to apply to the PROJECT MANAGER for Final Measurements within 15 (fifteen) days from the date of relative Final Test Certificate as specified in Clause 56.1.1, the PROJECT MANAGER shall notify the CONTRACTOR in writing of the date(s) for Final Measurements, and require the CONTRACTOR to be present on date(s) so notified.



56.2 Mode of Measurement:

56.2.1 All measurements shall be recorded in the metric system, and shall be taken in accordance with the procedures set forth or provided for in the Schedule of Rates, Specifications and other CONTRACT Documents.

56.2.2 Where the mode of measurement is not provided for in the CONTRACT Documents in respect of any item of work, it shall be measured in accordance with the Indian Standard Specification No. 1200 (latest edition) and in the event of such item not being covered by Indian Standard Specifications, it shall be measured in accordance with the method of measurement in this behalf specified by the PROJECT MANAGER, whose decision in this regard shall be final and binding upon the CONTRACTOR.

56.2.3 All measurements shall be taken jointly by the PROJECT MANAGER and the CONTRACTOR or their respective representatives. The CONTRACTOR or his authorized representative shall be entitled to remain present at all times when joint measurements are being taken.

56.2.4 Despite due intimation, if the CONTRACTOR omits or fails to be present to witness joint measurements, the measurements shall be taken in the presence of the PROJECT MANAGER and the measurements so recorded and signed by the PROJECT MANAGER as correct, shall be final and binding upon the Parties.

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56.2.5 Except in cases covered by Clause 56.2.4, in all other cases measurements shall be signed and dated on each page by the CONTRACTOR / CONTRACT MANAGER and PROJECT MANAGER or his representative. If the CONTRACTOR objects to any of the measurements recorded, including the mode of measurement, such objection shall be noted in the measurement book against the item objected to and such note shall be dated and authenticated by the CONTRACTOR / CONTRACT MANAGER and PROJECT MANAGER or his representative. In the absence of any objection noted as aforesaid, the CONTRACTOR shall be deemed to have accepted the relative measurements as entered in the Measurement Book / Sheets and shall be barred from raising any objection in respect of any measurements recorded in the Measurement Book.

56.2.6 All objections noted in the Measurement Book in terms of Clause 56.2.5 shall be considered and decided within 15 days by the PROJECT MANAGER. The decision of the PROJECT MANAGER relative thereto (whether on the correct measurement to be adopted or on the mode of measurement to be adopted) shall be final and binding upon the Parties.



56.2.7 The measurement as finally recorded in terms of Clause 56.2.4 or Clause 56.2.5 or 56.2.6, as applicable, shall be the Final Measurement.

56.3 CERTIFYING INSPECTIONS

All provisions referred to in Clauses 56.1 to 56.2, in respect of Mode of Measurement, shall apply to all inspections required to be made in order to qualify the CONTRACTOR for any payment(s) under the CONTRACT and any reference in the said clauses to measurements shall, for the purpose of this clause, be deemed to be a reference to certifying inspections and any reference therein to the measurement book shall, for the purpose of this clause, be deemed to be a reference to the certifying inspection book.

56.4.0 FINAL BILL

56.4.1 On the basis of the LUMPSUM PRICE provided in the CONTRACT, the CONTRACTOR shall prepare a Final Bill in the prescribed form with reference to the total supplies covered by the scope of supplies and shall prepare a separate Final Bill with reference to the total services covered by the scope of services. Such Bill shall be prepared by applying the price of materials specified in Price Schedule in respect of supplies broken up with respect to the indigenous materials and with respect to imported materials (including plant, parts and components) in accordance with the break-up of the Price of Materials given the Price Schedule and the various formats there under, and by applying the price of services specified in the Price Schedule in respect of works/services broken up with respect to the various heads of services/works in accordance with the break-up of the Price of services given the Price Schedule and the various formats there under. Additions claimed to the LUMPSUM PRICE or reductions there from resultant upon any CHANGE ORDER(S) shall be separately indicated in the Final Bill with reference to the relative CHANGE ORDERS(S).

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56.4.2 The Final Bill shall, in addition to the payment entitlements arrived at according to the provisions of Clause 56.4.1 hereof separately state, include therein all claims of the CONTRACTOR if any with full particulars of the nature of such claim, grounds on which it is based and the amount claimed.

56.4.3 The Final Bill drawn in accordance with Clause 56.4.1 shall be submitted together with the PRELIMINARY ACCEPTANCE CERTIFICATE to the PROJECT MANAGER for certification, who shall certify the Final Bill, if drawn in accordance with Clause 56.4.1. After certification of the PROJECT MANAGER, the Final Bill shall be submitted in quadruplicate (or in such other number of copies as the OWNER may prescribe) accompanied by the PRELIMINARY ACCEPTANCE CERTIFICATE to the OWNER for payment.

56.4.4 All monies payable under the CONTRACT for WORKS to be performed and MATERIALS to be supplied up to and including successful completion and final tests and commissioning of the system and performance tests shall become due and payable to the CONTRACTOR only after submission to the OWNER of the Final Bill prepared in accordance with the provisions of Clause 56.4.1 hereof and associated provisions there under accompanied by the PRELIMINARY ACCEPTANCE CERTIFICATE in respect of the WORKS.

56.4.5 Payments of the amount(s) due on the Final Bill to the extent certified by the PROJECT MANAGER, shall be made within 84 (Eighty Four) days from the due date as specified in Clause 56.4.4 hereof, subject to the deductions provided in Clause 56.4.5.1.



56.4.5.1 All payments due to the CONTRACTOR on the Final Bill shall be subject to deduction of "on-account" payments and other amounts due from CONTRACTOR to the OWNER, tax deductions as provided for in Clause 56.7.2 and associated clauses there under, and any other deduction provided for herein or agreed to between the parties or required to be made under any law, rule or regulation having the force of law for the time being applicable, or elsewhere provided for in the CONTRACT documents.

56.5.0 PRICE SCHEDULE

56.5.1 The remuneration determined due to the CONTRACTOR as provided for in Clause 56.4.1 hereof shall constitute the entirety of the remuneration and entitlement of the CONTRACTOR in respect of the WORK under the CONTRACT, and no further or other payment whatsoever shall be or become due or payable to the CONTRACTOR under the CONTRACT.



56.5.2 Without prejudice to the generality of the provisions of Clause 56.5.1 hereof, the Price Schedule and LUMPSUM PRICE shall be deemed to include and cover (unless otherwise expressly specified to the contrary in any CONTRACT document(s)) :

- (i) All costs, expenses, outgoings and liabilities of every nature and description whatsoever and all risks whatsoever (foreseen or unforeseen, including force

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majeure) to be taken or which may occur in or relative to execution, completion, testing, commissioning and/or handling over the WORKS to the OWNER and/or in or relative to acquisition, loading, unloading, transportation, storing, working upon, using, converting fabricating, or erecting any item, equipment, system, material or component in or relative to the WORKS, and the CONTRACTOR shall be deemed to have known the nature, scope, magnitude and the extent of the works and items, MATERIALS, EQUIPMENT, and components required for the proper and complete execution of the Works though the CONTRACT documents may not fully and precisely set out, describe or specify them, and the generality hereof shall not be deemed to be anywise limited, restricted or abridged because in certain cases the CONTRACT documents or any of them shall or may and/or in other cases they shall or may not expressly state that the CONTRACTOR shall do or perform any particular labour or service or because in certain cases the CONTRACT documents state that a particular work, operation, supply, labour or service shall be performed/made by the CONTRACTOR at his own cost or without additional payment, compensation or charge or without entitlement of claim against the OWNER or words to similar effect, and in other cases they do not, or because in certain cases it is stated that the same are included in or covered by the Price Schedule and in other cases it is not so stated.

- (ii) The cost of all construction and related vessels, craft, vehicles, movements, plant, equipment, distribution of water and power, construction of temporary roads and access, temporary works, pumps, wiring, pipes, scaffolding, piling, shuttering and other materials, supervision, labour, insurance, fuel, stores, spares, supplies, appliances and materials, items, articles and things whatsoever (foreseen or unforeseen) by expression or implication to be supplied, provided or arranged in or relative to or in connection with the performance and/or execution of the WORKS and/or related or incidental thereto, complete in every respect in accordance with the CONTRACT document, and the plans, drawing, designs, orders and/or instructions;
- (iii) The cost of mobilisation including but not limited to mobilisation of vehicles, movements, machinery, equipment, gear, tools, tackle, consumables and other items and goods and personnel necessary for or to perform the WORKS contemplated under the CONTRACT, preparation and erection of work yards and other work places and facilities necessary for or to perform the WORKS contemplated under the CONTRACT and/or to supply the material included within the scope of supplies including all work, labour, inputs, goods, EQUIPMENT, and other items and things whatsoever necessary for the performance of the WORKS, dismantling and/or removal of the same and restoration of the site, lifting the materials and transporting them to CONTRACTOR's stock piles/work yard, job sites and loading, stacking and/or storing the same.
- (iv) The costs and risks of all rents, royalties, licenses, permits, permission and other fees, duties, penalties, levies, and damages whatsoever payable for or in respect of any protected or patented goods, materials, equipment or

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processes employed in or relative to the works and of all rents, royalties, licenses, permits, permissions and any other fee, duty, penalty, levy, loss or damages payable on the excavation, removal or transportation of any material or acquisition or use of any right of way or other right, licenses, permit, privilege, permission or uses required for or relative to the performance of the WORK.

- (v) The cost of all GST and other taxes or terminal taxes payable in India with regard to materials supplied by the CONTRACTOR within the scope of supplies, all customs and import duties, GST, any applicable Cess and other direct and indirect taxes and duties, quay, wharfage, demurrage, detention and landing charges and all other duties, taxes, fees, charges, levies, and/or cesses whatsoever imposed or to be imposed by the Central Government or State Government or Municipal or Local Bodies or other Authorities whatsoever and payable on any materials supplied and/or on WORKS performed without any entitlement to the CONTRACTOR for any exemption, remission, refund or reduction thereof.
- (vi) The cost of all indemnities under the CONTRACT, and insurance prima on insurance required in terms of the CONTRACT documents or otherwise under any law, rule or regulation, and the cost of all risks whatsoever (foreseen and unforeseen) including but not limited to risks of delay or extension of time or reduction or increase in the work or scope of work and/or cancellation of CONTRACT, and/or accident, strike, civil commotion, war, strike, labour trouble, third party breach, fire, lighting, inclement weather, storm, tempest, flood, earthquake and other acts of God, Government regulation or imposition or restriction, dislocation of road, rail, sea, air and other transport, access or facility, flooding of site and/or access roads and approaches thereto, suspension of work, sabotage and other cause whatsoever.
- (vii) The cost of all inspections, tests and certificates relative thereto including third party tests and/or inspections where necessary, and of items, instruments, plant and/or tools and appliances required to conduct such inspection and tests.
- (viii) The cost of all materials supplied and/or intended for incorporation in the WORKS supplied within the scope of work, delivery thereof to the job site, loading, transportation and unloading thereof, waste on materials, and return of empties and surpluses.
- (ix) The cost of all escalations (foreseen and unforeseen) including but not limited to increase in Government taxes and duties (beyond contractual completion period and any extension hereof due to reasons attributable to CONTRACTOR), labour costs and material costs and other inputs whatsoever.

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(x) All supervision charges, establishment's overheads, finance charges and other costs and expenses and charges to the CONTRACTOR, and the CONTRACTOR's profit of and relative to the WORK and/or supply.

(xi) The cost of all deductions, reductions, discounts, adjustments and withholdings whatsoever under or in connection with the CONTRACT.

56.5.3 The prices stated in the Price Schedule (BoQ) as LUMP SUM PRICE(s) shall not be subject to escalation or increase for any reason whatsoever unless otherwise provided in the CONTRACT documents

56.6.0 ADVANCE PAYMENT



56.6.1 Without prejudice to the provisions of Clause 56.4.4 hereof, the OWNER shall by way of assistance to the CONTRACTOR, make "advance" or "on account" payments to the CONTRACTOR during the progress of the work and/or supply on the basis of Running Account Bills or otherwise as elsewhere more specially provided for in the CONTRACT documents.

56.6.2 The following provisions shall apply with respect to "advance" payments to the CONTRACTOR:

56.6.2.1 Advance(s) paid to the CONTRACTOR shall be adjustable (without prejudice to the any other mode of recovery) from the Running Account Bills of the CONTRACTOR as provided in the SPECIAL CONDITIONS OF CONTRACT.



56.6.2.2 The advances paid to the CONTRACTOR shall be used for execution of this contract only and the CONTRACTOR shall satisfy the OWNER in this regard whenever required. If it is found that an advance has been utilised by the CONTRACTOR in whole or part for any other purpose, the OWNER may at its discretion forthwith recall the entire advance and, without prejudice to any other right or remedy available to the OWNER, recover the same by recourse to any Bank Guarantee(s).

56.6.3 The approved Bill of Materials shall form the basis for the calculation of "on account" payments with respect to supplies of materials. It is understood, however, that the Bill of Materials or approval thereof by the OWNER shall not in any way relieve the CONTRACTOR of its full responsibility to supply to the OWNER within the scope of supply, any and all materials whatsoever required for the performance of the WORK within the scope of work, or otherwise howsoever confine the responsibility of the CONTRACTOR within the scope of supply to the supply of MATERIALS indicated in the Bill of Materials, nor shall it otherwise be assumed or be deemed or construed as an acceptance by the OWNER of the adequacy or sufficiency of the MATERIALS listed in the Bill of Materials to meet the quantitative and/or qualitative requirements of the materials required to be supplied by the CONTRACTOR under the scope of supply or

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otherwise in any manner operate to bind the OWNER or to limit the liability of the CONTRACTOR, such Bill(s) of Materials being designed only to provide a basis for making “on account” payments to the CONTRACTOR for materials supplied, with a view that the OWNER shall make “on account” payments to the CONTRACTOR for the various materials supplied on the basis thereof in the manner and at the time in this behalf provided for in the CONTRACT.

- 56.6.4 The approved Schedule of Activities shall form the basis for the calculation of on account payments with respect to services/works performed by the CONTRACTOR. It is however understood that the Schedule of Activities or approval thereof by the OWNER shall not in any way relieve the CONTRACTOR of his full responsibility to perform within the scope of services/WORKS whatsoever is required for the performance of the WORK covered by the scope of work or otherwise however confine the responsibility of the CONTRACTOR to the performance of the services indicated in the Schedule of Activities, nor shall otherwise be assumed or be deemed or construed as an acceptance by the OWNER of the adequacy or sufficiency of the WORK/activities listed in the Schedule of Activities to meet the quantitative and/or qualitative requirements of services required to be performed or WORK required to be done by the CONTRACTOR under the scope of services or otherwise in any manner operate to bind the OWNER or to limit the liability of the CONTRACTOR, such Schedule of Activities being designed primarily to provide a basis for making On Account payments to the CONTRACTOR for works/services performed, with a view that the OWNER shall make “On Account” payments to the CONTRACTOR for the work/services performed on basis thereof in the manner and at the time in this behalf provided for in this CONTRACT.
- 56.6.5 For the purposes of making “on account” payments for the WORK performed, monthly or otherwise as the PROJECT MANAGER may specify in this behalf, the CONTRACTOR shall make a quantitative assessment of the WORK performed by the CONTRACTOR as listed in the Schedule of Activities during the preceding month or other specified period and shall submit a Running Account Bill (in the form prescribed by the OWNER) in quadruplicate to the PROJECT MANAGER for the WORKS performed during the said month/period with detailed measurement thereof, the said Running Account Bill(s) to be drawn by applying the rates applicable under the Schedule of Activities to the applicable items, which shall be subject to certification by the PROJECT MANAGER specified for the purpose. The PROJECT MANAGER shall thereafter have a summary verification undertaken of the and quantities entered in the Running Account Bills and shall certify the Running Account Bills for payments on basis of such verification.
- 56.6.5.1 For the purpose of making “On Account” payment for materials supplied within the scope of supply other than payments made in advance monthly or otherwise as the PROJECT MANAGER may specify in this behalf, the CONTRACTOR shall make a quantitative list of material supplied by the CONTRACTOR within the scope of supplies at the job site and of the “On Account” payment made in respect thereof prior thereto, and of the “On Accounts” payment(s) becoming due in respect thereof during the preceding month or other specified period as the case may be supported by the Certificate of Verification and Good Condition given by the PROJECT MANAGER in

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order to qualify for the relative on account payment claimed as due. The CONTRACTOR shall submit such assessment in the form of a Running Account Bill prepared in the format prescribed or approved by the OWNER in this behalf in quadruplicate to the PROJECT MANAGER. The Running Account Bill(s) shall be drawn by applying applicable parts of the price(s) for relative materials as indicated in the Bill(s) of materials for the applicable item(s) and shall be subject to certification by the PROJECT MANAGER. The PROJECT MANAGER shall thereafter have a summary verification undertaken of the materials and quantities entered in the Running Account Bill(s) and of the amount claimed and shall certify the Running Account Bill(s) for payment on the basis of such verification.

56.6.6. The amount certified for payment by the PROJECT MANAGER on any Running Account Bill within the provisions for “on account” payments in the CONTRACT documents shall be conclusive for the determination of any “on account” payments and no claim shall be entertained by the OWNER contrary thereto or in contradiction thereof.

56.6.6.1 In any certificate for on account payment, the PROJECT MANAGER shall be authorised to adjust in whole or part, any previous amount certified by error.



56.6.7.0 All “on account” payments shall be subject to deduction of previous payments on account and of all claims of the OWNER, adjustments and/or deductions provided for in the CONTRACT or agreed to between the parties, tax deductions and any other deductions required to be made under any law, rule or regulation for the time being in force.

56.6.7.1 All “advance” and “on account” payments shall be regarded merely as advance payments against the amounts due to the CONTRACTOR in terms of the CONTRACT, and any such payments shall be without prejudice to the full rights of the OWNER under the CONTRACT and the liabilities of the CONTRACTOR thereunder, and specially shall not be regarded as an acceptance or completion of any works or the acceptance of any materials paid for in terms of any Running Account Bill or otherwise, notwithstanding any verification or certification by the PROJECT MANAGER or otherwise in respect thereof.

56.6.7.2 Except as elsewhere herein to the contrary provided, the Schedule of Activities or Bill of Materials or other criterion applied by the CONTRACTOR in respect of any work or supply in his Running Accounts Bill(s) or acceptance thereof by the PROJECT MANAGER in verifying the bill in respect of such work or supply or criterion applied shall not be deemed to be binding upon the OWNER as determining the completeness, acceptance or price payable for relative work or supply.

56.6.8 Notwithstanding anything elsewhere provided in the CONTRACT documents, all advances made by the OWNER to the CONTRACTOR shall forthwith become repayable to the OWNER in the event of the CONTRACT being terminated for any cause.

56.7.0 MODE OF PAYMENT AND TAX DEDUCTIONS

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56.7.1 All payments made under or in terms of the CONTRACT shall be made through Electronic Fund Transfer mechanism (EFT).

56.7.1.1 Subject to the other provisions hereof, if the execution of the WORKS or the supply of the materials shall necessitate the importation into India of MATERIALS, PLANT or EQUIPMENT within the CONTRACTOR'S scope of supply, or if the WORKS or any part thereof are to be executed by labour from outside India or if any other circumstances exists as shall render this necessary or desirable, a portion of the payments to be made under the CONTRACT shall be made in the appropriate foreign currencies as requested in the CONTRACTOR'S bid and accepted by the OWNER.

56.7.2 The CONTRACTOR shall be primarily responsible for the payment of all Indian Income tax.

56.7.2.1 It is to understand that in terms of the Indian Law, the OWNER is responsible also to deduct at source Indian Income Tax at prescribed rates on any money paid or payable by the OWNER to a non-resident CONTRACTOR. With this in view, the following stipulations shall apply with respect to payments to non-resident CONTRACTOR.



(i) The CONTRACTOR shall promptly apply for instructions from Income Tax Authorities in India of the rate at which deductions of tax at source shall be made by the OWNER on payments to the CONTRACTOR. Any reasonable information required by the OWNER or Income Tax Authorities for such instructions shall promptly be furnished by the CONTRACTOR, in the form (if any) required. Pending such instructions, the OWNER shall not release any payment to a non-resident CONTRACTOR.

Notwithstanding the foregoing, it is also agreed that the OWNER and the CONTRACTOR acknowledge that any International Tax Treaty, if any, in force between India and the state of which CONTRACTOR is a resident for tax purposes shall be fully applied. Should the OWNER unduly apply any withholding tax in consideration of such international Treaty, CONTRACTOR shall be authorised to gross-up the CONTRACT PRICE accordingly and the OWNER shall pay CONTRACTOR the amounts become due.

(ii) The amount(s) deductible at source by way of Indian Income Tax in accordance with the instructions of the Indian Authorities in conformity with applicable laws and international treaty or otherwise as aforesaid shall be deducted from all amounts payable by the OWNER to the CONTRACTOR.

(iii) The amounts deducted shall be paid by the OWNER directly to the Income Tax Authorities on behalf of the CONTRACTOR. It is further agreed that the OWNER shall promptly provide CONTRACTOR with an official receipt in original issued by the relevant Administration in India of all the sums withheld and paid to the Indian tax Authorities.

(iv) In the event of the amounts deducted being found ultimately to be in excess of the Indian Income Tax assessed, the CONTRACTOR shall be exclusively

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responsible to apply for and collect the refund thereof from the Income Tax authorities concerned in this behalf.

- (v) OWNER shall protect, defend, indemnify and hold CONTRACTOR or CONTRACTOR Group harmless, from any and all claims or liability with respect to the amount of Indian Income Tax deducted at source by OWNER on all amounts payable to CONTRACTOR, assessed or levied by the Government of India against CONTRACTOR for or on account of any act or omission on the part of the OWNER in breach of items (ii) and (iii) of this clause. Any interest, penalties or other liabilities arising from such failure shall be borne by OWNER. However, in the strict conformity with applicable laws and international treaty, in the event of the amount deducted being found to be less than the Indian Income Tax payable on assessment or otherwise, the CONTRACTOR shall forthwith pay the short- fall to the concerned Indian Income Tax Authorities.

56.7.2.2 The CONTRACTOR shall be exclusively liable to pay directly to the concerned Income Tax Authorities in India and to bear all Indian Taxes payable relative to employment of any personnel by the CONTRACTOR.



56.7.2.3 Payments to a CONTRACTOR resident in India shall be subject to deduction of taxes under Section 194 C of Income Tax and/or under other Section, law, rule or regulation for the time being in force providing for the deduction of tax at source.

56.7.2.4 If any TDS is deductible by the OWNER on the WORK undertaken by the CONTRACTOR, the OWNER shall be responsible for issuing the TDS Certificates within the timelines prescribed under GST laws.

56.8.0 CLAIMS BY THE CONTRACTOR

56.8.1 No claim(s) shall on any account be made by the CONTRACTOR after submission of the Final Bill, with the intent that the Final Bill prepared by the CONTRACTOR shall reflect any and all claims whatsoever of the CONTRACTOR against the OWNER arising out of or in connection with the CONTRACT or any supply made or work performed by the CONTRACTOR there under or in relation thereto, and notwithstanding any enabling provision in any law or CONTRACT and notwithstanding any claim that the CONTRACTOR could have with respect thereto, the CONTRACTOR hereby waives and relinquishes any and all such claims not included in the Final Bill and absolves and discharges the OWNER from and against the same, even if in not including the same as aforesaid, the CONTRACTOR shall have acted under a mistake of law or of fact, or shall claim to have acted under economic compulsion or necessity.

56.8.2 If required by the OWNER, the PROJECT MANAGER shall be authorised to require the CONTRACTOR to furnish, and the CONTRACTOR shall, upon the request of the PROJECT MANAGER /OWNER, furnish all invoices, vouchers and accounting records as may be deemed necessary by the PROJECT MANAGER /OWNER for the purpose of verifying any CONTRACTOR's claim.

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56.9 DISCHARGE OF OWNER'S LIABILITY



56.9.1 The acceptance by the CONTRACTOR of any amount paid by the OWNER to CONTRACTOR in respect of the Final Bill of the CONTRACTOR in settlement of all said dues to the CONTRACTOR under the Final Bill shall, without prejudice to the claims of the CONTRACTOR included in the Final Bill in accordance with the provisions of clause 56.4.2 of GCC, be deemed to be in full and final settlement of all such dues to the CONTRACTOR notwithstanding any qualifying remarks, protest or condition imposed or purported to be imposed by the CONTRACTOR related to the acceptance of such payment, with the intent that upon acceptance by the CONTRACTOR of any payment made as aforesaid, the CONTRACT (including the arbitration clause) shall stand discharged and extinguished insofar as relates to and/or concerns the entitlements of the CONTRACTOR under the CONTRACT except for the CONTRACTOR's right, if any, to receive payment in respect of his notified claims included in his Final Bill and the right to receive payment of the unadjusted balance of the Security Deposit in accordance with the provisions of Clause 56.10.3 on successful completion of the DEFECT LIABILITY PERIOD. But nothing herein stated shall affect the CONTRACTOR's undischarged liabilities and obligations under the CONTRACT

56.9.2 The acceptance by the CONTRACTOR of any amount paid by the OWNER to the CONTRACTOR in respect of the notified claims of the CONTRACTOR included in the Final Bill, in settlement of the claims of the CONTRACTOR, shall be deemed to be in full and final settlement of all claims of the CONTRACTOR notwithstanding any qualifying remarks, protest or condition imposed or purported to be imposed by the CONTRACTOR relative to the acceptance of such payment made as aforesaid with the intent that upon acceptance by the CONTRACTOR of any payment made as aforesaid, the CONTRACT shall stand discharged and extinguished insofar as relates to and/or concerns the claims of the CONTRACTOR except for the CONTRACTOR's rights to receive payments of the unadjusted balance, if any, of the security deposit in accordance with clause 56.10.3.0 hereof on successful completion of the DEFECT LIABILITY PERIOD. But nothing herein stated shall affect the CONTRACTOR's undischarged liabilities and obligations under the CONTRACT.

56.9.3 Notwithstanding anything provided in Clause 56.9.1 and/or Clause 56.9.2, the CONTRACTOR shall be and remain liable for defects in terms of DEFECT LIABILITY PERIOD and associated clause thereunder and for any indemnity to the OWNER in terms of Clause 56.10.2 and shall be and remain entitled to receive the unadjusted balance of the Security Deposit remaining in the hands of the OWNER in terms of Clause 56.10.3 and associated clauses thereunder.

56.10.0 FINAL ACCEPTANCE CERTIFICATE AND RELEASE OF SECURITY

56.10.1 Forthwith on the CONTRACTOR's application made after the expiry of DEFECT LIABILITY PERIOD provided and associated clauses thereunder and satisfaction of all liabilities of the CONTRACTOR in respect thereof, the PROJECT MANAGER shall issue a FINAL ACCEPTANCE CERTIFICATE to the CONTRACTOR Certifying that the CONTRACTOR has performed his obligations in respect of the DEFECT LIABILITY PERIOD and associated clauses thereunder, and until issue of such FINAL

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ACCEPTANCE CERTIFICATE, the CONTRACTOR shall be deemed not to have performed such liabilities notwithstanding issue of the PRELIMINARY ACCEPTANCE CERTIFICATE or payment of the Final Bill by the OWNER.

56.10.2 Upon application for the FINAL ACCEPTANCE CERTIFICATE, the CONTRACTOR shall:



- (i) Be deemed to have warranted that it had been fully paid and satisfied all claims for or arising out of the WORK, labour, MATERIALS, supplies and EQUIPMENT used in or connected with the CONTRACT and all other liabilities whatsoever touching or affecting the CONTRACT, or its performance, including in relation to SUB-CONTRACTORS and suppliers, and
- (ii) To have undertaken to indemnify and keep indemnified the OWNER from and against all claims, demands, debts, liens, obligations and liabilities whatsoever arising there from or relating thereto, Infringement of patents, copy right etc.

56.10.2.1 Upon issue of the FINAL ACCEPTANCE CERTIFICATE, the CONTRACTOR shall be deemed to have released, acquitted and discharged the OWNER from and against all claims (known or unknown), liens, demands or causes of action of any kind whatsoever arising out of or relating to the CONTRACT or otherwise howsoever touching or affecting the same.

56.10.3 Forthwith on application made by the CONTRACTOR in this behalf accompanied by the FINAL ACCEPTANCE CERTIFICATE, or within 84 (Eighty Four) days of the OWNER passing the CONTRACTOR's Final Bill, whichever shall be later, the OWNER shall cancel and return to the CONTRACTOR all previous Bank Guarantees remaining unutilised in the hands of the OWNER, and upon such cancellation and return, the OWNER shall stand discharged of all obligations/ liabilities under the CONTRACT provided that the cancellation and return of any Bank Guarantee(s) furnished by the CONTRACTOR as and by way of security deposit shall be subject to the CONTRACTOR replacing such Bank Guarantee(s) with a Bank Guarantee to the OWNER covering 100% (Cent percent) of the value (as determined by the OWNER) of equipments/works replaced or repaired during the DEFECT LIABILITY PERIOD for the unexpired term of extended defect liability period in respect thereof plus a 6 (six) months period. The claims or demands made during such additional 6 months period shall refer to events which have occurred before the expiry of the DEFECT LIABILITY PERIOD.

56.11 CLAIMS OF OWNER

56.11.1 The release/payment of any unadjusted balance of the Security Deposit (furnished in the form of a Bank Guarantee or otherwise) by the OWNER to the CONTRACTOR as aforesaid or otherwise shall not be deemed or treated as a waiver of any right(s) or claim(s) of the OWNER existing before the issuance of the FINAL ACCEPTANCE CERTIFICATE or shall not stop or prevent the OWNER from thereafter making or enforcing any claim or any rights existing before the issuance of the FINAL

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ACCEPTANCE CERTIFICATE against the CONTRACTOR with the intent that the claims of the OWNER, against the CONTRACTOR shall continue to survive and shall not get extinguished notwithstanding the issue of **FINAL ACCEPTANCE CERTIFICATE** and/or the release of Security Deposit to the CONTRACTOR.

57.0 UNDERGROUND OBSTRUCTIONS

Underground obstructions, if any will be removed by Contractor. The soil investigation report furnished in the technical part is indicative only and is enclosed purely for information/guidance purpose to the bidders. The contractor shall carry out its own detailed soil investigation for the proposed plant. Design of the foundation system of the plant shall be based, only on the site specific report. Nothing extra shall be paid in case of any variation arising out of the soil report conducted report conducted by the bidders and the data given in the tender is only for guidance purpose.



58.0 REGISTRATION OF THE CONTRACTOR WITH STATUTORY AUTHORITIES

58.1 Within 30 days of execution of the CONTRACT, the CONTRACTOR shall, insofar as necessary, register itself and the CONTRACT at their own cost with the Reserve Bank of India, Income Tax, GST and/or any other applicable statutory authorities as required under the rules and regulations governing in India. The TOTAL CONTRACT PRICE shall be deemed to include all costs towards the same. A copy of all documents related to all such registration shall be submitted to OWNER for record.

58.2 Immediately after notification of the Acceptance of Bid, the foreign CONTRACTOR shall obtain permission for opening of their office(s) in India from the Reserve Bank of India, and shall obtain Income Tax clearance from Indian Income Tax authorities. Among other formalities, these will be required by the OWNER to release any payment due to the CONTRACTOR.

59.0 STATUTORY APPROVALS

59.1 Unless otherwise specified in Bidding Documents, it shall be the CONTRACTOR's sole responsibility to obtain all statutory clearances/approvals/permissions/licences etc from any authority, required under any statute, rule or regulation of the Central or State Government concerned with the performance of the CONTRACT and/or the contractual Work. The application on behalf of the OWNER for submission to relevant authorities along with copies of required certificates complete in all respects shall be prepared and submitted by the CONTRACTOR well ahead of time so that the actual construction/COMMISSIONING of the WORKS is not delayed for want of the APPROVAL/inspection etc by the concerned authorities. The CONTRACTOR shall arrange for the inspection of the works by the authorities and will undertake necessary coordination and liaison required and shall not be entitled to any extension of time for any delay in obtaining such approval. All statutory fees shall be paid by the CONTRACTOR and the same shall be reimbursed by the OWNER upon production of documentary evidence by the CONTRACTOR.

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59.2 Any deficiency(ies) as pointed out by any such authority shall be rectified by the CONTRACTOR within the scope of relative supply and/or WORK at no extra cost to the OWNER. The inspection and acceptance of the WORKS by such authorities shall, however, not absolve the CONTRACTOR from any of its responsibilities under this CONTRACT.

59.3 No extension of time shall be granted for meeting the requirement and/or obtaining APPROVAL of statutory authorities.

60.0 UTILISATION OF LOCAL RESOURCES

60.1 The CONTRACTOR shall ascertain the availability of local SUB-CONTRACTORS and skilled/unskilled manpower and engage them to the extent possible for performance of the WORKS.

60.2 The CONTRACTOR shall not recruit personnel of any category from among those who are already employed by the other agencies working at the site. .

61.0 FUEL REQUIREMENT OF WORKERS

The CONTRACTOR shall be responsible to arrange for the fuel requirement of his workers and staff without resorting to cutting of trees and shrubs. Cutting of trees and shrubs is strictly prohibited for this purpose. The CONTRACTOR shall abide by the conditions put forth by the Environmental Clearance for the SITE as regards to construction workers.



62.0 SURPLUS MATERIAL

An inventory shall be made by the CONTRACTOR of all surplus materials including but not limited to scrap, wastages and unserviceable material and/or material remaining in the hands of the CONTRACTOR upon completion / termination of the Contract for whatsoever reason. The CONTRACTOR shall forthwith, place the OWNER in undisputed possession of these surplus materials. CONTRACTOR shall transport and deposit all such surplus material and handing over of surplus materials to the OWNER. Further, all spares (Mandatory, Commissioning and/or any spares) including materials required to be handed over to OWNER as per the terms of the contract shall be handed over to OWNER.

63.0 COORDINATION WITH OTHER AGENCIES

63.1 CONTRACTOR shall be responsible for proper coordination with other agencies operating at the site so that WORK may be carried out concurrently, without any hindrance to others. The PROJECT MANAGER shall resolve disputes, if any, in this regard, and his decision shall be final and binding on the CONTRACTOR.

63.2 If and when required for the coordination of the WORKS with other agencies involved at SITE, the CONTRACTOR shall within the scope of work, re-route and/or prepare approaches and working areas as may be necessary.

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64.0 ERECTION OF EQUIPMENT

All erection shall be carried out by deploying a crane(s) of suitable capacity. Erection by derrick shall not be permissible. The CONTRACTOR shall submit erection schemes for erection of critical equipment to PROJECT MANAGER for his APPROVAL. No EQUIPMENT shall be erected in the absence of an approved erection scheme for such EQUIPMENT.

The quoted rates of the CONTRACTOR shall be deemed to include load testing of the crane as required to establish the lifting capacity of the crane.

65.0 ELECTRICAL CONTRACTORS LICENCE

65.1 The CONTRACTOR or its nominated SUB-CONTRACTOR(s), as the case may be, shall have a valid electrical contractor's license for working in the State in which the job site is located. The CONTRACTOR shall furnish a copy of the same to PROJECT MANAGER before commencement of any electrical work or work pertaining to Electrical System.



65.2 No electrical work or work pertaining to electrical system(s) shall be permitted to be executed without a valid Electrical Contractors License being produced by the CONTRACTOR or SUB-CONTRACTOR, as the case may be, intending to execute the WORK.

66.0 RENTS & ROYALTIES

Unless otherwise specified, the CONTRACTOR shall pay all tonnage and other royalties, rents and other payments or compensation (if any) for getting stone, sand, gravel, clay, bricks or other materials required for the WORKS or any temporary works.

67.0 GOVERNMENT OF INDIA NOT LIABLE

It is expressly understood and agreed by and between the CONTRACTOR and the OWNER that the OWNER is entering into this agreement 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 Government of India is not a party to this agreement and has no liabilities, obligations or rights thereunder. It is expressly understood and agreed that the OWNER is an independent legal entity with power and authority to enter into contracts, solely in its own behalf under the applicable laws of India and general principles of Contract. The CONTRACTOR expressly agrees, acknowledges and understands that the OWNER is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions commissions, breaches or other wrongs arising out of the CONTRACT. Accordingly, CONTRACTOR hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims or counter claims against the Government of India arising out of this CONTRACT and covenants not to sue the Government of India on any matter, claim, and cause of action or thing whatsoever arising of or under this CONTRACT.

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68.0 SITE CLEANING

The CONTRACTOR shall take care to keep clean the job SITE at all times for easy access to the job SITE and also from the safety point of view in accordance with the CONTRACT requirements.

69.0 ACCESS TO SITE

69.1 The CONTRACTOR shall at his own cost and initiative arrange for and provide any access to the work area and stringing or other yards for labour, EQUIPMENT and MATERIAL as may be necessary for any cause in addition to the ingress and egress available. Any arrangements in respect thereof as may be entered into by the CONTRACTOR with any person interested in the land through which access is sought, shall be in writing and a copy of the writing (certified by or on behalf of the CONTRACTOR to be true copy thereof) shall forthwith be lodged with the OWNER. Such a writing shall specifically stipulate that the OWNER shall not be responsible for any claims under the CONTRACT or for any damage, loss or injury to the land or any material, item or thing thereon or in, and the CONTRACTOR shall keep the OWNER indemnified from and against any claim, action or proceedings in respect thereof.

69.2 The CONTRACTOR shall at his own cost and initiative arrange for and obtain all necessary permissions, permits, consents and licenses as may be necessary to transport the MATERIALS, tools, EQUIPMENT, machinery and labour along or across any highway, roadway, or other way, or railway, tramway, bridge, dyke, dam or embankment, or lake, pond, canal, river, state terminal toll octroi/entry tax, or other line, border or barrier. Traffic study if required, shall be carried out by CONTRACTOR independently without any liability on OWNER.

70.0 INDEPENDENT CONTRACTOR



70.1 OWNER shall have the right to instruct and direct CONTRACTOR, as to the results to be obtained under the CONTRACT, and shall be entitled to ascertain whether the WORK is carried out in accordance with the requirements of the CONTRACT, including the right to inspect the WORK at all stages of its performance. Such instructions direction and/or inspection by OWNER shall not relieve CONTRACTOR of his obligation, duties or liabilities under the CONTRACT.

70.2 Neither CONTRACTOR nor any SUB-CONTRACTOR nor the employees, agents or representative of either shall be deemed to be employees, agents or representative of the OWNER in the performance of the CONTRACTOR obligations here under, unless otherwise specified in the CONTRACT.

71.0 PAYMENTS TO THE SUB-CONTRACTOR

71.1 CONTRACTOR shall indemnify and hold harmless OWNER for any claim brought by SUBCONTRACTOR against OWNER in relation to CONTRACTOR's payment obligations for the relevant purchase orders and sub-contracts.

CONTRACTOR agrees that he shall furnish to OWNER, if required, satisfactory

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evidence that all SUB-CONTRACTORS, including vendor to CONTRACTOR have been paid on the time and in full for work done or good supplies in connection with the performance of the WORK.

71.2 If such satisfactory evidence is not supplied than the OWNER shall not be bound to make any further payment to CONTRACTOR for that part of work until it is supplies.

71.3 CONTRACTOR shall notify OWNER of any dispute of any kind between CONTRACTOR and any of his SUB-CONTRACTOR or vendors stating the nature of dispute, the amount of any payment which is being withheld by CONTRACTOR, the reasons thereof and the CONTRACTOR's plan to settle the dispute.

72.0 ORDER OF WORKS / PERMISSION / RIGHT OF ENTRY / CARE OF EXISTING SERVICES

CONTRACTOR is required to submit to OWNER the various details with respect to their personnel(s) to be deputed for the execution of WORK such as name(s), nationality and passport details in case of Foreign Nationals (Passport No., Date of Issue, Date of Expiry etc.). These details are required for granting permission to enter and work in the existing fertilizer complex. The OWNER reserves the right to declare any person(s) as non grata. No claim whatsoever shall be entertained by OWNER on this account.



OWNER shall have the right to object to any Representative or personnel deputed to India by CONTRACTOR for execution of WORK or in connection with WORK, due to their misconduct or breach of law and regulation or who are found to be incompetent or negligent. CONTRACTOR shall remove such persons from SITE forthwith and take immediate action for replacement at no cost to OWNER.

73.0 GIFTS, COMMISSIONS, ETC.

Any gift, commission or advantage given, promised or offered by or on behalf of the CONTRACTOR or his partner, agent, officers, directors, employee or servant or anyone on his or their behalf in relation to the obtaining or to the execution of this or any other contract with the OWNER, shall in addition to any criminal liability which it may incur, subject the CONTRACTOR to the cancellation of this and all other contracts and also the payment of any loss or damage to the OWNER resulting from any cancellation. The OWNER shall then be entitled to deduct the amounts so payable from any monies otherwise due to the CONTRACTOR under the CONTRACT.

74.0 LABOUR LAWS- PF, EPF AND ESI

74.1 The CONTRACTOR shall obtain necessary license from the Licensing Authority under the Contract Labour (Regulation & Abolition) Act 1970 and the Central Rules framed there under and produce the same to the PROJECT MANAGER before start of WORK.

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74.2 The CONTRACTOR shall not undertake or execute or permit any other agency or SUB-CONTRACTOR to undertake or execute any work on the CONTRACTOR'S behalf through contract labour except under and in accordance with the license issued in that behalf by the Licensing Officer or other authority prescribed under the Factories Act or the contract labour (Regulation & Abolition) Act 1970 or other applicable law, rule or regulation, if applicable.

74.3 The provision of EPF & MP Act, 1952 and Rules scheme there under shall be applicable to the CONTRACTOR and the employees engaged by him for the WORK. The CONTRACTOR shall furnish the code number allotted by the RPFC Authority, to the PROJECT MANAGER before commencing the WORK.



74.4 The CONTRACTOR shall be exclusively responsible for any delay in commencing the work on account of delay in obtaining a license under clause 74.1 above or in obtaining the code number under clause 74.3 above and the same shall not constitute a ground for extension of time for any purpose.

74.5 The CONTRACTOR shall enforce the provisions of ESI Act and Scheme framed there under with regard to all his employees involved in the performance of the CONTRACT and shall deduct employee's contribution from the wages of each of the employees and shall deposit the same together with employer's contribution of such total wages payable to the employees in the appropriate account.

74.6 All liabilities like salaries, wages and other statutory obligations in respect of the persons engaged by the CONTRACTOR shall be borne by the CONTRACTOR during the period of CONTRACT . In view of the provisions of the ESI Act, PF and EPF Act and other Acts, as may be applicable to OWNER, the CONTRACTOR shall take necessary steps to cover its employees under the said enactments and shall submit proof of such compliance to PROJECT MANAGER periodically or at any date upon such request, as may be made by PROJECT MANAGER to the CONTRACTOR. In the event of non-compliance with the statute or the provisions thereof, referred to above, it shall be open to OWNER to withhold such amount as in its opinion is due and payable by the CONTRACTOR in respect of its employees from and out of dues, payable by OWNER to the CONTRACTOR and such due shall be held by OWNER with it until proof is submitted by the CONTRACTOR to OWNER indicating compliance with such statutes within reasonable time, failing which OWNER shall deposit such amounts with the authorities concerned on behalf of the CONTRACTOR and inform the CONTRACTOR of such deposit or deposits.

74.7 **Compliance with LABOUR LAW/CODES/SCHEMES**

The CONTRACTOR shall, wherever applicable, comply with all the statutory requirements relating to the contracts such as relevant Labour Laws/Codes/Schemes including but not limited to the EPF & Misc. Provisions Act, 1952, the ESI Act, 1948, the payment of Bonus Act, 1965, the Contract Labour (Regulation & Abolition) Act, 1970, the Minimum Wages Act, 1948, etc. as amended from time to time and for the time being in force.

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75.0 GENERAL PROVISIONS

75.1.0 Confidential Information

75.1.1 Non-disclosure

75.1.1.1 Each party agrees to hold in confidence any information imparted to it or in the case of CONTRACTOR, to any of its SUB- CONTRACTOR / VENDOR, by the other Party which pertains to that other party's business activity in any manner, and which is not be subject of general public knowledge, including, without limitation, proprietary processes, technical information and know-how, information concerning other projects, management policies, economic policies, financial and other data and the like. The preceding non-disclosure requirements shall not apply to:

- i) Information furnished without restriction by the other Party prior to the date hereof
- ii) Information in the public domain; or
- iii) Information obtained by a Party from a third Person not under obligation of non-disclosure to the other party.

75.1.2 Disclosure to Govt. Agency



75.1.2.1 Either Party may disclose any such information to the extent that such Party is required by any Government Agency to make such disclosure. In addition, OWNER may disclose such information to the extent that such disclosure is required by any Lender / Lender's Representative, etc.

75.1.3 Upon completion of the Works or in the event of termination pursuant to the provisions of the CONTRACT, CONTRACTOR shall immediately return to the OWNER all drawings, plans, specifications and other documents supplied to the CONTRACTOR by or on behalf of the OWNER or prepared by the CONTRACTOR solely for the purpose of the performance of the WORKS, including all copies made thereof by the CONTRACTOR.

75.1.4 This clause shall survive and remain in full force for a period of ten years following the issue of FINAL ACCEPTANCE CERTIFICATE.

75.2.0 Deleted

75.3.0 Recovery of Sums / Dues

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75.3.1 All costs, damages or expenses which OWNER may have incurred, for which CONTRACTOR is liable under CONTRACT, shall be notified to CONTRACTOR and shall be recovered by OWNER from any payment due to or becoming due to CONTRACTOR under this CONTRACT or other CONTRACT and/or shall be recovered by action at law or otherwise. If the payment due to CONTRACTOR is not sufficient for recovery of the said sums/dues, CONTRACTOR shall pay immediately to OWNER such sums/dues or the balance sums/dues on demand.

75.3.2 All Mutually Agreed Damages applicable and to be recovered from CONTRACTOR under CONTRACT, shall be recovered by OWNER from any payment due to or becoming due to CONTRACTOR under this CONTRACT or other CONTRACT and/or shall be recovered by action at law or otherwise. If the payment due to CONTRACTOR is not sufficient for recovery of the said Mutually Agreed Damages , Compensation, CONTRACTOR shall pay immediately to OWNER such Mutually Agreed Damages or the balance Compensation on demand.

75.3.3 For avoidance of doubt all the rights and remedies of OWNER and liabilities of the CONTRACTOR as set out in the CONTRACT shall be to the exclusion of any other rights, remedies or liabilities available at law.

75.4.0 Payments etc. not to affect rights of OWNER

No sum paid on account by OWNER nor any extension of the date for completion granted by OWNER shall affect or prejudice the rights of OWNER against CONTRACTOR or relieve CONTRACTOR of its obligation for the faithful performance of CONTRACT.

75.5.0 Cut-Off Dates

No claims or correspondence on claims on this CONTRACT shall be entertained by either parties after 6 months after expiry of the Performance Bank Guarantee, unless specified otherwise in CONTRACT.

75.6.0 Paragraph Heading



The paragraph heading in those conditions shall not affect the construction thereof.

75.7.0 Site Working and Safety Conditions



CONTRACTOR shall follow the SITE working and safety conditions enclosed as Per Section -11.0 Part-II of NIT.

75.8.0 Miscellaneous



75.8.1 No CONTRACT or understanding in any way modifying the conditions of CONTRACT shall be binding upon either parties hereto unless made in writing and approved by both parties.

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75.8.2 Without prejudice to FORCE MAJEURE, CONTRACTOR shall, during inclement weather, carry out WORK in accordance with CONTRACT and CONTRACTOR shall not be entitled to any additional payment over and above the fees payable under CONTRACT by reason of its being unable to carry out WORK owing to inclement weather.



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SECTION – 3.0
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GENERAL

The SPECIAL CONDITIONS OF CONTRACT shall be read in conjunction with the GENERAL CONDITIONS OF CONTRACT, specifications of work, DRAWINGS and any other document forming part of this CONTRACT wherever the context so requires.

Where any portion of the GENERAL CONDITIONS OF CONTRACT is repugnant to or at variance with any other provisions of the SPECIAL CONDITIONS OF CONTRACT, then unless a different intention appears, the SPECIAL CONDITIONS OF CONTRACT shall be deemed to over-ride the provisions of GENERAL CONDITIONS OF CONTRACT and shall prevail to the extent of such repugnancy or variations.

1.0 CONTRACTOR'S OBLIGATIONS



1.1.0 General Responsibility

1.1.1 The CONTRACTOR acknowledges that this CONTRACT is a lump sum turnkey contract and CONTRACTOR'S obligation hereunder, notwithstanding anything to the contrary contained herein, is to provide OWNER with fully operational PLANT, complete in all respects under and in accordance with the provision of CONTRACT, within the stipulated time and for the purpose designated herein by OWNER, and to do, furnish and provide everything necessary in connection therewith.

Without prejudice to the foregoing and except as otherwise expressly set forth in the CONTRACT as within the scope of OWNER's obligations under the CONTRACT, the CONTRACTOR shall perform or cause to be performed all WORK and services required in connection with the design, engineering, supply of equipment, procurement (including, without limitation, all transportation services in connection therewith), construction, erection, start up, pre-commissioning, commissioning, sustain load test, testing including conducting of Performance Tests and other work and services upto the PRELIMINARY ACCEPTANCE OF PLANT by the OWNER and in connection therewith provide all materials, equipment, machinery, tools, labour, transportation, administration and other services and items required to complete the PLANT in all respects upto the PRELIMINARY ACCEPTANCE OF PLANT and having the performance as guaranteed under the CONTRACT by the CONTRACTOR on a total, fixed price basis in accordance with this CONTRACT. The WORK shall, without prejudice to the generality of the foregoing or those enumerated in Clause 1.2.0 include but not be limited to the following:

The WORK shall, without prejudice to the generality of the foregoing or those enumerated in Clause 1.2.0 include but not be limited to the following:

- (a) All engineering and design services including necessary investigation required for a completely engineered PLANT including necessary documentation;
- (b) Provision of all equipment, systems, materials, processes, CONTRACTOR'S

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EQUIPMENT, temporary works and all other items, whether of a temporary or permanent nature including those required for the design, erection, completion commissioning, conducting of PERFORMANCE AND GUARANTEE TESTS and remedying of DEFECTS during DEFECTS LIABILITY PERIOD.

- (c) Transportation from works, port of entry and import clearance and handling services in and into India and inland transportation from the relevant points of delivery of EQUIPMENT required in connection with the completion of the PLANT, and the performance of the other WORK
- (d) Project management.
- (e) Receipt of EQUIPMENT at SITE including stores management.
- (f) Construction infrastructure services, civil and structural construction; mechanical, electrical and instruments erection and installation services; testing and commissioning, and PERFORMANCE AND GUARANTEE TESTS before PRELIMINARY ACCEPTANCE of PLANT including all relevant applicable permits, with CONTRACTOR having responsibility for overall co-ordination of permits required by the OWNER and all training activities;
- (g) Provision of all necessary superintendence, labour, construction fuels and construction (but not fuel, water and electricity for commissioning, testing and operating the PLANT which OWNER will provide to CONTRACTOR at no cost), chemicals, utilities, tools, supplies and other consumables and services; and
- (h) Rectification of defects during DEFECTS LIABILITY PERIOD.

1.1.2 CONTRACTOR shall provide services, for PLANT, in accordance with good engineering practice. CONTRACTOR shall provide services of engineers, designers, draftsmen, buyers, inspectors, expeditors and other persons required for the performance of WORK pursuant to CONTRACT.

1.1.3 In the event that there is any item of EQUIPMENT or WORK of the type provided for in CONTRACT, which is not specifically mentioned in the specifications or drawings set out in FINAL PROPOSAL, but which is necessary (even though not mentioned in CONTRACT) for normal, safe and continuous operation of PLANT, based on mutual agreement between OWNER and CONTRACTOR, CONTRACTOR shall include such item of EQUIPMENT in the design and perform such items of WORK, for such EQUIPMENT or WORK free of cost to OWNER as if the same had been originally included in its Scope of Work/FINAL PROPOSAL.

1.1.4 Subject to prior consent of OWNER, CONTRACTOR may make use of the services of SUB-CONTRACTOR/ VENDOR (previously approved in writing by the OWNER) in accordance with the provisions in CONTRACT provided, however,

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the CONTRACTOR shall remain responsible and liable for the work done by such SUB-CONTRACTOR/vendor.

- 1.1.5 The CONTRACTOR shall be responsible for obtaining necessary approvals which are to be issued in the OWNER's name from the various statutory authorities.
- 1.1.6 The CONTRACTOR shall provide full technical assistance including follow-up to OWNER for obtaining the necessary approvals to be issued in the name of OWNER from the various statutory authorities.
- 1.1.7 The CONTRACTOR shall furnish SECURITY CUM PERFORMANCE BANK GUARANTEE as per the enclosed format in line with the provisions of GENERAL CONDITIONS OF THE CONTRACT.
- 1.1.8 The enumeration in subsequent Clauses of SPECIAL CONDITIONS OF CONTRACT, in GENERAL CONDITIONS OF CONTRACT and other documents of CONTRACT shall not in any manner limit the general scope of obligations and responsibilities of designing, engineering, procurement, supply, construction, commissioning and proving the performance guarantees of PLANT within the scope of CONTRACT.

1.2.0 CONTRACTOR's Scope of Work



1.2.1 CONTRACTOR shall provide and be responsible for the tasks specified in this Clause under the following heads:

1.2.2 Deleted

1.2.3 Design & Engineering

1.2.3.1 CONTRACTOR shall provide all design and engineering services necessary for completion of the PLANTS in conformity with the CONTRACT and Good Engineering Practices and the NIT including but not limited to:

- (a) Preparation of
- Project design book which shall form the basis of PLANT design;
 - The conceptual design; and
 - The engineering and design necessary to describe and detail the PLANT and the Project.
- (b) Provision of criteria for the detailed design by other suppliers of equipment/system/structures for incorporation into the PLANTS.
- (c) Preparation of design, engineering, drawings, plans, bill of material,

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schedule and estimates for the PLANT and the project and the performance by CONTRACTOR of its obligations hereunder so that the PLANT constructed and commissioned by the CONTRACTOR is capable of meeting the performance guarantees and will be such as could be legally, safely and reliably placed in commercial operation by the OWNER.

- (d) CONTRACTOR shall perform the design and engineering for PLANT so that when constructed and commissioned, PLANT shall be capable of meeting the guarantees with respect to quality and quantity of products, consumption of raw materials and utilities (in terms of WORKS COST for PLANT), and Pollution Level as guaranteed under CONTRACT and shall be reliable and safe and operable in accordance with the sound engineering practice. CONTRACTOR shall ensure design capacity of all sections of PLANT in accordance with CONTRACTOR's experience and expertise for obtaining a full throughput under varying conditions within the limits specified in CONTRACT. PLANT shall be designed so as to be capable of producing at full plant capacity when operated as specified in FINAL PROPOSAL. CONTRACTOR shall review the basic design conditions, including soil data, and other conditions furnished by OWNER in NIT. If CONTRACTOR observes any inconsistency or insufficiency in these data, CONTRACTOR shall bring to the notice of OWNER the same, before its use.



1.2.4 Review and Analysis

- 1.2.4.1 CONTRACTOR shall review, analyse and optimise the steam system and power network of PLANT. CONTRACTOR shall allow PROJECT MANAGER to review WORK under CONTRACT including the optimisation of the steam and power network for PLANT. Subject to Clause 3 – CHANGE IN WORK/CHANGE ORDER CONTRACTOR shall incorporate in its design and engineering such additions and changes suggested by PROJECT MANAGER as long as these do not conflict with the responsibility of CONTRACTOR in fulfilling its guarantees under CONTRACT. CONTRACTOR shall not use any technical data, drawing, or document given by OWNER except for purpose of CONTRACT.

1.2.5 Codes and Standards

- 1.2.5.1 The engineering shall be performed and EQUIPMENT shall be manufactured and supplied according to acceptable international standards, as specified in the Technical Specification/FINAL PROPOSAL, meeting safety and other requirements of various national/international Codes and Regulations being in force as on submission of the FINAL PROPOSAL. The design of PLANT shall be based on the criteria enumerated in CONTRACT. However, it shall be CONTRACTOR's responsibility to follow all Indian Rules and Regulations as applicable.

CONTRACT shall comply with and shall cause the WORK and all components thereof (including, without limitation, the design and engineering of the PLANT) to

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comply with all APPLICABLE LAWS and APPLICABLE PERMITS as they may be in effect at the time of CONTRACTOR's performance under the CONTRACT.

The CONTRACTOR shall ensure that all actions on its behalf in connection with the WORKS shall be in compliance with applicable laws of India. The CONTRACTOR agrees to take all reasonable steps to ensure that Persons appointed by it in connection with the WORK shall comply with the applicable laws/ regulations/ guidelines and obligations.

1.2.6 Drawings and Documents

1.2.6.1 CONTRACTOR shall prepare or secure and furnish to OWNER all data, specifications, drawings, plans and other documents as required/used for WORK as specified in Technical Specifications. The CONTRACTOR shall also furnish As-built Documents to OWNER within 2 months of the PRELIMANRY ACCEPTANCE.

1.2.7 Owner's Review



1.2.7.1 CONTRACTOR shall associate PROJECT MANAGER, at OWNER's cost, with WORK as carried out by CONTRACTOR and SUB-CONTRACTOR / vendor. PROJECT MANAGER shall review all documents and give its comments to CONTRACTOR within 14 (fourteen) days from the date of receipt of the same. If the comment, if any, is not communicated by OWNER to CONTRACTOR within 14 (fourteen) days, document shall be deemed to be reviewed by OWNER. Review as aforesaid by OWNER and furnishing of comments by OWNER or the failure of OWNER to review or comment as aforesaid shall not relieve CONTRACTOR in any manner of its obligations including performance guarantees under this CONTRACT.

1.2.8 Procurement Services

1.2.8.1.1 As part of the WORK, CONTRACTOR shall procure and pay for, in CONTRACTOR's name as an independent contractor and not as agent for OWNER, all CONTRACTOR and SUB-CONTRACTOR'S labour, materials, equipment, supplies, soil, gravel and similar materials and manufacturing, fabrication and related services (whether on or off the PLANT Site) for construction of and incorporation in the PLANT or which are otherwise required for completion of the WORK in accordance with the Specification and the CONTRACT and are not explicitly specified to be furnished by OWNER pursuant to the terms and provisions of the CONTRACT including FINAL PROPOSAL.

1.2.8.1.2 CONTRACTOR shall procure and provide all EQUIPMENT required for PLANT.

EQUIPMENT procured shall be according to specifications as set forth in the CONTRACT, proven record of performance and with suitable delivery time to meet the MECHANICAL COMPLETION as given by CONTRACTOR. EQUIPMENT shall be procured from the vendor list agreed between

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CONTRACTOR and OWNER.

In connection with its procurement work, CONTRACTOR shall be responsible for the shipping, transportation and delivery of all items fabricated, manufactured, constructed or procured as set forth in the FINAL PROPOSAL and the CONTRACT. All such items and equipment, materials and supplies to be provided by the CONTRACTOR pursuant to the CONTRACT shall be new and of required quality, free from improper workmanship or defects and properly warranted or guaranteed in accordance with the CONTRACT. Any apparent omission or error in the equipment specifications will be corrected by the CONTRACTOR to the extent required by the CONTRACT including FINAL PROPOSAL.

1.2.8.2 **Equipment**

1.2.8.2.1 CONTRACTOR agrees that EQUIPMENT procured shall be strictly in accordance with the specifications as provided, however, that any apparent omission or error in the specifications will be corrected by CONTRACTOR if it is necessary for the functioning of EQUIPMENT. CONTRACTOR shall inform OWNER for such omission or error or ambiguity in the specifications and corrections made for the same.



1.2.8.2.2 Completeness of EQUIPMENT shall be the responsibility of CONTRACTOR. Any fittings, accessories, etc. which may not be specifically mentioned in Technical Specifications/FINAL PROPOSAL but which is required for the satisfactory functioning of EQUIPMENT and realization of PERFORMANCE GUARANTEES shall be provided by CONTRACTOR without any extra cost.

1.2.8.2.3 CONTRACTOR shall ensure that the modern practices in the manufacture of high grade EQUIPMENT are followed notwithstanding any omission in the specifications.



1.2.8.2.4 The supplies including fittings, accessories, etc. shall be in strict compliance to the specifications/codes/standards. Components for which no relevant standards exist, the same shall be designed and manufactured as per good engineering practices.

1.2.8.2.5 The true intent and meaning of this Clause is that CONTRACTOR shall in all respects design, engineer, ensure quality of manufacture and supply EQUIPMENT in a thorough workman like manner, within prescribed time and in accordance with good engineering practice in order to enable proper operation of EQUIPMENT and PLANT.

1.2.8.2.6 CONTRACTOR shall furnish drawings and documents of EQUIPMENT as described under Clause -1.2.6. These documents shall include but not limited to technical documents, final drawings, preservation instructions, operation and maintenance manuals, test certificates, spare parts catalogues, etc. in a bound book for all rotating EQUIPMENT and in a folder for other EQUIPMENT, before despatch of EQUIPMENT under intimation to OWNER.

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- 1.2.8.2.7 The documents, required for statutory approvals once submitted during construction period by CONTRACTOR shall be firm and final and not subject to subsequent changes. CONTRACTOR shall be responsible for any payment of penalty as imposed by the Statutory Agencies consequent to furnishing of the incorrect data/drawings.
- 1.2.8.2.8 All dimensions and weights shall be in metric system.
- 1.2.8.2.9 EQUIPMENT to be supplied and WORK to be carried out under CONTRACT shall conform to and comply with the provision of relevant Regulations/Acts (of both) as may be applicable in the State of Punjab and in India to the type of EQUIPMENT/ WORK carried out and necessary certificates shall be furnished.
- 1.2.8.2.10 CONTRACTOR shall provide cross sectional drawings wherever applicable to identify the spare part numbers and their location, e.g. the size of bearings/ seals, their make and number shall be furnished.
- 1.2.8.2.11 EQUIPMENT supplied under CONTRACT shall conform to the standards as specified in Clause -1.2.5.1.
- 1.2.8.3 CONTRACTOR shall furnish unpriced copy of Purchase Orders for equipments and major items as per the list to be mutually agreed (Priced copy of Purchase Orders as required by the statutory authority) together with spares and special maintenance tools covering accurately all terms and conditions such as specifications requirements for quality, inspection, and test, warranties and guarantees, erection and commissioning assistance by vendor, delivery schedule, packing, transportation and insurance, and documentation.
- 1.2.8.4 CONTRACTOR shall arrange & furnish/provide to OWNER,
- a) Lubrication schedule from VENDOR,
 - b) Mechanical specifications and equipment data sheets for review by OWNER for ALL EQUIPMENTS before manufacture is started,
 - c) Shop fabrication drawings from vendor,
 - d) Characteristic curves for pumps and compressors, etc. from vendor,
 - e) Certified drawings including civil scope drawing and loading data, pertinent bulletin, installation, operation and maintenance manuals and test certificates received from vendor,
 - f) Final revised vendor's drawings including one reproducible, as described in Technical Specifications, before PRILIMINARY ACCEPTANCE.

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Any changes necessary during commissioning period can be incorporated in the as- built drawing and will be submitted after PAC as per the mutually agreed schedule.

Any changes necessary during commissioning period can be incorporated in the as- built drawing and will be submitted within 2 months from the issuance of PRELIMANRY ACCEPTANCE CERTIFIACTE.

- 1.2.8.5 CONTRACTOR shall provide services of vendor's specialist for installation and commissioning of EQUIPMENT whenever necessary.
- 1.2.8.6 CONTRACTOR shall be responsible for the accuracy and completeness of PURCHASE ORDER. Any comments by PROJECT MANAGER shall not relieve CONTRACTOR of such responsibility.
- 1.2.8.7 Inspection, Expediting & Testing
- 1.2.8.7.1 CONTRACTOR shall establish an inspection and expediting system and use its services for obtaining EQUIPMENT which conforms to the required technical and quality specifications and delivery according to PURCHASE ORDER. CONTRACTOR shall send copies of expediting and inspection reports regularly to OWNER. CONTRACTOR shall arrange Third Party Inspection and quality certification of EQUIPMENT, as described in FINAL PROPOSAL.
- 1.2.8.7.2 OWNER or its INSPECTOR shall have the right to inspect and/or to test EQUIPMENT to check its conformity to the specifications. CONTRACTOR shall specify the inspections and tests to be carried out giving reference of applicable codes/standards and the location of inspection/test to OWNER. OWNER shall notify CONTRACTOR in writing the name of INSPECTOR retained for this purpose.
- 1.2.8.7.3 The inspection and tests may be conducted at the premises of CONTRACTOR or SUB-CONTRACTOR/vendor before delivery and/or at SITE. All reasonable facilities and assistance including access to all drawings and production data shall be furnished to INSPECTOR at no charge to OWNER.
- 1.2.8.7.4 Should any inspected or tested EQUIPMENT fail to conform to the specifications, OWNER may reject it and CONTRACTOR shall either replace the rejected EQUIPMENT or make all alterations necessary to meet specification requirements free of cost.
- 1.2.8.7.5 OWNER's right to inspect and wherever necessary, comment about EQUIPMENT after its arrival at SITE or its participation in tests in respect of any EQUIPMENT shall in no way be limited or waived by reason of EQUIPMENT having previously been inspected, tested and passed by OWNER or INSPECTOR/representative prior to its shipment/despatch.

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- 1.2.8.7.6 INSPECTOR shall follow the progress of the manufacture of EQUIPMENT under CONTRACT to ensure that the requirements outlined in CONTRACT are not being deviated from with respect to Schedule and Quality.
- 1.2.8.7.7 CONTRACTOR shall allow INSPECTOR to visit, during working hours, the workshops relevant to execution of CONTRACT during the contractual period and INSPECTOR will have the right to inspect EQUIPMENT at all stages of manufacture right from identification of material up to its shipment/despatch, to the extent that the delivery schedule shall not be delayed, with prior notice to CONTRACTOR in writing.
- 1.2.8.7.8 In order to enable INSPECTOR to obtain entry visa in time, CONTRACTOR shall notify OWNER two months before assembly, testing and packing of main EQUIPMENT and if requested assist INSPECTOR in getting visa in the shortest possible time.
- 1.2.8.7.9 CONTRACTOR shall place at the disposal of INSPECTOR free of charge all tools, instruments and other apparatus necessary for the inspection and/or testing of EQUIPMENT. INSPECTOR is entitled to prohibit the use and despatch of EQUIPMENT that has failed to comply with the characteristics/specifications of EQUIPMENT during test and inspection.
- 1.2.8.7.10 CONTRACTOR shall ensure that the permission for inspection/test is granted by its SUB-CONTRACTOR/VENDOR.
- 1.2.8.7.11 In respect of the inspection, CONTRACTOR shall advise in writing of any delay in the programme at the earliest possible date, describing in detail what has caused the delay and the proposed corrective action.
- 1.2.8.7.12 All tests and trials in general of EQUIPMENT shall be witnessed by INSPECTOR. Therefore, CONTRACTOR shall confirm to OWNER by E-mail/fax about the exact date of inspection at least 15 DAYS in advance. CONTRACTOR shall specify the items and quantities ready for testing and indicate whether a Preliminary or Final Test is to be carried out.
- 1.2.8.7.13 On receipt of this notice, if OWNER decides to waive the right to witness the test, information shall be given to CONTRACTOR within 15 DAYS of receipt of the notice from CONTRACTOR and CONTRACTOR then shall have right to proceed with the inspection.
- 1.2.8.7.14 Any and all expenses incurred in connection with tests, preparation of reports and analysis made by qualified laboratories, necessary technical documents, testing documents and drawings shall be at CONTRACTOR's cost. Technical documents shall include the references and numbers of the standard used in the fabrication/construction and, wherever deemed practical by INSPECTOR. INSPECTOR shall attach importance to the views given by CONTRACTOR or its SUB-CONTRACTOR/VENDOR. Any and all expenses for living, lodging and

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airfare/rail fare incurred in connection with INSPECTOR shall be borne by OWNER.

- 1.2.8.7.15 Nothing in Clause -1.2.8.7.2 to 1.2.8.7.14 shall in any way relieve CONTRACTOR from any warranty or other obligations under this CONTRACT.

Not performing or failing to perform the inspection by OWNER hereunder shall not be a waiver of any of CONTRACTOR's obligations hereunder nor it be construed as an approval or acceptance of any of the WORK hereunder nor it shall absolve the CONTRACTOR in any way or manner of its liabilities, responsibilities and obligations under the CONTRACT.

- 1.2.8.7.16 Arrangements for all inspections required by Statutory Authorities (local) and as specified in Technical Specifications/FINAL PROPOSAL shall be made by CONTRACTOR. Certain category of EQUIPMENT/piping fall under the jurisdiction of Indian Boiler Regulations (IBR), irrespective of the fact whether these are proprietary in nature or not, certification from an internationally recognised agency approved by IBR is considered necessary to enable local IBR authorities to allow their installation and operation. In such cases, inspection and certification from such authorities will also have to be arranged by CONTRACTOR. CONTRACTOR shall also submit, as may be required by IBR authorities, necessary design calculations from respective fabricators and/or manufacturers of such EQUIPMENT.

- 1.2.8.7.17 Rejections, Removal of Rejected EQUIPMENT and Replacement



- 1.2.8.7.17.1 Preliminary inspection at SUB-CONTRACTOR's / vendor's works by INSPECTOR shall not prejudice OWNER for commenting on EQUIPMENT including its specifications on final inspection at SITE or claim under warranty provisions.

- 1.2.8.7.17.2 If EQUIPMENT is not of specification or fail to perform specified duties, OWNER shall be entitled to reject EQUIPMENT or part thereof and ask for modification, repair or free replacement within reasonable time subject to the relevant provisions in the CONTRACT.

- 1.2.8.7.17.3 In the event of such rejection, OWNER shall be entitled to use EQUIPMENT in a reasonable and proper manner for a time reasonably sufficient to enable it to obtain replacement. from contractor.. After free replacement of such rejected EQUIPMENT by contractor, the rejected equipment shall become the property of CONTRACTOR.

- 1.2.8.7.17.4 Nothing in this Clause shall be deemed to deprive OWNER and/or affect any of its rights under CONTRACT which it may otherwise have in respect of such defects or deficiencies or in any way relieve CONTRACTOR of its obligation under CONTRACT.

- 1.2.8.7.17.5 EQUIPMENT rejected by OWNER shall be removed by CONTRACTOR, within reasonable time, at its own cost after replacement of the said EQUIPMENT.

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OWNER shall in no way be responsible for any deterioration or damage to rejected EQUIPMENT under any circumstances whatsoever.

1.2.8.7.17.6 In case, the rejected EQUIPMENT is to be taken out of OWNER's premises for repair, Owner shall have the right to withhold the payment for such cost of equipment to the extent of payment made by Owner towards the equipment until the equipment is returned / replaced.

1.2.8.8 Packing

1.2.8.8.1 CONTRACTOR shall ensure that packing of EQUIPMENT is as required to prevent their damage or deterioration during transit to its final destination.

1.2.8.8.2 The packing, markings and documentation within and outside the packages shall comply strictly with the provisions of CONTRACT.

1.2.8.8.3 CONTRACTOR shall be responsible for any eventual consequence occurred to EQUIPMENT due to improper packing of the same.



1.2.8.9 Delivery and Documents

1.2.8.9.1 Deleted.

1.2.8.9.2 Delivery schedule shall include time for submission of documents/drawings for review/approval, incorporation of comments, if any, and final review of drawings by PROJECT MANAGER. Within 14 (fourteen) DAYS after receipt by PROJECT MANAGER of any document requiring OWNER's review, PROJECT MANAGER shall either return one copy thereof to CONTRACTOR as it is, if PROJECT MANAGER has no comments or with its comments and reasons thereof. If PROJECT MANAGER fails to return the document/ drawing within 14 (fourteen) DAYS, the said document/drawing shall be deemed to have been reviewed by OWNER.

1.2.8.9.3 Special care shall be taken by CONTRACTOR to furnish Manufacturer's Test Certificates, material of construction, make, type, pressure ratings wherever applicable and included in the scope of supply of EQUIPMENT.

1.2.8.9.4 In case of delayed delivery beyond the stipulated delivery period, for reasons not attributable to OWNER, FORCE MAJEURE and suspension of WORK by OWNER, even though normal extension of GUARANTEED COMPLETION DATE time is allowed by OWNER, all extra costs on account of changes of statutory regulations/Acts or increase in price on any other account including price variation clause, shall not apply to CONTRACT PRICE and the same shall be borne by CONTRACTOR.

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1.2.8.10 **Despatch, Transportation/Shipping**

1.2.8.10.1 CONTRACTOR shall be responsible for despatch of EQUIPMENT by sea/ rail/ road/air after proper packing and protection. The consignment shall be despatched after inspection by OWNER unless otherwise agreed to in writing however such inspection shall not constitute waiver of the CONTRACTOR's obligations, responsibilities for the EQUIPMENT including care, safety and preservation in any way and manner and the CONTRACTOR's responsibility and obligation in this behalf shall continue till PRELIMINARY ACCEPTANCE OF PLANT.

1.2.8.10.2 Generally, on-Deck shipment shall not be made without prior permission of OWNER. However, in case of towers, reactors, vessels and other large-sized EQUIPMENT, CONTRACTOR may, at its own discretion, make on-deck shipment, without OWNER's prior permission. In case of damage to such EQUIPMENT, during delivery or at any stage before PRELIMINARY ACCEPTANCE OF PLANT, CONTRACTOR shall be responsible for repair/replacement of EQUIPMENT.

1.2.8.10.3 deleted

1.2.8.10.4 **Property in EQUIPMENT**

1.2.8.10.4.1 CONSTRUCTION EQUIPMENT used by the CONTRACTOR and its SUB-CONTRACTORS in connection with the execution of works shall remain the property of CONTRACTOR or its SUB-CONTRACTORS. All duties, levies, taxes etc payable on account of CONSTRUCTION EQUIPMENT shall be borne by the CONTRACTOR. CONTRACTOR shall indemnify the OWNER on this count.



1.2.8.10.4.2 **Regarding surplus Materials, the Clause 62 of GCC shall be applicable.**

1.2.8.10.4.3 The care and custody responsibility of CONTRACTOR for EQUIPMENT shall terminate upon PRELIMINARY ACCEPTANCE of PLANT.

1.2.8.10.5 **Assembly Marks and Name Plates**

1.2.8.10.5.1 All component/parts of EQUIPMENT shall be indelibly hard marked with identification marks, comprising EQUIPMENT, part numbers, and CONTRACT number/PO number which shall also be shown on drawing to facilitate speedy identification, assembling or dismantling.

1.2.8.10.5.2 On each EQUIPMENT, a nameplate indicating basic details, pressure rating, wherever applicable, code number of EQUIPMENT, electrical characteristics in case of electrical EQUIPMENT, name of instrument with tag no., manufacturer's name shall be fixed at proper place.

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1.2.8.10.5.3 For packages where marking is not possible at least two metallic nameplates must be affixed. Marking on the plates will be by means of engraving or indelible paint and will include the information listed above.

1.2.8.10.6 **Despatch/Shipping notice**

1.2.8.10.6.1 CONTRACTOR shall notify OWNER by fax/E-mail for its information the expected date of delivery of a consignment, date of readiness of EQUIPMENT for shipment, total gross weight and total volume with dimensions.

1.2.8.10.7 **Heavy Lift Consignment (HLC) or Over Dimensional Consignments (ODC).**

1.2.8.10.7.1 CONTRACTOR shall the follow the guidelines of Ministry of Road Transport and Highways (MORTH), India, for the shipping/transportation of the all packages/ consignments. The CONTRACTOR shall be responsible to comply with rules relating to E-way Bills and other related provisions under the GST laws for movement of packages / Consignments.

1.2.8.10.7.2 CONTRACTOR shall make his own arrangements for movement of all consignments including ODC.

1.2.8.10.7.3 CONTRACTOR confirms that it has surveyed the route for transportation of ODC items of EQUIPMENT and CONTRACTOR further confirms that it has included all cost of repairs of road, civil works, strengthening of bridges, culverts, widening of roads, etc. as required for transportation of ODC items of EQUIPMENT in its CONTRACT PRICE. OWNER shall not be responsible for repairs of road, civil works, strengthening of bridges, culverts, widening of roads, etc. as required for the transportation of ODC items of EQUIPMENT and shall not be liable to reimburse the cost of such repairs of road, civil works, strengthening of bridges, culverts, widening of roads, etc. to CONTRACTOR.

1.2.8.10.8 **Marking**



1.2.8.10.8.1 CONTRACTOR shall mark the following on packing three sides i.e. two sides faced and cover (Top) EQUIPMENT with indelible paint in conspicuous printed letters not less than 5 cm. in size in English:

A. For Imported EQUIPMENT

Government of India
A/c NFL's NEW 2500 CUBIC METER CAPACITY HORTON
SPHERE FOR STORAGE OF AMMONIA PROJECT, NANGAL, INDIA.

a) CONTRACT /PO NO. : _____

b) Equipment Description and Item Nos. : _____

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- c) Package : _____ of _____
- d) Gross / Net Weight (Kgs.) : _____
- e) Dimension L x W x H cms. : _____
- f) WARNING MARKS (FRAGILE, ATTENTION, TOP, KEEP DRY ETC.)
- g) Forwarding No. :

h) Part shipment/full shipment/final shipment : _____

i) Each package shall bear a symbol contained in the package as follows:

- ‘A’ Storage in a closed storehouse.
- ‘B’ Storage under a shed.
- ‘C’ Storage in the open.

1.2.8.10.8.2 Depending on the characteristics of the contents in the packages, the packages have to be marked with appropriate international marking (“HANDLE WITH CARE”; “THIS SIDE UP”; “SLING MARK”; ETC.) and other indications necessary for correct handling such as Centre of Gravity and points of slinging (in case of heavy loads).

1.2.8.10.8.3 For packages where marking is not possible, at least two metallic nameplates must be affixed. Marking on the plates will be by means of engraving or indelible paint and will include the information listed above.



1.2.8.10.8.4 All corners of the packages shall be painted with indelible ‘Blue’ paint at least 125 mm in depth for easy identification/location of the packages for clearance and handling at the port.

1.2.8.10.9 **Packing List**

1.2.8.10.9.1 CONTRACTOR will include in each package an item-wise packing List, Invoice No. and associated drawings.

1.2.8.10.9.2 The packing list and any other documents shall be put in a closed polyethylene envelope and included in each package.

1.2.8.10.9.3 A second copy of the packing list shall be placed in a polyethylene envelope on the outside of the each package by means of metallic plate marked “Documents”. As regards columns, exchangers and similar equipment, the envelope shall be placed in a nozzle being identified by an arrow, in indelible paint, followed by the word “Document”.

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1.2.8.10.9.4 Shipping documents must always be presented in the number of copies indicated in this CONTRACT.

1.2.8.10.9.5 OWNER requires ocean transportation by Conference line vessels or by Indian flag Vessels.

CONTRACTOR shall avoid the use of over aged vessels for the shipment of the imported EQUIPMENT under this CONTRACT and if so used, the cost of additional insurance, if any, shall be borne by CONTRACTOR.

1.2.8.10.9.6 CONTRACTOR shall, without any imposition of liability on Owner, send intimations of despatches indicating items despatched, quantity, value, weight and carrier particulars directly through fax to the insurance company fixed by CONTRACTOR. A copy of this letter/ intimation shall also be given to commercial negotiating bank for payment against Letter of Credit. Copies shall also be sent to OWNER.

1.2.8.10.9.7 Insurance for transit risks and other risks shall be covered by CONTRACTOR.

1.2.9 **Spares, Special Maintenance Tools, Lubricants, Chemicals and Consumable**

1.2.9.1 CONTRACTOR shall procure and supply commissioning spares, special maintenance tools and fixtures for EQUIPMENT, lubricants, chemicals and consumable in sufficient quantity for COMMISSIONING and maintenance of PLANT, as described in FINAL PROPOSAL. The commissioning spares, special maintenance tools, lubricants, chemicals and consumable procured and supply shall be optimum, so as not to fall short during COMMISSIONING. CONTRACTOR shall obtain for these items the appropriate guarantees and warranties. CONTRACTOR shall also ensure that the commissioning spares and special maintenance tools and fixtures are procured along with the related items of EQUIPMENT and form part of PURCHASE ORDER for the related items of EQUIPMENT.



1.2.9.2 **Commissioning Spares and Consumable**

1.2.9.2.1 CONTRACTOR shall supply spares and consumable required for construction, PRE-COMMISSIONING, COMMISSIONING, start-up and testing of PLANT. The cost of spares and consumable shall be included in CONTRACT PRICE.



1.2.9.3 **Special Maintenance Tools**

1.2.9.3.1 CONTRACTOR shall supply special devices or tools required for normal maintenance, special handling and lifting of EQUIPMENT with main EQUIPMENT. The cost of such special maintenance tools shall be included in TOTAL CONTRACT PRICE.

1.2.9.4 Deleted

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- 1.2.9.5 Deleted
- 1.2.9.6 **Chemicals**
- 1.2.9.6.1 CONTRACTOR shall supply all chemicals for first filling and make-up required up to PRELIMINARY ACCEPTANCE OF PLANT. The cost of these chemicals shall be included in the CONTRACT PRICE.
- 1.2.9.7 **Lubricants**
- 1.2.9.7.1 CONTRACTOR shall supply lubricants in sufficient quantity for the first filling and make-up required up to PRELIMINARY ACCEPTANCE of PLANT. The cost of lubricants shall be included in the CONTRACT PRICE.
- 1.2.9.7.2 CONTRACTOR shall furnish the name of recommended lubricants indicating their commercial/trade name, quality and grade and equivalent quality lubricants (in case of imported lubricants) available in India to OWNER.
- 1.2.9.8 **Spares**
- 1.2.9.8.1 Bidder shall quote for Mandatory Spare, Commissioning/Pre commissioning spares and cost towards the procurement efforts by LSTK contractor for operational spares and other requirements for spares as per Part-II, Sec.14.0, Spare Parts in the Technical document.
- 1.2.9.8.2 CONTRACTOR shall provide procurement services including inspection and expediting for operational spares. The charges for procurement services including inspection and expediting for operational spares are included in CONTRACT PRICE. CONTRACTOR shall furnish a list of operational spares. The operational spares shall be optimum so as not to cause any short fall or excessive inventory. The quantity of operational spares to be procured shall be mutually decided by OWNER and CONTRACTOR. CONTRACTOR shall obtain a price list of operational spares together with the quotation for EQUIPMENT. The price for operational spares parts shall be valid at least for 24 months from the date of commissioning of EQUIPMENT. CONTRACTOR shall indicate to subcontractor /vendor that contractor will evaluate the bids for EQUIPMENT including the cost of operational spares to ensure that the prices quoted by bidders for operational spares are reasonable and competitive.
- 1.2.9.9 **Construction Tools**
- 1.2.9.9.1 CONTRACTOR shall procure and supply special construction aids, tools, tackles and fixture, required for construction and during normal operation & maintenance of PLANT. The cost of such special construction tools shall be included in CONTRACT PRICE.



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1.2.9.10 **General**

- 1.2.9.10.1 CONTRACTOR shall furnish to OWNER, the blue prints, drawings and specifications of the spare parts.
- 1.2.9.10.2 CONTRACTOR shall provide to OWNER all addresses and particulars of its SUB-CONTRACTOR/VENDOR on whom PURCHASE ORDER for EQUIPMENT covered under CONTRACT has been placed and will further ensure with its SUB-CONTRACTOR/VENDOR that, OWNER if so desired, shall have the right to place order for operational spare parts directly on them on mutually agreed terms based on offers of such SUB-CONTRACTOR/ VENDOR.
- 1.2.9.10.3 Spare parts shall be new and of first class quality as per engineering standards/codes, free of any defects (even concealed), deficiency in Design, Materials and Workmanship and also shall be completely interchangeable with the corresponding parts.
- 1.2.9.10.4 Type and sizes of bearing/seals shall be clearly indicated.
- 1.2.9.10.5 Spare parts shall be packed for long storage under tropical climatic conditions in suitable cases, clearly marked as to their intended purpose.
- 1.2.9.10.6 Any scrap, Surplus Material, upon completion of the WORKS, as certified by OWNER will be allowed to be taken back by Contractor after compliance of statutory formalities



1.2.10 **Warrantees and Guarantees**

- 1.2.10.1 Materials and Workmanship Warranty
- 1.2.10.1.1 CONTRACTOR warrants that EQUIPMENT supplied under CONTRACT are new, unused, of the recent or current models and incorporates all recent improvements in design and materials unless provided otherwise in CONTRACT. CONTRACTOR further warrants that EQUIPMENT supplied under this CONTRACT shall be of first quality according to specifications, have no defect (even concealed) arising from design, materials or workmanship or from any act or omission of CONTRACT that may develop under normal use of the supplied EQUIPMENT in the conditions prevailing in the country of final destination.
- 1.2.10.1.2 The warranty period for the EQUIPMENT supplied by CONTRACTOR shall be valid for 12 months for all EQUIPMENT from the date of PRELIMINARY ACCEPTANCE.
- 1.2.10.1.3 The warranty shall be valid for the period as described under Clause -1.2.10.1.2 from the date of PRELIMINARY ACCEPTANCE and shall be governed by Clause 17 of SPECIAL CONDITIONS OF CONTRACT. Should any DEFECTS be noticed in design, material and/or workmanship within the said warranty period, PROJECT MANAGER shall inform CONTRACTOR and CONTRACTOR shall immediately on

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receipt of such intimation depute their personnel within 10 DAYS to investigate the causes of DEFECTS and arrange rectification / replacement / modification of the defective EQUIPMENT at SITE without any cost to OWNER, within a reasonable period. If CONTRACTOR fails to take proper corrective action to replace/ repair defective Equipment satisfactorily within a reasonable period, OWNER shall be free to take such corrective action as may be deemed necessary at CONTRACTOR's risk and cost, after giving notice to CONTRACTOR. OWNER shall promptly notify CONTRACTOR in writing of any claims arising under this warranty.

- 1.2.10.1.4 In case defects are of such nature that EQUIPMENT shall have to be taken to CONTRACTOR's/ SUB-CONTRACTOR's/ vendor's works for rectification etc., CONTRACTOR shall take EQUIPMENT at its cost after giving necessary undertaking or security as may be required by OWNER. OWNER shall, if so required by CONTRACTOR, despatch EQUIPMENT by quickest mode on freight to pay basis to CONTRACTOR's / SUB-CONTRACTOR's / vendor's works. After repairs CONTRACTOR shall deliver EQUIPMENT at SITE on freight paid basis. All risks to transit to and from shall be borne by CONTRACTOR.
- 1.2.10.1.5 EQUIPMENT or part thereof so repaired or replaced shall have further warranty for a period of 12 months from the date of its acceptance after repair/replacement and the Performance Bank Guarantee shall be suitably extended for the same. The value of the Performance Bank Guarantee during the extended warranty period shall be 100 (Hundred) percent of the cost of such repaired/replaced EQUIPMENT or its parts
- 1.2.10.1.6 If the repairs, replacements or modifications referred to above are of such nature which may affect the efficiency of EQUIPMENT, OWNER shall have right to give notice in writing to CONTRACTOR within one month of such repair/ replacement/ modification to carry out tests as may be required for acceptance of EQUIPMENT.
- 1.2.10.1.7 If CONTRACTOR fails to meet its obligation to repair or replace defective EQUIPMENT and make it good within a reasonable period of time and or if CONTRACTOR refuses to carry out WORK under the guarantee clause and implied guarantee conditions and/or in case of severe urgency, OWNER shall be entitled to carry out repair/replacement/WORK or arrange to carry out repair/ replacement/WORK by a third party. The entire cost of such repair/ replacement/WORK including taxes and duties etc. shall be borne by the CONTRACTOR. In case, the cost of such repair/replacement/WORK has been incurred by OWNER, CONTRACTOR shall reimburse the same immediately on demand by OWNER.
- 1.2.10.1.8 Damages to EQUIPMENT deriving from incomplete, erroneous instructions issued by CONTRACTOR will be considered CONTRACTOR's fault and will be treated according to the provision of warranty clause. Normal wear and tear shall not come under purview of this clause.

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1.2.11 Performance Guarantee of PLANT / EQUIPMENT

1.2.11.1 CONTRACTOR guarantees that the performance of PLANT supplied under CONTRACT shall be strictly in conformity with the specifications and shall perform the duties and have consumption, production and other guarantees set forth in CONTRACT.

1.2.11.2 If the performance of PLANT and/or any of EQUIPMENT fails to be as guaranteed and set forth in CONTRACT, CONTRACTOR shall investigate the causes and provide free of cost to OWNER, design, engineering, MATERIALS and services and EQUIPMENT within a reasonable period to prove guarantees. CONTRACTOR's liability in this respect shall be unlimited, in accordance with the provisions of CONTRACT.



1.2.12 Government Clearances, Permits and Certificates

1.2.12.1 CONTRACTOR shall procure at its expenses, all necessary APPLICABLE PERMITS, certificates and licenses required by virtue of all APPLICABLE LAWS, regulations, ordinances and other rules in effect at the place where any of WORK is to be performed, and CONTRACTOR shall further hold OWNER harmless from liability or penalty which might be imposed by reason of any asserted or established violation of such laws, regulations, ordinances or other rules. OWNER will provide the necessary assistance to CONTRACTOR for obtaining PERMITS for CONTRACTOR's personnel to undertake WORK in India in connection with CONTRACT.

1.2.12.2 CONTRACTOR shall furnish necessary data/specifications/drawings etc. of EQUIPMENT likely to be imported to OWNER for obtaining import licence / necessary Government Clearances, for the same. CONTRACTOR shall also furnish necessary technical information, data, drawing, etc. as and when required to OWNER for submission to Government/Statutory Agencies.



1.2.13 Network Schedule

1.2.13.1 OWNER would be using a computerised time and cost monitoring system and CONTRACTOR shall provide necessary input data for the same. CONTRACTOR shall prepare within 30 (thirty) days from EFFECTIVE DATE OF CONTRACT and provide to OWNER a PROJECT MASTER SCHEDULE indicating the important milestones of activities relating to WORK from EFFECTIVE DATE OF CONTRACT to the date of FINAL ACCEPTANCE. This PROJECT MASTER SCHEDULE shall be discussed with and approved by OWNER. Based on the approved PROJECT MASTER SCHEDULE, CONTRACTOR shall also prepare network schedules for activities relating to WORK. CONTRACTOR shall obtain the details of progress of various activities of WORK from SUB-CONTRACTOR and vendor wherever required and update the network schedules and PROJECT MASTER SCHEDULE incorporating the progress achieved by CONTRACTOR,

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SUB-CONTRACTOR and vendor and submit the same to PROJECT MANAGER on monthly basis.

- 1.2.13.2 CONTRACTOR shall clearly indicate any delay in WORK in the above schedules and shall inform PROJECT MANAGER the action taken to achieve the GUARANTEED COMPLETION DATE.
- 1.2.13.3 **Time Schedule Network/Bar Chart**
- 1.2.13.3.1 Within 30 (thirty) DAYS from EFFECTIVE DATE OF CONTRACT, CONTRACTOR shall submit to PROJECT MANAGER its time schedule regarding delivery of documentation, supply and manufacture of EQUIPMENT, time schedule for placement of purchase order and SUB-CONTRACT, etc.
- 1.2.13.3.2 The time schedule will be in the form of a network and a bar chart clearly indicating all main or key events regarding documentation, supply of raw materials, manufacturing, testing and delivery of equipment, civil works, erection, commissioning, testing etc.
- 1.2.13.3.3 The original issue and subsequent revisions of such time schedule shall be sent to OWNER in two copies (of which one shall be a reproducible/soft copy). The time schedule network/bar chart shall be updated at least every month during the period of CONTRACT.
- 1.2.13.4 **Progress of WORK**
- 1.2.13.4.1 CONTRACTOR shall report monthly to OWNER of the execution of CONTRACT and achievement of targets set out in time bar chart, in a monthly progress report on 7th working day of every Month.
- 1.2.13.4.2 The progress shall be expressed in percentages for all activities.
- 1.2.13.4.3 The first issue of the progress report shall be forwarded together with the time bar chart.
- 1.2.13.4.4 OWNER shall also review the physical/actual progress of WORK on the basis of CONTRACTOR's time schedule documentation.
- 1.2.13.4.5 Irrespective of such review, CONTRACTOR shall advise OWNER at the earliest possible date of any anticipated delay in the progress.
- 1.2.13.4.6 In the event that the delay is caused by a delay in the delivery of a sub-contracted EQUIPMENT, CONTRACTOR shall be responsible for such delay and submit details together with copies of the appropriate orders and agreements with SUB-CONTRACTOR/vendor.

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1.2.14 **Transportation and Storing of EQUIPMENT**

1.2.14.1 CONTRACTOR shall be responsible for proper packing, transportation from vendor's workshop to port or railway station (whether by road, rail, ship or aircraft), handling and clearances at port or railway station including loading and unloading, customs clearance, carriage to SITE, unloading at SITE, warehousing, coding and tagging, storage including proper preservation, etc. of EQUIPMENT. Any special clearance, lifting, handling, loading/unloading, and transport arrangements for over dimensional consignments shall also be done by CONTRACTOR. CONTRACTOR shall ensure timely delivery of EQUIPMENT. CONTRACTOR shall endeavour to have the consignments in the upper part of the hold to enable early discharge at the Port of disembarkment. The above arrangement shall be in accordance with the guidelines set forth in the Co-ordination Procedure. CONTRACTOR shall be responsible for inspection of EQUIPMENT on receipt at SITE and for maintenance and management of stores and warehousing of EQUIPMENT at SITE including all activities connected with the issue of EQUIPMENT, accounting and final reconciliation and handing over of stores to OWNER.

1.2.14.2 OWNER shall provide area at SITE for making shed/covered stores etc. for storing EQUIPMENT. CONTRACTOR shall be responsible for making shed/covered stores etc. for safe storage of EQUIPMENT.



1.2.15 **Construction**

1.2.15.1 CONTRACTOR shall be responsible for all civil and structural work, foundations, insulating & painting works, erection, site fabrication, piping, instrumentation, electrical installation, and other miscellaneous construction jobs of PLANT leading to MECHANICAL COMPLETION and PRELIMINARY ACCEPTANCE of PLANT. CONTRACTOR shall organise these activities in appropriate sequence and use proper methods giving due regard to the requirements of safety, quality, sound engineering practice, compliance with relevant Codes and Regulations, and for achieving PRELIMINARY ACCEPTANCE of PLANT on or before GUARANTEED COMPLETION DATE.

The CONTRACTOR shall within the scope of work observe in addition to specifications, all national and local laws, ordinances, rules and regulation and requirements pertaining to the WORK.

Various procedures and methods to be adopted by CONTRACTOR during the construction as required in the respective specifications shall be submitted to OWNER in due time and well in advance of the specific work for approval.

The CONTRACTOR shall carry out required supervision as per Quality Assurance Plan and furnish all assistance required by the OWNER in carrying out inspection work. The OWNER will have authorised representatives present who shall have free access to the work at all times. If an OWNER's representative notifies the CONTRACTOR's representative of any deficiency in any work or in the

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supervision thereof, the CONTRACTOR shall make every effort to carry out such instructions consistent with best industry practice.

The CONTRACTOR shall so far as reasonably feasible employ skilled workers who are Certified Tradesmen in the field(s) of their relative activities(s).

1.2.15.2 CONTRACTOR shall submit and adhere to the completion schedule of construction leading to MECHANICAL COMPLETION.

1.2.15.3 In case of delay in completion beyond the stipulated completion period as specified under clause 1.2.15.2 for reasons attributable to Contractor, all extra costs on account of changes of statutory regulations / Acts, shall not apply to Contract price and the same shall be borne by Contractor.

1.2.15.4 **Civil Work Warranty**

1.2.15.4.1 CONTRACTOR shall certify that the all civil works, reinforced concrete, structures, permanent buildings and foundations has been designed in accordance with stipulations of relevant BIS Codes.



1.2.16 **Safety and Plant Security**

1.2.16.1 CONTRACTOR shall observe and also use its best efforts to ensure that all parts of WORK carried out at SITE is being done in a safe and satisfactory manner conforming to the applicable Safety Rules and Regulations. Further, CONTRACTOR shall observe and make provisions in SUB-CONTRACT that employees working for PLANT observe all the Safety Rules as required under the Factories Act and Regulations and other Local Laws and SUB-CONTRACTOR to provide safety apparel and equipment to its employees. OWNER shall have the right to object to any unsafe practice followed by SUB-CONTRACTOR's employees or any CONTRACTOR's personnel and direct them to carry out the job in a manner considered safe by OWNER. CONTRACTOR shall further abide by all the Security Regulations imposed by OWNER.



1.2.16.2 CONTRACTOR shall observe all safety rules so that no harm is done to OWNER's employees or property. If on account of CONTRACTOR, OWNER's property or personnel are likely to suffer any damage, in such cases any directions issued by OWNER shall be carried out by CONTRACTOR.

1.2.17 **PRE-COMMISSIONING Services of PLANT**

1.2.17.1 CONTRACTOR shall render and be responsible for pre-commissioning activities leading to MECHANICAL COMPLETION. These activities will include relevant checking, adjustment, testing, calibration, running in and trial runs of individual items of EQUIPMENT, and other similar jobs. OWNER shall provide experienced/trained and suitable operating and maintenance personnel who will perform their tasks under the supervision and direction of CONTRACTOR.

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- 1.2.17.2 CONTRACTOR shall provide experienced personnel as required for carrying out the PRE-COMMISSIONING activities with OWNER's personnel.
- 1.2.17.3 CONTRACTOR shall provide SUB-CONTRACTOR's/VENDOR's specialists wherever required. Suitable provision for such services shall be made by CONTRACTOR in PURCHASE ORDER/SUB-CONTRACT.
- 1.2.18 **MECHANICAL COMPLETION**
- 1.2.18.1 CONTRACTOR shall be responsible for completing the design, engineering, procurement, inspection and expediting, arranging for transportation of EQUIPMENT, construction and PRE-COMMISSIONING for making PLANT ready for acceptance of feed stock before the MECHANICAL COMPLETION.
- 1.2.19 **Commissioning Services of PLANT**
- 1.2.19.1 CONTRACTOR shall be responsible for COMMISSIONING after PRE-COMMISSIONING activities have been completed giving due regard to safety of EQUIPMENT according to sound international practice. OWNER shall provide experienced trained operating and maintenance personnel who shall work under the supervision and direction of CONTRACTOR. The COMMISSIONING activities shall include the following:
- Deleted
 - Stabilising PLANT and stepping up production to full plant capacity.
 - Demonstrating and Conducting reliability load test and Performance & Guarantee Test as per Part-II, Technical.
- 1.2.19.2 CONTRACTOR shall provide engineers as required to commission PLANT. CONTRACTOR shall be responsible to provide supervision personnel for operation of PLANT until PRELIMINARY ACCEPTANCE and OWNER will operate the PLANT under the supervision and instructions of CONTRACTOR. During the reliability load test and the performance & guarantee test, the range of operating conditions shall be within the limits of the design conditions and shall meet the requirements of safety and compliance with relevant Codes and Regulations.
- 1.2.20 **Performance & Guarantee Test**
- 1.2.20.1 CONTRACTOR shall successfully complete PERFORMANCE TEST as early as possible after MECHANICAL COMPLETION.
- 1.2.20.2 CONTRACTOR shall, when PLANT is stabilized at full plant capacity to the satisfaction of OWNER, shall carry out PERFORMANCE TEST and prove Guarantees.

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1.2.21 Post-Commissioning Services (Optional)

CONTRACTOR shall arrange to provide the services of one process and one mechanical engineer for the PLANT after PRELIMINARY ACCEPTANCE for a maximum period of 12 months, if so required by OWNER, under the terms and conditions to be mutually agreed.

1.2.22 Deleted

1.2.23 **Laws and Regulations**



1.2.23.1 CONTRACTOR shall abide, while fulfilling its obligations, by all applicable codes and APPLICABLE LAWS from time to time in force in the State of PUNJAB and in India. FINAL PROPOSAL shall be based on the codes, and regulations applicable on the date of submission of the FINAL PROPOSAL.

In the event of change in any codes, LEGISLATION, laws or regulation applicable to PLANT, WORK or any part thereof after date of submission of FINAL PROPOSAL, which alters the scope of CONTRACTOR's obligations under CONTRACT, CONTRACTOR shall agree to make the necessary changes in scope of WORK. Such changes shall be governed by CHANGE IN WORK as per the provisions of Clause -3. Any additional fee becoming applicable due to any change of Acts, regulations, by-laws, orders and requirements after date of submission of FINAL PROPOSAL shall be borne by OWNER in accordance with SCC clause 3.0.

1.2.24 **Statutory Obligations**

1.2.24.1 CONTRACTOR shall comply with the requirements of all statutory provisions and shall be solely responsible for fulfillment of all legal obligations under Contract Labour (Regulation and Abolition) Act, Inter-state Migrant Workmen (Registration of Employment and Condition of Service) Act, Payment of Wages Act, Workmen Compensation Act, Factories Act, Employees Provident Fund and Misc. Provisions Act, Payment of Bonus Act, Payment of Gratuity Act, Industrial Disputes Act and all other applicable Industrial/Labour enactment and Rules made there under as applicable from time to time. In case OWNER incurs any liability towards payment of any kind whatsoever, due to non-fulfillment of statutory provisions under any industrial/labour law by CONTRACTOR, the same shall be made good by CONTRACTOR.

1.2.24.2 SUB-CONTRACTOR engaged by CONTRACTOR for performing civil and erection work/other jobs at SITE shall have PF Code No. in its name issued by Regional Provident Fund Commissioner (RPF).

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1.2.24.3 The CONTRACTOR shall ensure that the SUB-CONTRACTOR shall comply with the Statutory Requirements, as applicable, for the execution of this CONTRACT.

1.2.25 **Progress Monitoring and Reporting**



1.2.25.1 CONTRACTOR shall develop a suitable system for monitoring and reporting progress on the various activities up to PRELIMINARY ACCEPTANCE. CONTRACTOR shall submit PROJECT MASTER SCHEDULE and detailed Network Schedule covering the activities and milestones starting from EFFECTIVE DATE OF CONTRACT until PRELIMINARY ACCEPTANCE, as described under Clause -1.2.13. These schedules shall include the activities of CONTRACTOR, SUB-CONTRACTOR and vendor. CONTRACTOR shall monitor progress continuously and submit to PROJECT MANAGER monthly progress reports giving the status of the activities, indicating those delayed and action being taken, or required to be taken, to bring back those activities on schedule. These reports will also include progress at vendor's workshops and shall be supplemented with photographs, wherever necessary. The Network Schedule shall be updated once in a month. CONTRACTOR shall also furnish information to PROJECT MANAGER as may be required by any other Government Authority or any other agency such as Financing Institution etc.

1.2.26 **Technical Information**

1.2.26.1 CONTRACTOR shall furnish to OWNER, CONTRACTOR's Technical Information and know-how as may be necessary for the operation of PLANT and relating to its process according to the provisions of clause 53 of General Terms and Conditions. CONTRACTOR shall grant or cause to be granted to OWNER an irrevocable right to use all such above technical information for PLANT and shall further advise OWNER for a period of five (5) years from date of PRELIMINARY ACCEPTANCE of any improvements in process, know-how, engineering, operation methods, and other conditions which will result in more efficient operation of PLANT that are developed by CONTRACTOR or process licensor or have come to the knowledge of CONTRACTOR, at no extra cost to OWNER. OWNER shall also grant to CONTRACTOR, at no extra cost to CONTRACTOR, to the benefit of process licensor the same right on OWNER's improvements as per the provisions of this Clause. Notwithstanding the generality of the foregoing, ownership of data, technical information processes, technology or software proprietary to CONTRACTOR and/or SUBCONTRACTORS shall remain with CONTRACTOR and/or SUBCONTRACTOR. CONTRACTOR and/or SUBCONTRACTOR shall ensure that OWNER is legally entitled to use of such data, processes, technology and software in the form of a perpetual, non-terminable, non-exclusive, royalty-free licence for the purpose of the operation and maintenance of the PLANT

1.2.27 **Work of SUB-CONTRACTOR and vendor**

1.2.27.1 CONTRACTOR shall remain responsible for proper execution of such part of WORK as are carried out by its SUB-CONTRACTOR and vendor and any failure

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of SUB-CONTRACTOR/vendor shall not relieve CONTRACTOR of its obligations under CONTRACT. Furthermore, in the event of any default by SUB-CONTRACTOR/vendor, CONTRACTOR shall either take over SUB-CONTRACTOR/vendor's part of WORK on mutually agreed terms or take remedial action as may be necessary in order to comply with GUARANTEED COMPLETION DATE and any other activities leading to PRELIMINARY ACCEPTANCE by OWNER.

1.2.28 **Co-ordination**

1.2.28.1 CONTRACTOR shall render all necessary assistance to PROJECT MANAGER required for overall co-ordination of all activities connected with WORKS. For this purpose, CONTRACTOR and PROJECT MANAGER shall agree on a meeting as soon as practicable after EFFECTIVE DATE OF CONTRACT, with SUBCONTRACTOR/vendor's and such other parties as are necessary to settle the following:



- a) Review the basic design conditions set forth in FINAL PROPOSAL and where appropriate, review possibilities of standardisation.
- b) Assess the priorities and key dates required to be included in CONTRACTOR's PROJECT MASTER SCHEDULE.
- c) Make an assessment of all items requiring co-ordination.
- d) Fix up a date and agenda of any subsequent meeting as may be required in association with OWNER.
- e) Discuss with PROJECT MANAGER and furnish all technical information about various effluents/emission and discharge points from different sources indicating the quality and quantity of gaseous and liquid emission of pollutants from PLANT. CONTRACTOR shall also supply PROJECT MANAGER any additional information required on the above matter during the performance of process design and basic engineering design.

In the event, PROJECT MANAGER pursuant to its responsibilities of overall co-ordination requests CONTRACTOR to make any alteration to the programme, scope of responsibility under CONTRACT, CONTRACTOR shall do the same, subject to the provisions of Clause 3.0.

1.2.29 **Notices and Reports**

1.2.29.1. CONTRACTOR shall submit the following copies of notices to PROJECT MANAGER as part of the Scope of Work:

- a) Immediate notification of safety incidents and accidents, including near misses, of any kind or type followed as soon as possible after such event by a full report.

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b) Notices from any Government / Statutory Agency or any other Person for a violation of any Law or Government Approval, immediately upon receipt by CONTRACTOR and no later than twenty-four (24) hours after its receipt.

c) Inspection reports by any inspector whether relating to any accident, accepting any test reports or otherwise immediately upon receipt by CONTRACTOR and no later than two (2) working DAYS after its receipt.

1.2.30 CONTRACTOR's Representative and Key Personnel

1.2.30.1 CONTRACTOR shall with prior consent of PROJECT MANAGER appoint a CONTRACT MANAGER to manage the execution of WORK and he shall be CONTRACTOR's authorized Representative in India. CONTRACTOR's personnel stationed at SITE for providing services during the execution of WORK shall work under the supervision and guidance of CONTRACT MANAGER. The CONTRACT MANAGER shall have the full authority to make binding and enforceable in the name of CONTRACTOR and shall receive all notices/correspondence that OWNER serves on CONTRACTOR.



1.2.30.2 CONTRACTOR shall be responsible for the work performed by CONTRACT MANAGER and CONTRACTOR's personnel and shall under no circumstances be relieved of its responsibilities and obligations under CONTRACT on account of acts or omissions of CONTRACT MANAGER and personnel.

1.2.30.3 The Key Personnel shall hold the staff positions as indicated in CONTRACT. CONTRACTOR shall use reasonable efforts to ensure that such Key Personnel will be engaged in the execution of WORK continuously until their role is completed unless prior release is approved by OWNER, such approval not to be unreasonably withheld or delayed. Replacement of or addition to Key Personnel shall only be made with persons having qualifications and experience equal to or better than those replaced or added to, and shall be similarly subject to OWNER's prior approval. In the event, any person identified in CONTRACT decides to leave the employment of CONTRACTOR, CONTRACTOR shall use reasonable efforts to retain the services of such person until his portion of WORK is complete. CONTRACTOR further agrees not to remove from WORK Key Personnel, which OWNER considers to be necessary for the proper performance of WORK without the prior written approval of OWNER.

1.2.31 General Warranties

a) CONTRACTOR shall perform WORK in full compliance with its FINAL PROPOSAL and all other terms and conditions set forth herein.

b) WORK shall be performed, in a good and workmanlike manner and in accordance with the FINAL PROPOSAL, all other terms and conditions of this CONTRACT, all DOCUMENTS, all Government Approvals, all APPLICABLE LAWS, and Good Industry Practices.



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- c) All EQUIPMENT, installed as part of PLANT, (i) shall be free from any encumbrance or lien and shall conform to the specifications and descriptions set forth in CONTRACT and (ii) shall be new and unused, free from DEFECTS and Deficiencies of any kind and shall meet the requirements of the Scope of Work.
- d) The completed PLANT shall be free of DEFECTS and Deficiencies and shall be designed, constructed and engineered, in compliance with the Scope of Work.
- e) PLANT shall be designed, engineered, constructed, tested, completed and delivered based on Good Industry Practices, CONTRACTOR's specifications and guidelines for operation and maintenance in accordance with the Scope of Work, for CONTRACT PRICE and no later than the GUARANTEED COMPLETION DATE.
- f) All SUB-CONTRACTOR/vendor shall perform their portion of the Scope of Work or supply or install EQUIPMENT in accordance with the applicable terms set forth herein.
- g) Adherence to the Operations Manual shall allow safe start-up, operation, maintenance and shut-downs of the completed PLANT, in accordance with CONTRACTOR's guidelines and will not impair any warranty or guarantee of EQUIPMENT incorporated or to be incorporated into PLANT.

1.2.32 Additional Tests

1.2.32.1 Except for tests required as per the provision of CONTRACT, OWNER may at any time prior to FINAL ACCEPTANCE OF PLANT request re-testing or additional testing of any EQUIPMENT, incorporated or to be incorporated into PLANT, or WORK if OWNER believes the results of earlier tests are not accurate or do not establish the true condition of EQUIPMENT or WORK being tested.

1.2.32.2 If a portion of WORK or any EQUIPMENT, incorporated or to be incorporated into PLANT, fails any additional test or retest requested by OWNER pursuant to Clause 1.2.32.1, then CONTRACTOR shall correct or replace, or cause its SUB-CONTRACTOR/VENDOR to correct or replace, such item or portion so as to pass additional testing or re-testing and otherwise meet or conform to such requirements. No changes to time schedule or increase in the CONTRACT PRICE shall be granted with respect to such additional testing. CONTRACTOR shall solely bear any cost resulting thereof (including the cost of any required uncovering and recovering of WORK). Neither the failure by OWNER to discover Defects and Deficiencies, nor any payment to CONTRACTOR in respect thereof shall prejudice the rights of OWNER thereafter to require and obtain from CONTRACTOR the satisfactory performance of WORK hereunder. OWNER shall not be deemed to have accepted any WORK as a result of any additional testing.

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1.2.33 General

- 1.2.33.1 CONTRACTOR shall incorporate during design stage maximum utilization of goods manufactured and/or available in India and also avail shipping, insurance, banking, catering and any other services available from India-owned companies for installation of plant, if quality, delivery and overall cost characteristics are equivalent.
- 1.2.33.2 CONTRACTOR shall arrange insurance pursuant to Clause 28.0 of GCC, at its own cost.
- 1.2.33.3 CONTRACTOR shall provide necessary information, documentation, and assistance for obtaining any approvals from Financial Institutions or any other agencies or authorities.

2.0 OWNER'S OBLIGATIONS

OWNER shall be responsible for fulfilling all obligations as specified under the following heads:

2.1 Basic Conditions for Design



OWNER shall furnish information concerning the basic conditions for design to CONTRACTOR as soon as practicable, but in any event not later than as per the requirements of CONTRACTOR's engineering schedule established and made available to OWNER during the early stages of WORK. CONTRACTOR shall review the basic conditions, including soil data, and other conditions furnished by OWNER. If CONTRACTOR observes any inconsistency or insufficiency in these data, CONTRACTOR shall bring to the notice of OWNER the same, before use of such data/information.

2.2 Overall Co-Ordination

The objective of overall co-ordination is to organise orderly execution of WORK, bring about requisite integration amongst the various project activities of executing agencies, to achieve the technical quality, cost objective of WORK and to avoid interference between the various activities of the parties in order to achieve the earliest possible completion of WORK. The aim will be to integrate, have compatibility between plants and uniform standardisation of design, engineering, layout, etc.

2.3.0 Review and Approval of Work

- 2.3.1 CONTRACTOR shall associate OWNER's representatives with WORK as carried out by CONTRACTOR's personnel. For this purpose, OWNER shall associate

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with WORK at all stages. Specifically, OWNER shall undertake the following tasks:

- a) Review/APPROVAL of drawings as per Part-II, Technical and other documents connected with basic and detailed engineering.
- b) Review of specifications for EQUIPMENT, lists of spare parts and special maintenance tools, and lists of special construction aids, tools, tackles, and fixtures.
- c) Participation in inspection, expediting and testing of EQUIPMENT at SUB-CONTRACTOR's / vendor's works and at SITE, wherever considered necessary by OWNER.

2.3.2 For the smooth functioning OWNER will nominate an individual who will act as PROJECT MANAGER under the CONTRACT. The PROJECT MANAGER will have full authority to act on behalf of the OWNER in connection with the CONTRACT. Except as otherwise provided in the CONTRACT, all communications between the OWNER and the CONTRACTOR relating to the WORKS shall be between the PROJECT MANAGER and the CONTRACT MANAGER.



2.3.3 OWNER shall depute its representatives to carry out above work at the office of CONTRACTOR. OWNER shall bear the cost of travel and stay of its personnel for such deputation. CONTRACTOR shall provide office accommodation, secretarial assistance, etc. in its office to OWNER's personnel. Number of OWNER's personnel to be deputed at CONTRACTOR's office on single location shall not exceed 10 (ten) at a time.

2.4 Government Clearances

All other approvals/clearances shall be obtained by CONTRACTOR. CONTRACTOR shall provide necessary services and assistance in obtaining Government clearances to be obtained in the name of OWNER. However, OWNER shall be responsible to obtain import licence and clearance for Concessional Duty / Deemed Export Benefits as per prevailing rules.

2.5 Facilities for CONTRACTOR's Personnel

OWNER shall assist CONTRACTOR in obtaining Visas and other PERMITS from the appropriate authorities for CONTRACTOR's and SUB-CONTRACTOR's / vendor's expatriates to enter and stay in India as necessary for performance of WORK. OWNER shall also provide facilities to CONTRACTOR's expatriates in accordance with the provisions described in Clause-2.8.

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2.6 Operating and Maintenance Personnel

OWNER shall provide operating and maintenance personnel as available during the PRE-COMMISSIONING and COMMISSIONING activities, who will work under the direction, control and supervision of CONTRACTOR.

2.7 Feed stock and Utilities

OWNER shall make available the feedstock and utilities subject to limit specified in CONTRACT and take over all products and effluents at BATTERY LIMIT as specified in CONTRACT.

2.8 Site Facilities

OWNER shall provide the following SITE facilities:



- a) Engineer In-charge for general co-ordination of site activities.
- b) Deleted
- c) Construction water, Construction power and Service Air shall be provided, free of cost, by OWNER at a single point at Battery limit.
- d) SITE
- e) OWNER shall not provide any facilities for travelling to and from SITE to the place of residence to the personnel of CONTRACTOR, deputed at SITE for performing WORK under CONTRACT.
- f) OWNER may provide accommodation on chargeable basis subject to availability .
- g) Area for making shed/covered storage for storing EQUIPMENT

3.0 CHANGE IN WORK/CHANGE ORDER

3.1 OWNER shall have the right to request in writing changes in WORK within the scope of CONTRACT. When the request for a change in WORK by OWNER has been agreed and complied by CONTRACTOR, CONTRACTOR's obligations under CONTRACT shall remain unaffected unless otherwise agreed.

3.2 Deleted

3.3. On each request for a CHANGE IN WORK, CONTRACTOR shall promptly inform OWNER in writing whether this request will fall within the provision of CONTRACT. If this request does not fall under the provision of CONTRACT and CONTRACTOR has to incur additional expenses, then CONTRACTOR shall promptly submit a cost estimates, and terms of payment for making the requested

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change in WORK together with the details of any variation required to be made to any of CONTRACTOR's or OWNER's obligations and/or guarantees.



- 3.4 If in CONTRACTOR's opinion fulfillment of any of its obligations under CONTRACT would be jeopardised by a CHANGE IN WORK requested by OWNER, then CONTRACTOR shall explain in writing to OWNER the reasons for not accepting these changes within thirty (30) days of receipt of OWNER's written request.
- 3.5 OWNER and CONTRACTOR shall agree upon the basis and terms of the CHANGE IN WORK in writing.
- 3.6 It is understood that no change shall become effective and no change will alter the scope of WORK until all of the matters referred to in this Clause 3 have been mutually agreed upon in writing by OWNER and CONTRACTOR.
- 3.7 It is agreed by both parties that the following changes shall not be considered a CHANGE IN WORK in the meaning in this Clause :
- Minor changes requested by OWNER and accepted by CONTRACTOR which do not involve any substantial additional cost or manhour effort, and have no effect on contractual completion period, and/or
 - Changes in CONTRACTOR's WORK required on account of CONTRACTOR not having included any item of EQUIPMENT or WORK which, in the opinion of OWNER/CONTRACTOR is necessary for the normal safe and continuous operation of PLANT.
 - Any change necessitated due to requirements of prevalent laws in India.

4.0 ACCEPTANCE OF PLANTS AND FACILITIES

CONTRACTOR's liabilities for the Performance Guarantees given for the PLANTS and Facilities in respect of capacity, consumption, product quality and pollution level shall be discharged only when the PERFORMANCE AND GUARANTEE TESTS as stipulated in Part-II, Technical of NIT have been successfully carried out as per acceptance criteria specified below or alternatively, Agreed Compensation as stipulated in clause 31 of GCC have been paid by the CONTRACTOR and OWNER has issued PRELIMINARY ACCEPTANCE CERTIFICATE.

5.0 PLANT ACCEPTANCE CRITERIA

Subject to fulfilling PERFORMANCE AND GUARANTEE TESTS as per Part-II, Technical Section of NIT and Clause 18.0 of SCC, OWNER shall be in readiness to accept the PLANTS. CONTRACTOR shall take all steps to fulfil the provisions

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of the CONTRACT for OWNER to issue PRELIMINARY ACCEPTANCE CERTIFICATE.

6.0 ISSUANCE OF PRELIMINARY ACCEPTANCE CERTIFICATE

Within 30 (thirty) DAYs from completing successfully PERFORMANCE & GUARANTEE TESTS by the CONTRACTOR, and CONTRACTOR fulfilling all the obligations under the provision of the CONTRACT, OWNER shall issue PRELIMINARY ACCEPTANCE CERTIFICATE to CONTRACTOR. If OWNER does not issue the certificate ,owner will provide written notice stating the reasons for refusing to issue the certificate within 60 days of request,. On issue of this Certificate by OWNER, CONTRACTOR shall become entitled to receive all payment as per provisions of the CONTRACT due to CONTRACTOR subject to CONTRACTOR's fulfilling the obligations stipulated under CONTRACT



7.0 LABOUR AND STAFF

- 7.1 The CONTRACTOR shall make his own arrangement for labour, erection and COMMISSIONING engineers and all other staff required for carrying out the CONTRACT. The necessary permissions from Government of India regarding work permit and visa requirement shall be obtained by the CONTRACTOR.
- 7.2 The CONTRACTOR shall make his own arrangements for providing canteen service to his labour and staff. Open space for this purpose may be provided by OWNER.
- 7.3 The CONTRACTOR shall at his own cost provide office and other accommodation for his staff and workmen. The CONTRACTOR shall also provide communication, transport and medical facilities to his staff and workmen.
- 7.4 The CONTRACTOR shall be responsible for all statutory obligations and any other laws in this regard in force from time to time regarding the employment or conditions of service of CONTRACTOR's labour, workman or employees.
- 7.5 The CONTRACTOR shall observe all safety rules as required under various rules, regulations and laws in India and shall also strictly adhere to safety regulations of OWNER.

8.0 Deleted

9.0 MODE OF CONTRACTING

- 9.1 Notwithstanding anything stated elsewhere in the CONTRACT documents, the CONTRACT is awarded on lump sum turnkey basis with single source responsibility.

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9.2 The CONTRACT shall be in all respect being construed and governed in accordance with the Indian laws.

9.3 It is clearly understood that the total consideration for the CONTRACT has been broken up into various components only for the convenience of payment of advance under the CONTRACT and for the measurement of deviation or modification under the CONTRACT(s).

10.0 BID PRICES

10.1 CONTRACTOR shall quote Lumpsum price/Unit Rate Basis as per given BoQ excel, for entire scope of work as per provisions of the bidding documents.

10.2 The TOTAL CONTRACT PRICE shall remain firm and fixed and shall be valid until FINAL ACCEPTANCE and shall not be subject to variation/escalation on any account except as otherwise specifically provided in the CONTRACT.

10.3 The TOTAL CONTRACT PRICE shall be derived from SCHEDULE OF PRICES (BoQ) comprising the total of the price of Equipments/Materials, price of Services and prices for Civil & Structural Work as per BoQ.



10.4 CONTRACTOR to note that breakup of lump sum price is for reference only and total price payable under the CONTRACT shall be restricted to TOTAL CONTRACT PRICE. The price evaluation shall be based on the criteria mentioned in ITB Section.

The above TOTAL CONTRACT PRICE shall be considering entire Contract as “Works Contract Service”.



10.5 The quoted price shall be deemed to be inclusive of all taxes, statutory levies, and duties including but not limited to municipal taxes, royalties, Custom duty and customs related duties, **Excluding GST**, irrespective of whether same is categorically specifically indicated or not. Prices, taxes, duties including GST on any transaction between CONTRACTOR and their Sub-Contractor/supplier shall be included in the TOTAL CONTRACT PRICE quoted by the CONTRACTOR.

10.6 The price quoted shall be lumpsum price for the entire scope of work, whether specifically mentioned or not, to be executed on LSTK basis.

10.7 Obligation of the CONTRACTOR is not limited to the quantities that the CONTRACTOR may either indicate in the breakup of lumpsum prices alongwith his bid or in further detailed breakup of Lumpsum price/Unit Rate Basis furnished after award of Work. CONTRACTOR shall carry out entire scope of Work/Supplies/Services as detailed in various sections of bidding documents within the quoted Lumpsum Price.

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- 10.8 Lumpsum price/Unit Rate Basis shall be deemed to be inclusive of the cost of any other supplies / work(s)/ services not specifically mentioned in the Bidding Document but are essentially required for the efficient, trouble free operation of the complete package, irrespective of whether the above unspecified supplies / work(s) / services are specifically mentioned in the Bidders bid or not.
- 10.9 The CONTRACTOR shall carefully examine the various clauses / sections of the Bidding Document inclusive of Scope of WORK, General Conditions of Contract, Special Conditions Of Contract, and Tender Specifications, Technical and Commercial amendments, if any etc. The CONTRACTOR shall include in his prices any sum he may consider necessary to cover the fulfilment of the various clauses contained therein. The items of work described and LSTK price stated shall be inclusive of everything necessary to complete the said item of work within the contemplation of the CONTRACT.
- 10.10 Spares for Start-up/Commissioning and Mandatory spares and any other Tools and Tackles as required are in CONTRACTORS scope and deemed to be included in their quoted TOTAL CONTRACT PRICE, irrespective of whether such spares / items are categorically mentioned or not in the CONTRACTORS bid. No claim on this issue shall be entertained at later date after award of work and at any stage during the faithful execution of the CONTRACT.
- 10.11 It shall be the sole responsibility of the CONTRACTOR to duly observe and faithfully perform and fulfil all obligations of all laws, rules, regulations, orders and formalities during the entire period / currency of the CONTRACT, applicable to Goods and Service Tax (GST), Custom duty etc, on the import, manufacture, sale and / or supply of any material(s)/ equipment to the OWNER and faithful performance of the Works Contract Service under the CONTRACT. The CONTRACTOR shall keep the OWNER and its Project Management Consultant (PMC) indemnified from and against any and all claims, demands, prosecutions, actions, proceedings, penalties, damages, demurrages and / or other levies whatsoever made or levied by any Court, Tribunal or the Customs or other Authorities with respect to any alleged breach or infractions of any applicable laws, rules, regulations, orders or formalities concerning the same and from the consequence thereof.
- 10.12 The price of Works Contract Service shall be deemed to cover various factors including but not limiting to cost of materials / equipments / services, overheads, bidding cost, financing cost, profits, mobilization & demobilization cost etc, as applicable. Unless the scope expressly excludes certain provision from the CONTRACTOR's scope in the Bidding document / CONTRACT, no additional payment on any such head expressly not mentioned herein in the bidding document / contract shall be entertained at later date.

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11.0 CURRENCIES OF BID AND PAYMENT

11.1 The Bidder shall quote in **Indian Rupees** only.

11.2 The LUMP SUM PRICE quoted by the CONTRACTOR shall be gross of Indian Income Tax and the LUMPSUM PRICE(S) shall be deemed to include Indian Income Tax including withholding tax (if any).



12.0 PRICES, TAXES AND DUTIES AND OTHER LEVIES

12.1 Except as specifically provided to the contrary in the SPECIAL CONDITIONS OF CONTRACT:

- (i) The CONTRACTOR shall within the price of MATERIALS and scope of supply be responsible to pay on behalf of the OWNER any and all duties, taxes, levies and cesses including education cess etc lawfully payable on MATERIALS imported into India or within any local limits for permanent incorporation in the WORK(S), and on materials sold and supplied to the OWNER pursuant to the CONTRACT.
- (ii) The CONTRACTOR shall within the price of services and scope of services be responsible to pay on behalf of the OWNER any and all duties, taxes, levies and cesses including education cess etc, lawfully payable on any goods or EQUIPMENT imported into India or within any local limits for use in the performance of the WORK(S), and on services performed pursuant to the CONTRACT..
- (iii) The CONTRACTOR shall be liable for and shall pay any and all Indian fees, taxes, duties, levies and cesses including education cess etc., assessable against CONTRACTOR in respect of or pursuance to the CONTRACT.
- (iv) In addition, the CONTRACTOR shall be responsible for payment of all Indian duties, levies, and taxes etc., assessable against the CONTRACTOR or CONTRACTOR's employees or SUB-CONTRACTOR'S whether corporate or personal or applicable in respect of property.

12.2 TAXES, DUTIES AND LEVIES IN FOREIGN COUNTRIES

The CONTRACTOR shall accept full and exclusive liability at his own cost for the payment of any and all taxes, duties, cesses and levies howsoever designated, as are payable to any government, local or statutory authority in any country other than India as are now in force or as are hereafter imposed, increased or modified

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and as are payable by the CONTRACTOR, his agents, SUB-CONTRACTORS and Suppliers and its/their respective employees for or in relation to the performance of this CONTRACT. The CONTRACTOR shall be deemed to have been fully informed with respect to all such liabilities and shall further be deemed to have consideration and included the same in his bid and the Lumpsum Price shall not be varied in any way on this account.



12.3 TAX INDEMNITY

It will be the duty of the CONTRACTOR to duly observe and perform all laws, rules, regulations, orders and formalities applicable to GST, any applicable cess, Customs Duty, surcharge and other taxes on the manufacture, sale, import and/or supply of any material to OWNER and/or applicable Tax and levies on the services performed by the CONTRACTOR pursuant hereto. The CONTRACTOR shall keep the OWNER indemnified for and against any and all claims, demands, prosecutions, penalties, damages, demurrages and/or other levies whatsoever made or levied by the Court or Customs Authorities with respect to any alleged breach, evasion or infraction of such duties, taxes, charges or levies or any breach or infraction of such laws, rules, regulations, orders or formalities concerning the same and from the consequence thereof.

12.4 All the applicable taxes, duties etc. on supply of materials, services and otherwise required for execution of CONTRACT on Lumpsum price/Unit Rate Basis as quoted in given **BoQ** shall be included in the TOTAL CONTRACT PRICE except GST. GST amount paid by the Contractor shall be reimbursed by the Owner limited to amount indicated in the CONTRACT.

12.5 The CONTRACTOR confirms that other than GST, it has included all taxes, duties, levies etc., as applicable at prevailing rates as on the date of submission of bids/revised price bid, if any, in its CONTRACT PRICE. In case, CONTRACTOR has not included any such taxes, duties, levies etc., at all and/or at prevailing rates and CONTRACTOR has to pay such taxes, duties, levies etc., OWNER shall not be liable for payment of such liabilities and/or OWNER shall not reimburse such taxes, duties, levies etc. to CONTRACTOR.

12.6 Within the contractual period, any differential tax liability arising on account of statutory variation in India in percentage of taxes, duties shall be paid by OWNER to CONTRACTOR or vice versa and the same may be reflected therefore in CONTRACT PRICE on submission of documentary evidence. However, in case of delay in PRELIMINARY ACCEPTANCE OF PLANT due to reasons attributable to CONTRACTOR, any increase in percentage of taxes/duties over and above those specified and quoted by the Bidder in **given BoQ** during the delayed period shall be to CONTRACTOR's account and shall not be reimbursed by OWNER.

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12.7 Any other taxes / duties in relation to this CONTRACT, which in terms of relevant legislation is the liability of CONTRACTOR, is discharged by OWNER, would be recovered from the CONTRACTOR from any subsequent payment due to the CONTRACTOR.

12.12 **INCOME TAX**



12.12.1 TOTAL CONTRACT PRICE shall be inclusive of any and all Indian Income Tax payable in India. OWNER shall deduct Indian Income Tax as per rates prescribed for such contracts from time to time, from the payments due to CONTRACTOR and issue tax deducted at source certificate to CONTRACTOR. It is the responsibility of the CONTRACTOR to file proper income tax return and pay taxes thereon if any, or claim refund thereof if any. The CONTRACTOR shall give OWNER all necessary documents relating to its income tax assessments and to keep the OWNER informed about their assessments.

12.12.2 Personal income tax payable, if any, in respect of salary and perquisites of CONTRACTOR's personnel / SUB-CONTRACTOR's personnel in India shall be payable by the individual so deputed by CONTRACTOR or SUB-CONTRACTOR. It is the responsibility of the individual or CONTRACTOR to file proper income tax return and pay taxes thereon if any, or claim refund thereof if any. The CONTRACTOR shall give OWNER all necessary documents relating to income tax assessments of its personnel and to keep the OWNER informed about their assessments.

13.0 **STATUTORY VARIATION IN TAXES AND DUTIES**

13.1 If any new taxes or duties (including any increase in rate of any existing taxes or duties) are levied in India after the date of submission of bids/revised price bids (whichever is later) on any payments due to the CONTRACTOR under the CONTRACT other than tax on income, wealth or profits of the CONTRACTOR, the OWNER shall reimburse the CONTRACTOR the amount of such taxes or duties lawfully paid and borne by the CONTRACTOR against proof of payment. However, this is applicable within the GUARANTEED COMPLETION DATE only and shall not be reimbursed by OWNER during the delayed contractual project completion attributable to CONTRACTOR'S account.

13.2 If any existing taxes or duties are withdrawn or the rate is decreased after the date of submission of the bids / revised bids (whichever is later) on any payments due to the CONTRACTOR under the CONTRACT other than tax on income, wealth or profits of the CONTRACTOR, the OWNER shall be entitled to discount in the amount payable to the CONTRACTOR of amount equivalent to the amount of such taxes or duties. This is applicable within the GUARANTEED COMPLETION DATE and also during the delayed contractual Project completion.

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- 13.3 In case of delayed completion beyond the GUARANTEED COMPLETION DATE even though extension of completion time is allowed by OWNER, for reasons solely attributable to Contractor, all extra costs on account of changes of statutory regulations/ acts, or increase in price on any other account including price variation clause, if any, shall not apply to the Contract price and shall be borne by the CONTRACTOR.

However, any decrease in taxes and duties during the delayed period shall be passed on to the OWNER.

14.0 TERMS OF PAYMENT

- 14.1 The billing of the entire price of Materials, price of Services and price of Civil Works shall be done from and to a single point only.

After award of CONTRACT, the CONTRACTOR shall submit break up the Schedule of Prices corresponding to the supplies/services/civil works which shall be approved by Owner/Consultant and payment shall be made accordingly subject to the Payment terms mentioned herein



14.2 MOBILISATION ADVANCE

The CONTRACTOR shall be paid an interest free recoverable Mobilisation Advance equivalent to 10% (Ten percent) of the Contract Price (excluding of GST amount) provided Bank Guarantee is submitted by the CONTRACTOR for 110% of advance.

In case of default and encashment of Bank Guarantee, advance will be interest bearing (the interest rate shall be simple interest of SBI MCLR + 5.25%)

Mobilization Advance shall be paid subject to fulfillment of the following conditions :

- Signature of Formal Contract between the OWNER and the CONTRACTOR.
- Submission of Bank Guarantee for Advance Payment for 110% of Advance Amount value valid for 3 months beyond Mechanical Completion Period as per format attached with the NIT. The CONTRACTOR shall at the request of the OWNER suitably extend the validity of the Bank Guarantee for Advance Payment for such period or periods as may be required to fully recover the amount of the Advance not recovered before the expiry of the validity of such Bank Guarantee for Advance Payment, failing which, without prejudice to any other right or remedy available to the OWNER, the OWNER shall be entitled to encash the Bank Guarantee for Advance Payment.

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- c) Submission of SECURITY CUM PERFORMANCE BANK GUARANTEE by way of Security Deposit as stipulated in Clause 8.0 of the GENERAL CONDITIONS OF CONTRACT. The CONTRACTOR shall at the request of the OWNER extend the validity of the SECURITY CUM PERFORMANCE for such further period or periods as may be required failing which, without prejudice to any other right or remedy available to the OWNER, the OWNER shall be entitled to encash the SECURITY CUM PERFORMANCE BANK GUARANTEE.



Notes:

1. The CONTRACT PRICE for the purpose of Security Deposit and Performance Bank Guarantee would be derived on date of CONTRACT and would not be revised except in case scope of work is altered.
2. The advance paid to the CONTRACTOR shall be used only for execution of this CONTRACT and the CONTRACTOR shall satisfy the OWNER in this regard whenever required. If it is found that the said advance has been utilised by the CONTRACTOR in whole or part for any other purpose, the OWNER may at its discretion forthwith recall the entire advance and without prejudice to any other right or remedy available to the OWNER, recover the same by recourse to any Bank Guarantee(s).
3. Mobilization Advance shall be recovered @10% starting from the first bill (payment) itself and shall be fully extinguished with the payment towards Mechanical Completion. **Thus there will not be any outstanding amount to be adjusted from the last 10 % payment (i.e 5% on Preliminary Acceptance and 5 % payment on final bill) to the Contractor.**
4. Bank Guarantee furnished by the Contractor towards mobilization advance would be reduced quarterly subject to adjustment made from Contractors running bill.
5. Advance amount shall be recovered @10% starting from the first bill (payment) itself and shall be fully extinguished by way of adjustment at the time of payment towards completion of milestone MECHANICAL COMPLETION.
6. The Monthly Payment Schedule (S curve) should be prepared by bidder after considering the mobilization advance and it's recovery.

14.3 Subject to the other provisions of the Contract documents, payments shall be made as follows:

14.3.1 Mobilisation Advance :

Interest Free Mobilization advance of 10% of Contract value (excluding GST) shall be given, if asked by the Bidder, as indicated above.

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14.3.2 FOR SUPPLY OF GOODS (INCLUDING MANDATORY SPARES)

- i) **10% (Ten Percent)** of Total supply value of **major tagged items (excl. GST)** will be released on placement of purchase orders as per the list of major tagged items to be finalised during the Kick off meeting with CONTRACTOR. This payment shall be released after submission of Bank Guarantee for equivalent value. This Bank Guarantee shall be valid upto 3 months after the GUARANTEED COMPLETION DATE and may be renewed, at the request of OWNER for such extended period. However, this Bank Guarantee shall be released after receipt of all MATERIALS at SITE and acceptance of same

The value of BG will be reduced on quarterly basis against receipt of value of MATERIALS at SITE and acceptance of the same.

Note : List of “major tagged items” shall be finalised during kick off meeting with successful bidder after placement of order for LSTK Contract.

- ii) **AGAINST PROOF OF SHIPMENT / DESPATCH OF MATERIALS :**



40% (Forty percent) on pro-rata basis of value of major tagged materials, as indicated in the Bill of Materials. Stage payment against "Proof of despatch of Materials" shall be released on submission of the following documents with the CONTRACTOR's invoice. For untagged material 50% on pro-rata basis and proof of despatch along with below mentioned documents:

INDIGENOUS MATERIALS

- Signed Invoice(s)
- Packing list.
- Inspection Release Note by Third Party Inspection Agency.
- Photocopy of Railway Receipt/LR.
- Insurance Certificate

IMPORTED MATERIALS

- Signed invoice(s)
- A full set of certified copies of on board clean bills of lading/airway duly certified by OWNER'S port offices at Mumbai and 4 (four) non-negotiable copies.
- Certificate of country of origin issued by a competent authority
- Packing list.
- Third Party Inspection Release Note clearly indicating that material has been inspected and accepted as per QAP approved by OWNER, or waiver certificate issued by OWNER.

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f) Insurance Certificate

iii) **On Issue of Certificate of Verification and Good Condition at Site, Against Contractor's Certified Running Account Bill(s):**

30% (Thirty percent) along with all applicable taxes and duties on pro-rata basis of value of materials as indicated in the Bill(s) of Materials on submission of:

- a) Verification of Third Party Inspection certificate as per QAP approved by OWNER along with Test Certificate.
- b) Tax paid invoices.
- c) Certificate of Verification and Good Condition after receipt of material at site.

iv) **10 % (Ten percent)** of the value of materials as indicated in the Bill(s) of Materials on issue of MECHANICAL COMPLETION Certificate against CONTRACTOR's certified running Accounts Bill(s).



v) **5% (Five percent)** of value of materials as indicated in the Bill of Materials on issue of PRELIMINARY ACCEPTANCE CERTIFICATE against the CONTRACTOR's certified Running Account Bills.

vi) **5% (Five percent)** of the value of materials as indicated in the Bill of Materials on completion of balance jobs, if any, against the CONTRACTOR's Certified Final Bill.

14.3.3 FOR SERVICES

The progressive payments for Services shall be made on the basis of achievement of following milestones as per the billing schedule of Contractor duly approved by Owner.

- i. **80% (Eighty percent)** after adjustment of advance if any on pro-rata monthly instalments linked with progress of work against certification of Owner as per the billing schedule submitted by the Contractor and approved by the Owner.
- ii. **10 % (Ten percent)** on issue of MECHANICAL COMPLETION Certificate against CONTRACTOR's certified running Accounts Bill(s).
- iii. **5% (Five percent)** on issue of PRELIMINARY ACCEPTANCE CERTIFICATE against the CONTRACTOR's certified Running Account Bills.
- iv. **5% (Five percent)** on completion of balance jobs, if any, against the CONTRACTOR's Certified Final Bill.

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14.3.4 FOR CIVIL WORKS

The progressive payments for CIVIL Works shall be made on the basis of achievement of following milestones as per the billing schedule of Contractor duly approved by Owner.

- i. **80%(Eighty percent)** after adjustment of advance if any on pro-rata monthly instalments linked with progress of work against certification of Owner as per the billing schedule submitted by the Contractor and approved by the Owner.
- ii. **10 % (Ten percent)** on issue of MECHANICAL COMPLETION Certificate against CONTRACTOR's certified running Accounts Bill(s).
- iii. **5% (Five percent)** on issue of PRELIMINARY ACCEPTANCE CERTIFICATE against the CONTRACTOR's certified Running Account Bills.
- iv. **5% (Five percent)** on completion of balance jobs, if any, against the CONTRACTOR's Certified Final Bill.

14.4 All payments other than the Mobilization Advance shall be released only after finalization of the planning and monitoring documents and Progress Schedule.

14.5 All invoices shall be submitted in quadruplicate to PROJECT MANAGER by the Bidder. The payment shall be released within 30 days of submission of clean invoice.

15.0 BILLING SCHEDULE

The CONTRACTOR shall provide a billing schedule based on agreed payment terms within 30 days from the effective date of CONTRACT for APPROVAL by the OWNER.



The CONTRACTOR shall raise "Tax Paid Invoices" on the OWNER against the paid GST, to enable OWNER to reimburse the same.

16.0 Deleted.

17.0 LIABILITY FOR DEFECTS

17.1 If at any time before the PRELIMINARY ACCEPTANCE or during the DEFECTS LIABILITY PERIOD stated below, the PROJECT MANAGER:

- (a) Decides that any matter is a DEFECT; and

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- (b) as soon as reasonably practicable gives to the CONTRACTOR notice of the particulars of the DEFECT; the CONTRACTOR shall as soon as reasonably predictable make good the DEFECTS so notified and the OWNER shall so far as may be necessary place the PLANT at the CONTRACTOR's disposal for this purpose. The CONTRACTOR shall, if so required by the PROJECT MANAGER, submit his proposals for making good any DEFECT to the PROJECT MANAGER for his approval.

Subject to clauses 17.4, 17.8 and 17.9, the DEFECTS LIABILITY PERIOD shall be a period of 12 months from the date of PRELIMINARY ACCEPTANCE.

- 17.2 If any DEFECT arises from any breach of the CONTRACT by the CONTRACTOR the CONTRACTOR shall bear his own cost of making good the DEFECT. In the case of any other matter made good by the CONTRACTOR, the work done by the CONTRACTOR shall be the subject of CHANGE ORDER.

- 17.3 The reliability load test is to be carried out before the performance & guarantee test. The performance guarantees are demonstrated only through the performance tests carried out before the achievement of the PRELIMINARY ACCEPTANCE CERTIFICATE.



Bidder is available to carry out further test(s) on the repaired/replaced item during the DEFECT LIABILITY PERIOD having the sole purpose to verify that said item is capable of working in compliance with contractual requirements. Such test(s) shall not be intended as a repetition of the performance tests already performed.

If DEFECT is made good after the issue of a PRELIMINARY ACCEPTANCE CERTIFICATE the PROJECT MANAGER may require the CONTRACTOR to repeat any appropriate performance test for the purpose of establishing that the DEFECT has been made good. The CONTRACTOR shall be responsible for the cost of any repeat inspection or test in the event of an inspection or test failure.

- 17.4 If in the course of making good any DEFECT which arises during the DEFECTS LIABILITIES PERIOD and CONTRACTOR repairs, replaces or renew any part of the PLANT, this Clause 17 shall apply to the repair or to that part of the PLANT so replaced or renewed and shall further apply until the expiry of a period of 12 months from the date of such repair, replacement or renewal (the extended DEFECTS LIABILITY PERIOD).

- 17.5 If the CONTRACTOR does not make good with a reasonable time any DEFECT which he is liable to make good under Sub-Clause 17.1 then the OWNER may, in addition to any other remedies or relief available to him under the CONTACT, proceed to do the work, provided that the OWNER gives at least fourteen DAYS notice of his intention.

- 17.6 If the OWNER reasonably requires that any DEFECT notified to the CONTRACTOR under Sub-clause 17.1 which arises during the DEFECT LIABILITY PERIOD be made good urgently and the CONTRACTOR is unable or refuses to comply within a reasonable time, the OWNER may, in addition to any other remedies or relief available



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to him under the CONTRACT, proceed to do the work in such a manner as the PROJECT MANAGER may decide, including the employment of a third party.

- 17.7 If the OWNER has made good a DEFECT in accordance with Sub-clause 17.5 or 17.6, the CONTRACTOR shall reimburse the OWNER his reasonable cost of so doing provided that the OWNER gives a notice to the CONTRACTOR of his intention and submits a claim supported by DOCUMENTS. The PROJECT MANAGER and the CONTRACTOR may agree the amount to be paid by the CONTRACTOR, or in the absence of agreement the PROJECT MANAGER shall decide such amount as may be reasonable. Such amount shall be:
- deducted from any money that would otherwise be payable under the CONTRACT; or
 - paid by the CONTRACTOR to the OWNER
- 17.8 If the PLANT cannot be used because of a DEFECT to which this Clause 17 applies, the DEFECTS LIABILITY PERIOD, or if applicable the extended DEFECTS LIABILITY PERIOD, shall be extended by a period equal to the period during which it cannot be used. Similarly the DEFECTS LIABILITY PERIOD, or if applicable the extended DEFECTS LIABILITY PERIOD shall be extended by any period wherein the PLANT cannot be used by reason of the CONTRACTOR putting the PLANT into such condition that it passes any relevant performance test or attempting to do so.
- 17.9 If any part of the PLANT has a working life, which is specifically notified by the CONTRACTOR under this CONTRACT, to be less than 12 months the DEFECTS LIABILITY PERIOD for such part shall be the working life so stated.

18.0 PERFORMANCE TESTS

- 18.1 Performance Test shall be carried out as detailed in section 13.0 of Technical Part of NIT..
- 18.2 If the CONTRACT provides for the performance of the PLANT to be tested in sections or in parts, Sub-clause 18.3 to 18.11 shall apply as if a reference to the PLANT were a reference to a section or a part.
- 18.3 Deleted
- 18.4 The performance test shall be carried out by the CONTRACTOR in the presence of OWNER as soon as is practicable under direction, control and direct supervision of CONTRACTOR.
- 18.5 The CONTRACTOR shall give a notice to the PROJECT MANAGER his readiness to carry out the performance and guarantee test after completion of reliability load test, including a proposal for the time at which the tests would commence.

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18.6 The performance test shall be carried out to completion unless its continuance is unsafe.

18.7 If the PLANT fails to pass any performance test or if any performance test is stopped before its completion such test shall, subject to Sub-clause 18.9 and 18.10, be repeated as soon as practicable thereafter. After failure of 3 trials of performance tests,/ mutually agreed for no. of trials with OWNER/CONSULTANT shall have the option to operate the plant, whereupon care and custody of the Plant shall be transferred to Owner and DLP will start. The OWNER shall then exercise the option when to make adjustments and modifications by the CONTRACTOR to any part of the Plant before the repetition of any performance test.

The OWNER shall permit to CONTRACTOR to make adjustments and modifications to any part of the Plant before the repetition of any performance test and shall, if the CONTRACTOR reasonably requires, shut down any part of the PLANT for such purpose and restart it after completion of the adjustments and modifications, which shall be made by the CONTRACTOR with all reasonable speed. The timing of such shutdown shall be agreed between the CONTRACTOR and the PROJECT MANAGER.

The CONTRACTOR shall, if so required by the PROJECT MANAGER, submit to the PROJECT MANAGER for his approval details of the adjustments and modifications which he proposes to make.



The CONTRACTOR shall make such adjustment and modifications at his own cost.

18.8 Deleted

18.9 If for reasons which are the responsibility of the CONTRACTOR the PLANT does not pass the performance test, the OWNER shall thereafter shall be free to operate the PLANT as he sees fit, provided that the results of the performance tests are within the limits for the application of PRICE REDUCTION CLAUSE. Upon payment or allowance of such sum the CONTRACTOR shall become entitled to the issue of PRELIMINARY ACCEPTANCE CERTIFICATE stating the applicable PRICE REDUCTION CLAUSE have been paid in respect of shortfall in performance. CONTRACTOR shall be released from liability with respect to PERFORMANCE AND GUARANTEE TEST upon payment of PRICE REDUCTION CLAUSE.

If the results of the performance tests are outside the limits for application of PRICE REDUCTION CLAUSE specified in the CONTRACT, OWNER may at his option:

- a) instruct the CONTRACTOR to investigate or to co-operate with the PROJECT MANAGER or others in the investigation of the reasons for the shortfall in the performance;

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- b) instruct the CONTRACTOR to propose remedial measure and work necessary to correct the shortfall whether as the result of any such investigation or not; and/or
- c) recommend the CONTRACTOR to carry out whatever remedial measures and work may be necessary to correct the shortfall

Thereafter the PROJECT MANAGER may require that a performance test be repeated, the result of which shall be subject to this Sub-clause 18.9.

The CONTRACTOR shall bear his own cost of work undertaken in accordance with (a), (b) or (c) above.

18.10 If for reasons which are the responsibility of the CONTRACTOR:

- (a) the results of any performance test are outside any limits specified in Clause 31 of GCC; and
- (b) within the period from the date of agreed period of Extended Performance Test Period the CONTRACTOR is unable to bring the performance of the PLANT within the limit specified in Clause 31 of GCC as demonstrated by a repeat performance test or tests whether or not having followed the provisions of (a), (b) and (c) of Sub-clause 18.9;



the OWNER shall proceed with encashing the Performance Bank Guarantee. If during the Extended Performance Test Period the performance of the plant is brought within the limits Price Reduction Clause, the liability of the CONTRACTOR shall be limited to the payment in accordance with price reduction Clause 31 of GCC.

18.11 After 3 failed performance tests, Owner will have the option to operate the plant with deferment of corrective action by bidder to a suitable date.

Further if the performance parameters are within the range of applicable Price reduction clause then the Bidder will be allowed only 3 trials to pass the performance & guarantee test upon which Owner will have the right to recover the Price Reduction related to Works cost Guarantee.

Under above circumstances (i.e. after three failed tests) if Owner elects to operate the plant then care and custody will pass to the Owner and Defect Liability Period will start. However if Works cost is more than 102.5 %, the contractor has to take the necessary action to correct the defects as stated elsewhere in the NIT. The cost towards the modification/rectification shall be borne by contractor as stated elsewhere in the NIT. After the necessary corrections/modification carried out by the contractor, the Performance test shall be done to establish the works cost.

4



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19.0 FINAL ACCEPTANCE CERTIFICATE

- 19.1 Subject to Sub-clause 17.8 and 19.2 as soon as DEFECT LIABILITIES PERIOD for the PLANT has expired or the CONTRACTOR has made good all DEFECTS that have within such period appeared in the PLANT or a Section in accordance with Clause 17 (Liability for Defects), whichever is later, the PROJECT MANAGER shall issue a certificate (a 'FINAL ACCEPTANCE CERTIFICATE') to the CONTRACTOR stating that the PLANT or Section and any related work have finally been completed and the date of that completion.
- 19.2 If Sub-clause 17.4 continues to apply to any part of the PLANT, the PROJECT MANAGER shall as soon as Sub-clause 19.1 is otherwise satisfied, issue a FINAL ACCEPTANCE CERTIFICATE for the remainder of the PLANT or Section in which the repair or part is included, provided that such repair or part is then free from DEFECTS which the CONTRACTOR is bound to make under Clause 17. Such repair or part shall then be treated as if it were a separate Section and shall be the subject of separate FINAL ACCEPTANCE CERTIFICATE.
- 19.3 The FINAL ACCEPTANCE CERTIFICATE shall constitute conclusive evidence for all purposes and in any proceedings whatsoever between the OWNER and the CONTRACTOR that the CONTRACTOR has completed that part of the PLANT and made good all DEFECTS therein in all respects in accordance with his obligations under the CONTRACT.

Where there is more than one FINAL ACCEPTANCE CERTIFICATE the last to be issued shall be identified as being the last FINAL ACCEPTANCE CERTIFICATE.

No FINAL ACCEPTANCE CERTIFICATE shall be conclusive as stated above if it or any other FINAL ACCEPTANCE CERTIFICATE was issued in reliance upon any fraudulent act, misrepresentation or concealment.

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SUBJECT: NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA ALONG WITH IT'S REFEGERATION SYSTEM- NFL, Nangal

With reference to your invitation for NIT **NO: PNMM/PC-281/E-001**, we are pleased to submit our bid for the subject job at CPP Portal:

COVER - I: TENDER FEE, EARNEST MONEY DEPOSIT, INTEGRITY PACT, DECLARATION FOR LOCAL CONTENT, PRE-QUALIFICATION BID, TECHNICAL AND UNPRICED COMMERCIAL BID

COVER - II: PRICED BID in excel BoQ form

We undertake that in the event of acceptance of our Bid within the validity period of 09 months, this bid as modified by mutually acceptable written changes/amendments till date of notification of award, together with your written notification of award shall constitute a binding contract between us until a formal contract is prepared and executed.

We understand that you are not bound to accept the lowest or any bid that may be received.

Dated this day of.....20....



For and on behalf of :

Stamp & Signature :

Name :

Designation :



Date :

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL PREAMBLE TO SCHEDULE OF PRICES	PNMM/PC-281/E-001/P-I/Annx-1.2		 NFL A Navratna Company
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PREAMBLE TO SCHEDULE OF PRICES

1.	The "PRICE SCHEDULE (BOQ)" is in Excel format (password protected) and has been uploaded during tender creation. This will be downloaded by the bidder and bidder will quote price on this Excel file for entire scope of work as per NIT. Thereafter, the bidder will upload the same Excel file during bid submission.
2.	The PRICE SCHEDULE (BOQ) format is provided in a spread sheet file (BoQ_xxxx.xls). The rates offered should be entered in the allotted space (Aqua Colour) only and uploaded after filling the relevant columns. The PRICE SCHEDULE (BOQ) template must not be modified / replaced by the bidder; else the bid submitted shall be rejected.
3.	Bidder shall quote the Price in INR only .
4.	PRICE SCHEDULE (BOQ) consists of following three sheets/parts: i. Part- I : TOTAL LSTK PRICE / TOTAL CONTRACT PRICE (CAPEX) ii. Part- II: BREAK-UP PRICE iii. Part- III: BIDDER'S RECOMMENDED SPARES (OPERATIONAL)
5.	It is mandatory to quote prices in PRICE SCHEDULE (BOQ) and fill up figures in Part-I, Part-II and Part-III listed in Para 4. It will be the responsibility of the contractor to quote for all Materials/ Equipments/Services/Civil Works etc. as per scope of work defined in NIT.
6.	CONTRACTOR shall be responsible for payment of all taxes, duties and levies as applicable on performance of WORK under CONTRACT and shall be included in the quoted LSTK PRICE/TOTAL CONTRACT PRICE.
7.	A copy of PRICE SCHEDULE (BOQ) with prices/figures completely blanked out but with the word " Quoted " or " Not Applicable " in all columns is to be uploaded along with the TECHNICAL AND UNPRICED COMMERCIAL BID, as a confirmation of price/data quoted against each head.
8.	The entire Package consisting of the totality of Supplies, Services and Civil Works shall be covered in the TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE quoted by Bidder in PRICE SCHEDULE (Part-I). Break-up of this TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE shall be indicated by Bidder in Part-II of the PRICE SCHEDULE.
9.	<u>Price Evaluation shall be done based on TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE quoted by Bidder in PRICE SCHEDULE (Part-I) and provisions as specified in the tender documents. In case of any variance between the quoted TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE in PRICE SCHEDULE (Part-I) and arithmetic total of break-up furnished by Bidder in Part-II , the TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE in PRICE SCHEDULE (Part-I) shall prevail.</u>

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	<p>Incase the BREAK-UP PRICE quoted in Part-II did not match with the <u>TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE (excluding GST) quoted by Bidder in Part-I, then excess/less amount quoted in Part-II will be proportionately adjusted against the each line item while award.</u></p>
10.	<p>Quoted TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE in PRICE SCHEDULE (Part-I) shall be inclusive of all taxes, duties, licence fees, Royalty and other such levies as may be applied to the CONTRACT both in CONTRACTOR's country and in India, corporate income tax, GST, CUSTOM DUTY, BOCW Cess in respect of the performance of the CONTRACT as well as income tax on the personnel deputed by the CONTRACTOR to India in connection with the CONTRACT.</p>
11.	<p>Total price of 'SUPPLIES/GOODS' quoted in "Part- II: BREAK-UP PRICE" shall not exceed 60% of the TOTAL LSTK /TOTAL CONTRACT PRICE. In case the price for SUPPLIES/GOODS component exceed the above mentioned limit, then such additional amount shall be payable to the contractor after Mechanical Completion.</p>
12.	<p>Owner will reimburse GST (CGST & SGST/UTGST or IGST) to the CONTRACTOR at actual against submission of Invoices as per format specified in rules/ regulation of GST subject to the ceiling amount of GST (CGST & SGST/UTGST or IGST) as quoted by the bidder, subject to any statutory variations, except variations arising due to change in turnover. Returns and details required to be filled under GST laws & rules should be timely filed by supplier with requisite details.</p>
13.	<p>Spares for start-up/ commissioning, Mandatory Spares and lubricants/chemicals upto Preliminary Acceptance are in CONTRACTOR's scope of supplies and are to be included in the quoted TOTAL LSTK PRICE/ TOTAL CONTRACT PRICE.</p>
14.	<p>The break-up of LSTK Price pertains to of major items without identifying individual tag nos. It will be the responsibility of the contractor to quote all materials/ equipments required for completion of work as per the contract, irrespective of whether all items are identified above or not.</p>
15.	<p>Clearance at Port, Airport, Demurrage / Warfage, if any, transportation to the site and loading / unloading will be in the CONTRACTOR's Scope.</p>
16.	<p>The CONTRACTOR shall be liable and pay all taxes, duties, levies, lawfully assessed against the OWNER or the CONTRACTOR in pursuance of the CONTRACT. The CONTRACTOR shall be solely responsible for all taxes that may be levied on the CONTRACTOR's turnover & profit or on the earnings of any of his employees or personnel engaged by him and shall hold the OWNER indemnified and harmless against any claims that may be made against the OWNER in this behalf. The OWNER does not undertake any responsibility whatsoever regarding any taxes levied on CONTRACTOR and/or his personnel by Centre/State/Local Authorities. The Taxes shall be deducted where the said provisions shall be applicable and/or obligatory on the part of the OWNER.</p>
17.	<p>CONTRACTORS bringing equipment and material from outside Nangal (Punjab) will have to obtain necessary registrations and take appropriate steps as required under Punjab State Laws.</p>
18.	<p>The payment break-up within the parameters indicated shall be submitted and finalized in the schedule of Activities in accordance with the payment terms set out in the Special Conditions of Contract. Bidder must submit Monthly Payment and Progress schedule in a tabular form as per format provided in the tender documents.</p>

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19.	It is mandatory for the bidder to indicate “Quoted” or “Not applicable” in the unpriced schedule for all items in the Price Schedule (BOQ). If the bidder fails to quote for any item in the Price Schedule (BOQ) or mentions ‘Not applicable’ or ‘Nil’, it will be implied that such item(s) are included elsewhere in the quoted prices and the bid shall be evaluated accordingly. Bidder should not club items with differing payment terms.
20.	In Part-III: BIDDER'S RECOMMENDED SPARES (OPERATIONAL):- <ul style="list-style-type: none"> i. Vendor's Recommended spare price shall not be considered for price evaluation. ii. Validity of Vendor's Recommended Spares shall be three (03) months beyond bid validity. iii. The rates indicated by the bidder for Vendor's Recommended Spares are subject to acceptance of Owner. For acceptance of these rates or otherwise, the bidder/contractor shall furnish the justification to establish the reasonableness of these rates, before any order is placed by Owner.



For and on behalf of :

Stamp & Signature :

Name :

Designation :

Date :

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL COMMERCIAL QUESTIONNAIRE	PNMM/PC-281/E-001/P-I/Annx-1.3		 A Navratna Company
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Note:

- 1) The Bidder shall indicate CONFIRMED against each query.
- 2) The Bidder's reply/ confirmation as furnished in the Commercial Questionnaire (CQ) shall supersede the stipulation mentioned elsewhere in the bid.

Sl. No.	OWNER'S/PDIL'S QUERY	BIDDER'S REPLY / CONFIRMATION
1.	Please confirm that Master Index, Part-I (Commercial), Part-II (Technical) and Amendment, if any, duly signed and stamped on each page has been submitted, as token of having acknowledged the entire bidding document, along with the bid.	
2.	Please confirm that all pages of the Bid have been signed and Stamped as per NIT requirement and numbered in sequential manner.	
3.	Please confirm that you have studied complete Bidding Document i.e. Technical and Commercial Part and your Bid is in accordance with the requirements of the Bidding Document.	
4.	Please confirm that Techno-Commercial Bid has been submitted as specified in Clause 21.0 of Instructions to Bidders.	
5.	Please confirm ONLINE Bid Submission as per tender i.e. in Single Stage Two Bid System.	
6.	Please confirm that a copy of PRICE SCHEDULE (BOQ) with prices/figures completely blanked out but with the word " Quoted " or " Not Applicable " against each head and duly stamped & signed on each page, strictly shall be submitted as per as per Excel BoQ provided in Cover-II in the Portal, failing which bid may be rejected.	
7.	Please confirm your compliance to total scope of work mentioned in the Bidding Document. CONTRACTOR's scope shall include supply of all Materials and Services required for completion of Work irrespective of whether such materials and services are mentioned in the Bidding Document or not.	
8.	Please confirm your acceptance for Time Schedule as mentioned in Instructions to Bidders	
9.	Please confirm your acceptance for Payment Terms as per BIDDING Documents.	
10.	Please confirm that your bid is valid for 9 months from the date of opening of Unpriced Techno-commercial Bids.	

Sl. No.	OWNER'S/PDIL'S QUERY	BIDDER'S REPLY / CONFIRMATION
11.	Please confirm EMD Validity for the period of Bid Validity plus 03 Months.	
12.	Please confirm that your quoted price includes following :- i) All type of taxes / levies as per provisions of Bidding Document. ii) Insurance as per provision of Bidding Document.	
13.	Please confirm that you have proposed adequate project / site organisation with qualified supervisory personnel having sufficient experience.	
14.	Please confirm that all costs resulting from safe execution of Work, such as safety induction, use of protective clothing, safety glasses and helmet, safety precaution taken during monsoon, or any other safety measures to be undertaken by the CONTRACTOR for execution of Work are included in the Lumpsum Price.	
15.	<p>Please confirm the following :-</p> <p>“The planning schedule, S-curves, manpower estimates, construction equipment deployment schedule etc. submitted by the bidder with his bid are indicative and shall not be basis for extra compensation in case actual needs are higher.</p> <p>Detailed planning schedule developed by CONTRACTOR after Contract award may be subject to fluctuations depending upon actual progress of the project and available Work front.</p> <p>Co-ordination and making available by CONTRACTOR of all staff, manpower, construction equipment, tools, cranes, etc. and materials as required for a timely completion of all Work as per OWNER's construction and priority schedule and in accordance with the available Work front are to be included in the pricing”.</p> <p>Notwithstanding the above provision, the bidder shall submit these details in accordance with the volume of work, which may be reviewed and commented by us during pre award stage /post award stage.</p>	
16.	<p>Please furnish the bio data of key personnel including nominated Project Director, Project Manager, Engineering Manager, Engineering</p> <p>Co-ordinator, Purchase Manager, QA/QC Manager, Commissioning Manager, Commissioning Engineer etc. These will be reviewed and approved by Engineer-in-Charge.</p>	

Sl. No.	OWNER'S/DPIL'S QUERY	BIDDER'S REPLY / CONFIRMATION
17.	The safety measures as mentioned in GCC/SCC shall not be considered as limitative. The CONTRACTOR will be required to develop their stringent safety measures and submit the same to Engineer-in - Charge with the provision of a dedicated safety group closely monitoring the construction activities in all working shifts.	
18.	Please confirm that your sub-contractor for construction shall be meeting the requirements as specified in Special Conditions of Contract including the provision of GCC. Also that the agency for executing Electrical work shall have a valid license for carrying out the work in the state of Nangal, Punjab.	



For and on behalf of :

Stamp & Signature :

Name :

Designation :

Date :

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL FORMAT FOR BIDDER'S QUERIES FOR PRE BID DISCUSSION	PNMM/PC-281/E-001/P-I/Annx-1.4		
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SL. NO.	REFERENCE OF BIDDING DOCUMENT				BIDDER'S QUERY	OWNER'S / PMC REPLY
	Part/ Sec	Page No.	Clause No.	Subject		

NOTE :

- Bidder shall furnish Technical and Commercial queries/ deviations, if any, separately. Also, Technical queries/ deviations shall be furnished separately for each discipline i.e. Process, General Civil, Structural, Architectural, Piping, Mechanical Equipment, Pressure Vessels, Rotating Equipment, Electrical, Instrumentation, Construction etc.

2. The Pre-Bid Queries shall be sent through e-mail to anjali@pdilin.com / mksenapati@pdilin.com



For and on behalf of

Stamp & Signature :

Name :

Designation :

Date :

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL	PNMM/PC-281/E-001/Annx-1.5		
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BIDDER'S PROPOSED SCHEDULE				

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Bidder shall provide a bar-chart type schedule for the execution of the WORK and shall show the main activities with duration, their sequences, and the milestone events specified.



For and on behalf of

Stamp & Signature :

Name :

Designation :

Date :

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL DECLARATION BY THE BIDDER REGARDING BIDDING DOCUMENT	PNMM/PC-281/E-001/P-I/Annx-1.6		
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We _____(Name of the Bidder)_____ hereby represent that we have gone through and understood the Bidding Documents, **NIT NO:** _____, (including but not limited to) the Commercial & Technical Requirements/ Specifications in Part-I and Part-II of the Bidding documents and amendments, if any, and that our Bid has been prepared accordingly in compliance with the requirements stipulated in the said documents.

We are submitting the Table of Contents of Bidding Documents, Part-I and Part-II of the Bidding documents and amendments, if any, as part of our Bid duly signed and stamped on each page in token of our acceptance. Further we undertake that in the event of award of work to us, all the parts shall be considered for constitution of Contract Agreement.

For and on behalf of



Stamp & Signature :

Name :

Designation :

Date :

NOTE: This declaration should be signed by the Bidder's representative who is signing the Bid.



	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL PROFORMA OF BANK GUARANTEE FOR EMD	PNMM/PC-281/E-001/P-I/Annx-1.7		
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PROFORMA OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT (EMD)

(To be submitted on Non Judicial Stamp Paper for applicable value)

IN CONSIDERATION OF **NATIONAL FERTILIZERS LIMITED (NFL)**, HAVING ITS REGISTERED OFFICE AT SCOPE COMPLEX, CORE-III, 7 INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI-110 003 (HEREINAFTER CALLED NFL WHICH EXPRESSION SHALL UNLESS REPUGNANT TO THE SUBJECT OR CONTEXT INCLUDES ITS SUCCESSORS AND ASSIGNS) HAVING AGREED TO EXEMPT _____(HEREINAFTER CALLED THE, THE SAID TENDERER(S)' WHICH EXPRESSION SHALL UNLESS REPUGNANT TO THE SUBJECT OR CONTEXT INCLUDES HIS SUCCESSORS AND ASSIGNS) FROM THE DEMAND UNDER THE TERMS AND CONDITIONS OF TENDER NO _____ FOR _____ HEREINAFTER CALLED "THE SAID TENDERER' OF SUCH BID SECURITY DEPOSIT FOR THE DUE FULFILMENT BY THE SAID TENDERER(S) OF THE TERMS AND CONDITIONS CONTAINED IN THE SAID TENDER _____ FOR _____ ON PRODUCTION OF BANK GUARANTEE FOR RS. _____(RUPEES _____ ONLY).



1. WE _____ BANK HEREINAFTER REFERRED TO AS 'THE BANK' DO HEREBY UNDERTAKE TO PAY TO NFL AN AMOUNT NOT EXCEEDING RS. _____(RUPEES _____ ONLY) AGAINST ANY LOSS OR DAMAGE CAUSED TO OR SUFFERED BY 'NFL' REASON OF ANY BREACH BY THE SAID TENDERER(S) OF ANY OF THE TERMS AND CONDITIONS CONTAINED IN THE SAID TENDER (THE DECISION OF THE COMPANY AS TO ANY SUCH BREACH HAVING BEEN COMMITTED AND LOSS SUFFERED SHALL BE BINDING ON US.
2. WE _____ BANK DO HEREBY UNDERTAKE TO PAY THE AMOUNTS DUE AND PAYABLE UNDER THIS GUARANTEE WITHOUT ANY DEMUR MERELY OR A DEMAND FROM 'NFL' STATING THAT THE AMOUNT CLAIMED IS DUE BY WAY OF LOSS OR DAMAGE CAUSED TO OR WOULD CAUSE TO OR SUFFERED BY 'NFL' BY REASON OF ANY BREACH BY THE SAID TENDERER(S) OF ANY OF THE TERMS OR CONDITIONS CONTAINED IN THE SAID TENDER OR BY REASON OF THE SAID TENDERER'S FAILURE TO KEEP THE TENDER OPEN. ANY SUCH DEMAND MADE ON THE BANK SHALL BE CONCLUSIVE AS REGARDS THE AMOUNT DUE AND PAYABLE BY THE BANK UNDER THIS GUARANTEE. HOWEVER, OUR LIABILITY UNDER THIS GUARANTEE SHALL BE RESTRICTED TO AN AMOUNT NOT EXCEEDING _____(RS _____ ONLY).

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL PROFORMA OF BANK GUARANTEE FOR EMD	PNMM/PC-281/E-001/P-I/Annx-1.7		 एन एफ एल NFL A Navratna Company
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3. WE _____BANK FURTHER AGREE THAT THE GUARANTEE HEREIN CONTAINED SHALL REMAIN IN FULL FORCE AND EFFECT DURING THE PERIOD THAT WOULD BE TAKEN FOR THE FINALISATION OF THE SAID TENDER AND THAT IT SHALL CONTINUE TO BE ENFORCEABLE TILL THE SAID TENDER IS FINALLY DECIDED AND ORDER PLACED ON THE SUCCESSFUL TENDERER AND/ OR TILL ALL THE DUES OF NFL UNDER/OR BY VIRTUE OF THE SAID TENDER HAVE BEEN FULLY PAID AND ITS CLAIMS SATISFIED OR DISCHARGED OR TILL A DULY AUTHORISED OFFICER OF NFL CERTIFIED THAT THE TERMS AND CONDITIONS OF THE SAID TENDER HAVE BEEN FULLY AND PROPERLY CARRIED OUT BY THE SAID TENDERER(S) AND ACCORDINGLY DISCHARGES THE GUARANTEE. UNLESS A DEMAND OR CLAIM UNDER THIS GUARANTEE IS MADE ON US IN WRITING ON OR BEFORE THE _____TO INCLUDE 3 MONTHS OVER AND ABOVE THE BID VALIDITY PERIOD MENTIONED IN THE PARAGRAPH FOR THE VALIDITY OF THE BANK GUARANTEE IN THE TENDER WE SHALL BE DISCHARGED FROM ALL LIABILITY UNDER THIS GUARANTEE THEREAFTER.
4. WE _____BANK, LASTLY UNDERTAKE NOT TO REVOKE THIS GUARANTEE DURING ITS CURRENCY EXCEPT WITH THE PREVIOUS CONSENT OF 'NFL' IN WRITING.
5. THIS GUARANTEE WILL NOT BE DISCHARGED DUE TO THE CHANGE IN CONSTITUTION OF THE BANK OR THE CONTRACTOR(S). ALSO THE GUARANTEE WILL NOT BE DISCHARGED DUE TO CHANGE IN THE CONSTITUTION OR MANAGEMENT OF NFL

DATED _____ DAY OF _____ 20__

CORPORATE SEAL FOR BANK.

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL BANK GUARANTEE FOR CONTRACT PERFORMANCE / SECURITY DEPOSIT	PNMM/PC-281/E-001/P-I/Annx-1.8		
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PERFORMANCE BANK GUARANTEE FORMAT

(To be prepared on Stamp paper of applicable value issued in the name of Bank)

This BANK GUARANTEE No. _____ made this day of _____ between _____ a bank incorporated and having its registered office at _____ (hereinafter called BANK) which expression shall unless repugnant to the context or contrary to the meaning thereof include its successors and assigns on the one part and NATIONAL FERTILIZERS LIMITED, a Company registered in India under Companies Act, 1956 and having its registered office at Core -III, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi -110003, India (Hereinafter referred to as "Owner") which expression shall unless repugnant to the context or contrary to the meaning thereof include its successors and assigns on the other part.



WHEREAS in pursuance to the agreement dated _____ (hereinafter called CONTRACT) entered into between National Fertilizers Limited and _____ a Company incorporated in _____ (hereinafter called CONTRACTOR) which expression shall unless repugnant to the context or contrary to the meaning thereof include its successors and assigns, for supply of _____ as envisaged in the Contract, Contractor has to submit a Security Deposit-cum-Performance Bank Guarantee for Rs. _____.

CONTRACTOR accordingly agrees to furnish the Security cum performance Bank Guarantee as hereinafter contained towards fulfillment of all of its obligations under the contract.

NOW THIS DEED WITNESSES AS FOLLOWS:

The decision of the Owner as to whether the terms and conditions of this Security Deposit- cum-Performance Bank Guarantee have been observed or not shall be final and binding on the BANK. In any case, however the Bank's responsibility under this Security Deposit-cum-Performance Bank Guarantee is limited to Rs. _____.

- In pursuance of the Contract, the Bank hereby guarantees as a direct responsibility to OWNER that the BANK is holding the amount of Rs. _____ at Owner's disposal and hereby promises and shall be bound to pay to OWNER, forthwith at Owner's written notice stating that the contractor has failed to fulfill its obligations under the contract for reasons for which contractor is liable and without any protest or demur and without recourse to contractor and without asking for any reasons as to whether the amount if lawfully asked for by Owner or not, the entire amount or the portion thereof as mentioned by Owner in the notice.
- This Security Deposit-cum-Performance Bank Guarantee shall be valid for an initial period of _____ months from the date of this Bank Guarantee No. _____ dated _____ given by the Bank to Owner become effective. Upon issuance of Commissioning / certificate according to terms of contract on expiry of



	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL BANK GUARANTEE FOR CONTRACT PERFORMANCE / SECURITY DEPOSIT	PNMM/PC-281/E-001/P-I/Annx-1.8		 NFL A Navratna Company
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_____ months after the issuance of the abovementioned certificate of commissioning / erection / completion certificate, the Security Deposit-cum- Performance Bank Guarantee shall become null and void.

3. This Security Deposit-cum-Performance Bank Guarantee shall be in addition to and shall not affect or be affected by any other security now or hereafter held by Owner on account of money hereby intended to secure and Owner at its discretion and without any further consent from the Bank, and without affecting its rights against the Bank, may compound with, give time or other indulgence to or make another arrangement with Contractor and nothing done or omitted to be done by Owner in pursuance of any authority or permission contained in this guarantee, shall effect discharge of the liability of the Bank.
4. UNLESS PREVIOUSLY CANCELLED BY THE OWNER, this Security Deposit-cum-Performance Bank Guarantee will remain in force initially upto_____months from the effective date of Bank Guarantee No. _____ dated_____given by the Bank to the Owner and subject to provisions of paragraph2 above will stand automatically cancelled on the expiry of the said period. Unless demand or claim under this Bank Guarantee is made on Bank in writing within three months from the date of expiry of this Bank Guarantee, all the rights of Owner against the Bank shall be forfeited and Bank shall be relieved and discharged formal the liabilities hereunder.
5. Any notice by way of request, demand or otherwise hereunder may be sent by post to the Bank, addressed as aforesaid, and if sent by post, it shall be deemed to have been given at the time when it would be delivered in due course of post, and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate, signed by an officer of the owners, to the effect that the envelope was so posted, shall be conclusive.
6. The Security Deposit-cum-Performance Bank Guarantee is to be returned to the Bank after its expiry in terms of Paragraph 4 above.
7. This guarantee will not be discharged due to the change in constitution of the Bank or the Contractor(s). Also the guarantee will not be discharged due to change in the constitution or Management of NFL (owner).
8. The Bank declares that it has the power to issue this guarantee and the undersigned have full power to do so.

Dated _____ this _____ day of _____.

(Indicate the name of the Bank with stamp)

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL BANK GUARANTEE FOR ADVANCE/ PROGRESS PAYMENT	PNMM/PC-281/E-001/P-I/Annx-1.9		
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PROFORMA FOR BANK GUARANTEE AGAINST ADVANCE PAYMENT



(On Stamp Paper of applicable value issued in the Name of the Bank)

Guarantee No..... Dated.....

In consideration of the National Fertilizers Limited, a Company incorporated under the Indian Companies Act and having its registered office at SCOPE Complex, Core-III, Institutional Area, Lodhi Road, New Delhi 110 003 (hereinafter called "NFL") having agreed to advance a sum of Rs.....(Rupees..... only) to M/s.....(Hereinafter called "CONTRACTOR") as.....% advance against WORK ORDER No..... Dated..... for Rs..... (Rupees..... only). We,(Bank), having its registered office at (Hereinafter referred to as the "BANK") do hereby undertake to pay immediately on demand by NFL an amount not exceeding Rs.....



(Rupees..... only) [i.e. Rs..... as Principal Amount and Rs..... as Interest for Months]. NFL can demand, against this Bank Guarantee, only an amount equivalent to an amount not adjusted by NFL against the supplies by the contractor as per the WORK ORDER.

1. Bank do hereby undertake to pay the amounts due and payable under this guarantee without any protest or demur immediately on a demand by NFL. Any such demand made on the Bank shall be conclusive as regards the amount due and payable and the Bank will make the payment immediately without referring to CONTRACTOR.
2. The Bank further agrees that the guarantee herein contained shall remain or shall be released to the CONTRACTOR when the deliveries are completed or advance made towards works are fully adjusted bill of deliveries with earlier certification by NFL.
3. We(Bank) further agree with the NFL that NFL shall have the fullest liberty without the Bank's consent and without effecting in any manner or obligations hereunder to vary any of the terms and conditions of the Work Order or to extend time of performance by the Contractor from time to time or to postpone for any time or from time to time any of the powers exercisable by NFL against the Contractor and to forebear or enforce any of the terms and conditions relating to the Work Order No..... dated..... and the Bank shall not be relieved from its liability by reasons of any such variation or extension being granted to the Contractor or for any forbearance, act or omission on the part of NFL or any indulgence by the NFL to the Contractor or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving Bank.
4. We(Bank) further agree that it shall not revoke this guarantee during its currency of Guarantee except with the previous consent of NFL in writing.

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL BANK GUARANTEE FOR ADVANCE/ PROGRESS PAYMENT	PNMM/PC-281/E-001/P-I/Annx-1.9		
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5. This guarantee will not be discharged due to the change in constitution of the Bank or the Contractor(s). Also the guarantee will not be discharged due to change in the constitution or Management of NFL.
6. We(Bank) agree to extend the validity of the guarantee for the period(s) as asked for by M/s
7. Notwithstanding anything contained herein before, our total liability under this guarantee is restricted to Rs..... (Rupees.....only) and shall remain in force until..... unless a demand or claim to enforce a claim under this guarantee is made against us in writing on or before the date i.e..... all rights of NFL, under this guarantee shall be forfeited and the Bank shall be released and discharged from all liabilities hereunder.

Dated:..... Bank.....
(Corporate Seal of Bank)

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL PROFORMA OF CERTIFICATE OF NON- INVOLVEMENT OF AGENT	PNMM/PC-281/E-001/P-I/Annx-1.10	
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SUBJECT: NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA ALONG WITH IT'S REFEGERATION SYSTEM- NFL, Nangal

Where Indian Agent/Consultant/Representative/Retainer/Associates is not involved, the bidder shall certify in the proforma given below on its letterhead.

This is to certify that we have not engaged/involved any Indian agent/representative/consultant/retainer/Associates who is not our employee for the purposes of accompanying bid or any resultant Contract and therefore, no Agent's/Retainer's/representative's/consultant's/associate's commission is payable in India or abroad against or in connection with any resultant Contract.



For and on behalf of :

Stamp & Signature :

Name :

Designation :

Date :

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL NO DEVIATION CERTIFICATE	PNMM/PC-281/E-001/P-I/Annx-1.11		 NFL A Navratna Company
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NO DEVIATION CERTIFICATE

(Self Declaration on Bidder's Letter Head)

- With reference to our Bid Proposal No. dated for **NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA ALONG WITH IT'S REFEGERATION SYSTEM- NFL, Nangal (NIT No.: PNMM/PC-281/E-001)**, We hereby confirm that we comply with all terms, conditions and specifications of the Bidding Documents read in conjunction with Amendments(s) / Clarification(s) / Addenda / Errata (if any) issued by the Owner prior to opening of Techno – Commercial Bids and the same has been taken into consideration while making our Techno – Commercial Bid & Price Bid and **we declare that we have not taken any deviation / exceptions in this regards.**
- We further confirm that any deviation variation or additional conditions etc or any mention, contrary to the Bidding Documents and its Amendments(s) / Clarification(s) / Addenda / Errata (if any) as mentioned at 1.0 above found anywhere in our Techno – Commercial Bid and / or price Bid, implicit or explicit, shall stand unconditionally withdrawn, without any cost implication whatsoever to the Owner, failing which the Bid Security shall be forfeited.



For and on behalf of :

Stamp & Signature :

Name :

Designation :

Date :

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL CONTENTS OF BID AND CHECK LIST	PNMM/PC-281/E-001/P-I /Annx-1.12		
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SUBJECT: NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA ALONG WITH IT'S REFEGERATION SYSTEM- NFL, Nangal

Bidder is requested to fill this check list and ensure that all details /documents have been furnished under relevant section as called for in the Bidding Document duly filled in, signed & stamped.

Please tick the box and ensure compliance:



PART-I : Pre-Qualification Document: (Refer Clause 8.0)

i)	Documents about the status (i.e. Name and complete Address) of the firm/company along with its constitution such as Sole Proprietorship / Partnership Firm or Limited / Private Company, Year of Establishment and Place of Business, etc. Organization Profile covering (a) Name & address of the organization with telephone, fax, email nos. with contact persons (b) history & structure of the organizations with names of directors & chief executives (c) Copy of Article of Association of the Company or Board Resolution mentioning Chairman/ Chief Executive Officer / Managing Director of the Company.	<input type="checkbox"/>
ii)	Affidavit as per prescribed Format, Annexure-1.16 (AFFIDAVIT in reference Blacklisting etc.) on Non-judicial paper in original	<input type="checkbox"/>
iii)	Power of Attorney in favour of the person who has signed the bid.	<input type="checkbox"/>
iv)	Declaration / Disclosure regarding any relation(s) with employees of NFL as per prescribed Format, Annexure-1.23 and submission of copy documents like. <ul style="list-style-type: none"> • PAN Card. • GST registration certificate • P.F Registration No. issued by PF Authorities. • ESI Registration No. issued by ESI Authorities, etc. 	<input type="checkbox"/>
v)	Documents in favor of Experience Criteria viz. Work Order /LOI, Completion/Acceptance Certificate/ One year successful operation certificate	<input type="checkbox"/>
vi)	Documents in favor of " Similar Works " Financial Criteria viz. Work Order /LOI, Completion/Acceptance Certificate/ One year successful operation certificate	<input type="checkbox"/>
ii)	Documents in favor of Financial Criteria viz. Audited Annual Reports,	<input type="checkbox"/>
iii)	Financial Details as per Annexure – 1.19	<input type="checkbox"/>

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL CONTENTS OF BID AND CHECK LIST	PNMM/PC-281/E-001/P-I /Annx-1.12		
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PART-II :Technical and Unpriced Commercial Bid:

SECTION-I:	i)	Letter of submission & Synopsis of the proposal.	<input type="checkbox"/>
	ii)	<i>Tender Fee (Not applicable)</i>	<input type="checkbox"/>
	iii)	Photocopy of Earnest Money Deposit (EMD) / Bid Security	<input type="checkbox"/>
SECTION-II:	i)	Bid Form as per Annexure-1.1	<input type="checkbox"/>
	ii)	Commercial Questionnaire as per Annexure-1.3	<input type="checkbox"/>
	iii)	Bidder's Proposed Schedule as per Annexure-1.5	<input type="checkbox"/>
	iv)	Declaration by the Bidder Regarding Bidding Document as per Annexure-1.6	<input type="checkbox"/>
SECTION-III:	i)	Proforma of Certificate of Non-Involvement of Indian Agent as per Annexure-1.10	<input type="checkbox"/>
	ii)	Contents of Bid and Check List as per Annexure-1.12	<input type="checkbox"/>
	iii)	No Deviation Certificate as per Annexure-1.11	<input type="checkbox"/>
	iv)	Declaration/certificate regarding restrictions under rule 144 (xi) of GFR for bidders which shares a land border with India as per Annex-1. 18	<input type="checkbox"/>
	v)	Integrity Pact as per Annexure – 1.21	<input type="checkbox"/>
	vi)	Performa for declaration of sole proprietorship as per Annexure – 1.22	<input type="checkbox"/>
	vii)	Declaration regarding any relation(s) with employees of NFL as per Annexure – 1.23	<input type="checkbox"/>
	viii)	Declaration Form as per Annexure – 1.24	<input type="checkbox"/>
	ix)	A copy of PRICE SCHEDULE (BOQ) with prices/figures completely blanked out but with the word “Quoted” or “Not Applicable” against each head and duly stamped & signed on each page, strictly as per as per Excel BoQ provided in Cover-II in the Portal, failing which bid may be rejected.	<input type="checkbox"/>
	x)	Master Index and copies of all technical and commercial amendments/addendums if any issued, duly signed and stamped on each page as a token of having received and read all parts of the bidding	<input type="checkbox"/>

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL CONTENTS OF BID AND CHECK LIST	PNMM/PC-281/E-001/P-I /Annx-1.12		 NFL A Navratna Company
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		document and having accepted and considered the same in preparing their bid.	
SECTION-IV:	i)	Bidder shall furnish complete manpower requirement with break up for operation of plant during commissioning, trial runs, and guarantee tests.	<input type="checkbox"/>
	ii)	Bidder shall also furnish a complete break up of manpower requirement for the normal operation of the plant as per best operation practice.	<input type="checkbox"/>
SECTION-V:	i)	Technical Details/ documents specified under "Technical Information Required along with Bid".	<input type="checkbox"/>
SECTION-VI:	i)	Any other information required in the Bidding Documents or considered relevant by the Bidder.	<input type="checkbox"/>

Note: Bidder to ensure completeness of Bid in all respects. In case of non-submission of above documents or submission of incomplete documents, the OWNER reserves the right not to evaluate such offers further and not to enter into correspondence in this regard after opening the Techno-commercial Unpriced Bid.



For and on behalf of

Stamp & Signature :

Name :

Designation :

Date :

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL ACKNOWLEDGEMENT CUM CONSENT LETTER	PNMM/PC-281/E-001/P-I/Annx-1.13		
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To,

M/S.Projects & Development India Limited
 PDIL Bhawan,
 A-14, Sector-1, Noida-201 301
 India

Kind Attention. :

Mrs. Anjali Thakur, Dy General Manager (MM),

SUBJECT: NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA ALONG WITH IT'S REFEGERATION SYSTEM- NFL, Nangal

(NIT NO : dated)

Dear Sir,

We hereby acknowledge that we have downloaded the complete set of Bidding Document Part I-Commercial and Part II-Technical alongwith BOQ sheet , as placed at CPP Portal, for subject works for our use in preparing the Bid.

We undertake that the contents of the above Tender Document are to be used only for the purpose for which they are intended.

A) We intend to bid as requested for the subject works and furnish the following details with respect to our quoting office

i. Postal Address

ii. Telephone Number

iii. Telefax Number

iv. Contact Person



**NEW 2500 CUBIC METER CAPACITY HORTON
SPHERE FOR STORAGE OF AMMONIA AT NFL,
NANGAL
ACKNOWLEDGEMENT CUM CONSENT LETTER**

PNMM/PC-281/E-001/P-I/Annx-1.13

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v. Designation of Contact Person

vi. Mobile no.

vii. E-mail Address

B) Contact Person, preferably at Delhi and/or Mumbai for Indian Bidders & anywhere in India for Foreign Bidders, if any :

i. Postal Address

ii. Telephone Number



iii. Telefax Number

iv. Contact Person

v. Designation of Contact Person

vi. Mobile no.

vii. E-mail Address

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL ACKNOWLEDGEMENT CUM CONSENT LETTER	PNMM/PC-281/E-001/P-I/Annx-1.13		
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Company's Name : _____



Name of the authorized signatory : _____

Signature : _____

Designation : _____

Date : _____



Note: Bidder is requested to furnish the details mentioned at (A) and (B) immediately after receipt of Bidding Document.

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL FORMAT FOR CONSTRUCTION SUB-CONTRACTORS APPROVAL	PNMM/PC-281/E-001/P-I/Annx-1.14		
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**SUBJECT: NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA
ALONG WITH IT'S REFEGERATION SYSTEM- NFL, Nangal**

(APPROVAL OF CONSTRUCTION SUB-CONTRACTOR)

1)	NAME OF MAIN CONTRACTOR	:	_____
2)	NAME OF WORK, LOCATION	:	_____
3)	NAME OF PROPOSED SUB-CONTRACTOR	:	_____
4)	SCOPE OF WORK PROPOSED TO BE SUB-CONTRACTED (BRIEF)	:	_____
5)	ESTIMATED VALUE OF THE PROPOSED WORK TO BE SUB-CONTRACTED (INR)	:	_____
6)	QUALIFYING CRITERIA FOR SUB-CONTRACTOR		
i)	Similar Work experience in Hydrocarbon/Fertilizer Industry : 1 Contract of 60% of estimated value of proposed work to be sub-contracted.		
ii)	Annual Turnover : Not less than 125% of estimated value of proposed work to be sub-contracted		
7)	EXPERIENCE AND FINANACIAL DETAILS OF PROPOSED SUB-CONTRACTOR :		
i)	Contract Value of similar work executed (as evidenced by work Order & Completion Certificate) During the last 7 years.		
ii)	Maximum Annual Turnover during last 3 (three) years (as evidenced by Balance Sheets)		
iii)	Concurrent Commitments (including the works proposed to be sub-contracted)		
8)	CRITERIA FOR QUALIFICATION OF SUB-CONTRACTOR		
i)	Sl.No. 7(i) > 6 (i)	YES / NO	
ii)	Sl.No. 7(ii) > 6 (ii)	YES / NO	

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL FORMAT FOR CONSTRUCTION SUB-CONTRACTORS APPROVAL	PNMM/PC-281/E-001/P-I/Annx-1.14		
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iii)	Sl.No. 7(iii) > 2 x Sl.no.7(ii)	YES / NO
9)	Based on above information, we M/s. _____ (Name of Main Contractor) propose M/s. _____ for mentioned works. We understand that notwithstanding above approval, we shall remain fully responsible for the performance of the said sub-contractor and any failure of the sub-contractor shall not absolve/relieve us of our responsibility to complete the work as per the terms and conditions of the Contract.	
NOTE	Bidders to fill all the details in the above proforma. Further, Bidder shall also fill-in the details at Sl.No.5 above based on the estimated value of the proposed work to be sub-contracted.	
10)	QUALIFICATION STATUS (TO BE STAMPED BY OWNER) :	



For and on behalf of

Stamp & Signature :

Name :

Designation :

Date :

	<p align="center">NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL</p> <p align="center">FORMAT FOR CONTRACT AGREEMENT</p>	PNMM/PC-281/E-001/P-I/Annx-1.15		
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(To be executed on non-judicial stamp paper of appropriate value)

CONTRACT AGREEMENT

THIS CONTRACT made -----on this----- day of-----20__ at------(Place) BETWEEN NATIONAL FERTILIZERS LIMITED (NFL), a Public Sector Undertaking (PSU) under the Administrative Control of Department of Fertilizers, Ministry of Chemicals & Fertilizers having its Registered Office at SCOPE Complex, Core-III, 7, Institutional Area, Lodhi Road, New Delhi-110003 and its Unit/ Office at _____ (hereinafter referred to as the "Owner", which expression shall be deemed to include its successors and assigns) through its authorized representative of the one Part.

AND

M/s_____ (carrying on business in sole-proprietor/ partnership/ company etc.) having its office/ registered office at _____ (hereinafter referred to as "Contractor", which expression shall be deemed to include his/its representatives/successors and permitted assigns) through its authorized representative of the other Part.

WHEREAS the Owner is desirous of executing certain works as mentioned and described in the Work Order/ Letter of Intent No. _____ dated _____ for total Contract value of Rs. _____ (Rs. _____ Only) and whereas the Contractor has agreed to execute the work as specified in the Tender Documents and Work Order/ Letter of Intent referred to above and also in the contract documents.



NOW THEREFORE THIS CONTRACT WITNESSTH AS FOLLOWS:

ARTICLE – I

1.0 CONTRACT DOCUMENTS

1.1 The following documents shall constitute the contract documents namely: -

- a) This Contract
- b) Tender Document/NIT
- c) Work Order No. _____ dated _____
- d) Letter of Intent / Notification of Award No. _____ dated _____
- e) Contractor Quotation/bid dated _____.
- f) Owner's Tender Document/ NIT No. _____ dated _____
- g) Amendment/ Addendum/ Corrigendum dated _____ (If any) to Tender Document/NIT.
- h) Owner's Letter/email dated _____ (If any).
- i) Contractor's Letter/email dated _____ (If any).

	<p style="text-align: center;">NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL</p> <p style="text-align: center;">FORMAT FOR CONTRACT AGREEMENT</p>	PNMM/PC-281/E-001/P-I/Annx-1.15		
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1.2 A copy each of the above documents (a) to (h) are annexed hereto and the said copies have been collectively marked Annexure-I.

ARTICLE –2

2.0 SCOPE OF WORK

2.1 In consideration of the payment to be made to the Contractor as hereinafter provided, he shall with due care, promptness, accuracy and workmanship execute the work in accordance with approved plans, Notice Inviting Tender (NIT), Special Conditions of the Contract, General Terms & Conditions of the Contract, Technical Specifications and the Work Order/ Letter of Intent.

ARTICLE-3

3.0 TERM

3.1 The Contract work shall be duly executed and completed in all aspect and handed over to National Fertilizers Ltd. within a period of _____months/year w.e.f. _____to_____. The time mentioned herein shall be essence of the contract.



ARTICLE-4

4.0 TERMINATION OF CONTRACT

4.1 If the CONTRACTOR is in default in that he:

- (a) Neglects to execute the work or part of the work; or
- (b) without reasonable cause, suspends or abandons the carrying out the works, either partly or wholly, before their completion; or
- (c) Fails to proceed regularly and diligently with the works; or
- (d) Defaults in the performance or observance of any conditions or terms of the CONTRACT or neglects to carry out any order, instruction, direction or determination which the OWNER is empowered to give or make under the CONTRACT and which is given or made in writing to the CONTRACTOR, or
- (e) Conceals or submit any false documents or information furnished by the CONTRACTOR regarding past experience and or contents of any documents etc. are found false.

then, for S.No. a) to d) above without prejudice to any other rights or remedies which the OWNER may possess, the OWNER may, by notice in writing (which shall specify with reasonable particularity the neglect,



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default or refusal on the part of the CONTRACTOR) require the CONTRACTOR:

- i) to put forward his proposals for
 - a) Rectifying such neglect, default or refusal as the case may be and
 - b) Commence and diligently pursue the rectification of the default.

4.2 If within 30 days after the posting of the notice against clause no. 4.1 (a) to (d) above, addressed to the CONTRACTOR, the CONTRACTOR fails to comply with the notice or for defaults mentioned at clause no. 4.1e) above, if in the opinion of the OWNER, the CONTRACTOR's reasons or proposals are not satisfactory then the OWNER, without prejudice to any other rights that he may have under the CONTRACT against the CONTRACTOR, may either:

- a) DETERMINE THE CONTRACT in which event the CONTRACT shall stand terminated and shall cease to be in force and effect on and from the date appointed by the OWNER on that behalf, whereupon the CONTRACTOR shall stop forthwith any of the CONTRACTOR's work then in progress, except such WORK as the OWNER may, in writing, require to be done to safeguard any property or WORK, or installations from damage, and the OWNER, for its part, may take over the work remaining unfinished by the CONTRACTOR and complete the same through a fresh contractor or by other means, at the risk and cost of the CONTRACTOR, and any of his sureties if any, shall be liable to the OWNER for any excess cost occasioned by such work having to be so taken over and completed by the OWNER over and above the cost at the rates specified in the schedule of quantities and rate/prices.
 - b) WITHOUT DETERMINING THE CONTRACT, take over the work of the CONTRACTOR or any part thereof and complete the same through a fresh contractor or by other means at the risk and cost of the CONTRACTOR. The CONTRACTOR and any of his sureties are liable to the OWNER for any excess cost over and above the cost at the rates specified in the Schedule of Quantities/ rates, occasioned by such works having been taken over and completed by the OWNER.
In such events of Clause 4.2 (a) or (b) above.
- (i) The whole or part of the Contract Performance Security furnished by the CONTRACTOR is liable to be forfeited without prejudice to the right of the OWNER to recover from the CONTRACTOR the excess cost referred to in the sub-clause aforesaid, the OWNER shall also have the right of taking possession and utilising in completing the works or any part thereof, such as materials equipment and plants available at work site belonging to the CONTRACTOR as may be necessary and the CONTRACTOR shall not be entitled for any compensation for use or damage to such materials equipment and plant.

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- (ii) The amount that may have become due to the CONTRACTOR on account of work already executed by him shall not be payable to him until after the expiry of Six (6) calendar months reckoned from the date of termination of CONTRACT or from the taking over of the WORK or part thereof by the OWNER as the case may be, during which period the responsibility for faulty materials or workmanship in respect of such work shall, under the CONTRACT, rest exclusively with the CONTRACTOR. This amount shall be subject to deduction of any amounts due from the CONTRACT to the OWNER under the terms of the CONTRACT authorised or required to be reserved or retained by the OWNER.
- (iii) Before determining the CONTRACT as per Clause 4.2 (a) or (b) provided in the judgement of the OWNER, the default or defaults committed by the CONTRACTOR is/are curable and can be cured by the CONTRACTOR if an opportunity given to him, then the OWNER may issue Notice in writing calling the CONTRACTOR to cure the default within such time specified in the Notice.
- (iv) The OWNER shall also have the right to proceed or take action as per 4.2 (a) or (b) above, in the event that the CONTRACTOR becomes bankrupt, insolvent, compounds with his creditors, assigns the CONTRACT in favour of his creditors or any other person or persons, or being a company or a corporation goes into voluntary liquidation, provided that in the said events it shall not be necessary for the OWNER to give any prior notice to the CONTRACTOR.
- (v) Termination of the CONTRACT as provided for in sub- clause 4.2(a) above shall not prejudice or affect their rights of the OWNER which may have accrued upto the date of such termination.

4.3 In case of termination of CONTRACT herein set forth (under clause 34.2 of GCC of the NIT) except under conditions of Force Majeure and termination after expiry of contract, the CONTRACTOR shall be put under holiday/delist/black list as detailed at clause no. 34.2.3 of GCC of the NIT.

ARTICLE-5

5.1 FORCE MAJEURE CLAUSE (FMC)

The terms and conditions agreed upon under the contract shall be subject to Force Majeure. Neither the contractor nor NFL shall be considered in default in the performance of their obligation contained therein, if such performance is prevented or delayed or restricted or interfered with by reason of War, Hostilities, Acts of Public Enemy, Civil Commotion, Strike, Lockouts, Epidemics/Pandemics, Accidents, Fires, Explosions, Flood, Earthquake, regulation or ordinance or requirement of any Government or any sub-division thereof or authority or representative of any such Govt., and/or due to technical snag/reasons or any other Act whatsoever, whether similar or dissimilar to those enumerated beyond the reasonable control of the parties hereto or because of any act of GOD. The party so affected, upon giving prompt notice to other party of such conditions and cause

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thereof from within 15(Fifteen) days of occurrence of such event, shall be excused from such performance to the extent of such prevention, delay, restriction or interference for the period it persists provided that the party so affected shall use its best efforts to avoid or remove such causes of non- performance if possible and shall continue performance hereunder with the utmost dispatch whenever such causes are removed.

If the performance in whole or in part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 90(Ninety) days, either party may at its option terminate the contract by giving notice to the other party.



For delays arising out of Force Majeure neither NFL nor the Contractor shall be liable to pay extra costs or to make good any losses incurred consequent to the happening of any of the event, provided it is mutually established that Force Majeure condition did actually exist.

ARTICLE-6

6.1 INDEMNITY BY CONTRACTOR

To the fullest extent permitted by Law, CONTRACTOR assumes liability for, and agrees to indemnify, protect, save and hold harmless OWNER from and against any and all Liabilities (including, any strict liability) arising out of acts or omissions of CONTRACTOR or its personnel or its agents in the performance of its obligations under the CONTRACT causing bodily injury, sickness, disease or death, damage to or loss of any property, whether or not involving damage to WORKS or SITE that may be imposed on, suffered or incurred by or asserted against OWNER and in any way relating to or arising out of (i) WORK, any EQUIPMENT (ii) the presence, discharge, treatment, storage, transportation, disposal, escape or release of any Hazardous Substance, or the threat thereof, at, to or from SITE after commencement of work (any hazardous substance already existing at SITE before commencement of WORK excluded) (iii) The performance of WORK, or as a result of personal injuries (including wrongful death); (iv) the violation by CONTRACTOR or any SUBCONTRACTOR/VENDOR of any Government Approval or applicable Law relating to WORK (v) any breach of CONTRACT with any SUB-CONTRACTOR/VENDOR, provided, however, that CONTRACTOR shall not be required under this Clause to indemnify OWNER for any liability arising out of or resulting from events or circumstances occurring or existing after PRELIMINARY ACCEPTANCE OF PLANT. However the CONTRACTOR shall indemnify the OWNER where the liability arises from an act or omission of CONTRACTOR or any SUB-CONTRACTOR/VENDOR or any other Person directly or indirectly employed by either of them or anyone for whose acts either of them may be liable that was a contributory cause of such liability after PRELIMINARY ACCEPTANCE of the PLANT.

Detailed further at clause no. 7.2 of GCC of the NIT.

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ARTICLE-7

7.1 ENTIRE CONTRACT

The contract documents mentioned in Article-I hereof embody the entire contract between the parties hereto and the parties declare that in entering this contract, they do not rely upon any previous representation whether express or implied and whether written or oral or any inducement, understanding or agreement of any kind not included within the contract documents and all prior negotiations, representations contract and/or agreements and understanding are hereby cancelled.

ARTICLE-8

8.0 NOTICE



8.1 Subject to any provisions in the contract documents to the contrary, any notice, order of communication sought to be served by the Contractor on the Owner with reference to the contract shall be deemed to have been sufficiently served upon the Owner (notwithstanding any enabling provisions under any law to the contrary) only, if delivered by Hand or by Registered Post/ Speed Post or email to the Project Manager as defined in the General Terms and Conditions of the contract.

8.2 Without prejudice to another mode of service provided for in the contract documents or otherwise available to the Owner, any notice, order or other communication sought to be served by the Owner on the Contractor with reference to the contract shall be deemed to have been sufficiently served upon the Contractor if delivered by Hand or through Registered Post/Speed Post or email to the Contractor at his specified address at_____.

ARTICLE-9

9.0 WAIVER

9.1 No failure or delay by the Owner in enforcing any right or remedy of the Owner interms of contract or any obligation or liability of the Contractor in terms thereof shall be deemed to be a waiver of such right, remedy, obligation or liability, as the case may be, by the Owner or notwithstanding such failure or delay, the Owner shall be entitled at any time to enforce such right remedy, obligation or liabilities as the case may be.

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ARTICLE-10

10.0 NON-ASSIGNABILITY

10.1 The contract and benefits and obligations thereof shall be strictly personal to the Contractor and shall not on any account be assignable or transferable by the Contractor, except without written prior permission of Owner.

ARTICLE-11

11.1 DISPUTE RESOLUTION

For Indian Parties



“Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof shall be resolved amicably through negotiations by the Parties. A “Notice of Dispute” shall be given by the party seeking resolution of a dispute to other party. If the dispute is not resolved within Thirty (30) days from the notice, the dispute shall be referred to arbitration as per the procedure mentioned herein below:

A written notice shall be given by the contractor invoking arbitration to National Fertilizers Limited through Designated Authority(as mentioned in General Terms and Conditions).

Where the claim including determination of interest, if any, being claimed upto the date of commencement of arbitration does not exceed Rs. Five crore, the reference shall be made to a sole arbitrator. The parties shall mutually agree on the name of sole arbitrator. In case of disagreement upon the name of the sole arbitrator, the appointment of Sole Arbitrator shall be done in accordance with the provisions of Arbitration & Conciliation Act, 1996.

Where the claim including determination of interest, if any, being claimed, upto the date of commencement of arbitration exceeds Rs. Five crore, the reference shall be made to arbitral tribunal consisting of three arbitrators. Each party shall nominate one arbitrator each within 30 days from the date of receipt of notice of invocation of arbitration and two nominated arbitrators shall appoint the presiding arbitrator within 30 days thereafter. If a Party to the dispute refuses or neglects to nominate an arbitrator on its behalf within the period specified, or the two arbitrators fails to nominate Presiding arbitrator, appointment of Arbitrator(s) shall be done in accordance with the provisions of Arbitration & Conciliation Act, 1996.

The Arbitration proceeding shall be governed by the Arbitration & Conciliation Act, 1996 and any further statutory modification or re-enactment thereof and the rules made thereunder.

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It is agreed by and between the parties that in case a reference is made to the Arbitrator for the purpose of resolving the disputes/differences arising out of the contract by and between the parties hereto, the Arbitrator shall not award interest on the awarded amount more than the rate SBI PLR/Base Rate applicable to NFL on date of award of contract.

The seat and venue of arbitration shall be Delhi/Place of respective Unit/Place of Zonal Office.

The cost of the proceedings shall be equally borne by the parties, unless otherwise directed by the arbitral tribunal. The decision of the arbitral tribunal shall be final and binding on all parties.”

11.2 For Foreign Parties

“Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“SIAC”) in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause.

The seat and venue of the arbitration shall be at New Delhi, India.

The language of the arbitration shall be English.

This Contract/LOI/NIT shall be governed by and construed in accordance with the Laws of India.”



11.3 For CPSEs and Government Department

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (Other than those related to taxation), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018.

ARTICLE-12

12.0 JURISDICTION

Notwithstanding any other Court or Courts having Jurisdiction to decide the question(s) forming the subject matter of the reference, if the same had been the subject matter of a suit, any and all actions and proceedings arising out of or relative to the contract (including any arbitration in terms thereof) shall lie only in the court of Competent Civil Jurisdiction in this behalf at _____ (where this contract has been signed on behalf of the Owner) and only the said Court(s) shall have

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jurisdiction to entertain and try such action(s) and/or proceeding(s) to the exclusion of all other Courts.

IN WITNESS WHEREOF the parties hereto have duly executed this Contract in duplicate at the place, day and year first above written.

SIGNED& DELIVERED

For and on behalf of
National Fertilizers Ltd,
(Owner)
(With Rubber Stamp)

Date:

Place:

SIGNED & DELIVERED

For and on behalf of
Contractor
(With Rubber Stamp)

Date:

Place:

In the Presence of: In the Presence of:

Witness



Witness

1.

Signature _____ Signature _____
Name of Signatory _____ Name of Signatory _____
Address _____ Address _____

2.

Signature _____ Signature _____
Name of Signatory _____ Name of Signatory _____
Address _____ Address _____

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL PERFORMA FOR BLACK LISTING	PNMM/PC-281/E-001/ANNX-1.16		
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Performa for Black Listing
(On stamp paper of Rs. 30/- and notary attested)

AFFIDAVIT

- i. With reference to NIT No. _____ Dt. _____ of National Fertilizers Ltd., Naya Nangal for the work _____, I, _____ S/o _____ Sh. _____ R/o _____ Proprietor / Partner / Authorized Representative of the firm M/s _____ do solemnly affirm and declare as under :-
- ii) That my/our firm/sister concern etc. has not been black listed or put on holiday by any Institutional Agency / Govt. Department / Public Sector Undertaking for participating in the Tender, in last 2 years.
- iii) No other Firm / Sister Concerns / Associates belonging to the same group are participating / submitting the Tender for this job.
- iv) That we are not under any liquidation, court receivership or similar proceedings or bankruptcy.

DEPONENT



VERIFICATION

Verified that the above contents of my affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

DEPONENT

Place :-----

Date: _____

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL <u>PUBLIC PROCUREMENT ORDER (Preference to Make in India)</u>	PNMM/PC-281/E-001/P- I//Annx-1.17		
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No. DPE-7(4)/2017-Fin- (Part-I)
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprise Bhawan
Block No. 14, CGO Complex
Lodhi Road, New Delhi- 110003

Date: September, 2020
30/9

OFFICE MEMORANDUM

Sub: Public Procurement (Preference to Make in India), Order 2017 - Revision- regarding.

The undersigned is directed to forward a copy of revised Public Procurement (Preference to make in India) Order 2017 dated 16th September, 2020 issued by Department for Promotion of Industry & Internal Trade (DPIIT) succeeding the Orders dated 15.6.2017, 28.5.2018, 29.5.2019 and 04.06.2020 for information and compliance.



2. All Administrative Ministries/Departments are requested to ensure compliance of the above mentioned order by the CPSEs functioning under their administrative control.
3. This issues with the approval of competent authority.


(Amit Rastogi)
Director
Tel.24362061

Encl.: As above

To

- i) The Secretaries to the Administrative Ministries/Departments of CPSEs
- ii) Chief Executives of CPSEs

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL <u>PUBLIC PROCUREMENT ORDER (Preference to Make in India)</u>	PNMM/PC-281/E-001/P- I/Annx-1.17		
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No. P-45021/2/2017-PP (BE-II)
Government of India
Ministry of Commerce and Industry
Department for Promotion of Industry and Internal Trade
(Public Procurement Section)

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

To

All Central Ministries/Departments/CPSUs/All concerned

ORDER

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

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

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

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

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



Now therefore the following Order is issued:

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

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

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

..... Contd. p/2

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL <u>PUBLIC PROCUREMENT ORDER (Preference to Make in India)</u>	PNMM/PC-281/E-001/P- I//Annx-1.17		
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'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-II local supplier' but less than that prescribed for 'Class-I local supplier' under this Order.

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

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

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

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

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

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



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

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

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

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

.....Contd. p/3

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3A. Purchase Preference

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



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

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

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

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

.... Contd. p/4

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

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

a) In case there is sufficient local capacity and competition for the item to be procured, as notified by the nodal Ministry, only Class I local suppliers shall be eligible to bid. As such, the multiple suppliers, who would be awarded the contract, should be all and only 'Class I Local suppliers'.

b) In other cases, 'Class II local suppliers' and 'Non local suppliers' may also participate in the bidding process along with 'Class I Local suppliers' as per provisions of this Order.

c) If 'Class I Local suppliers' qualify for award of contract for at least 50% of the tendered quantity in any tender, the contract may be awarded to all the qualified bidders as per award criteria stipulated in the bid documents. However, in case 'Class I Local suppliers' do not qualify for award of contract for at least 50% of the tendered quantity, purchase preference should be given to the 'Class I local supplier' over 'Class II local suppliers'/'Non local suppliers' provided that their quoted rate falls within 20% margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the 'Class I Local suppliers' taken in totality are considered for award of contract for at least 50% of the tendered quantity.



d) First purchase preference has to be given to the lowest quoting 'Class-I local supplier', whose quoted rates fall within 20% margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting 'Class-I local supplier', does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher 'Class-I local supplier', falling within 20% margin of purchase preference, and so on.

e) To avoid any ambiguity during bid evaluation process, the procuring entities may stipulate its own tender specific criteria for award of contract amongst different bidders including the procedure for purchase preference to 'Class-I local supplier' within the broad policy guidelines stipulated in sub-para above.

4. **Exemption of small purchases:** Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.

5. **Minimum local content:** The 'local content' requirement to categorize a supplier as 'Class-I local supplier' is minimum 50%. For 'Class-II local supplier', the 'local content' requirement is minimum 20%. Nodal Ministry/ Department may prescribe only a higher

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

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

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

10. Specifications in Tenders and other procurement solicitations:

- Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
 - Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of 'Class-I local supplier/' 'Class-II local supplier' who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
 - Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.
- d. Reciprocity Clause**
- When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country etc., it shall provide such details to all its procuring entities including CMDs/CEOs of PSEs/PSUs, State Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.



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- ii. Entities of countries which have been identified by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government procurement in India for all items related to that nodal Ministry/ Department, except for the list of items published by the Ministry/ Department permitting their participation.
 - iii. The stipulation in (ii) above shall be part of all tenders invited by the Central Government procuring entities stated in (i) above. All purchases on GeM shall also necessarily have the above provisions for items identified by nodal Ministry/ Department.
 - iv. State Governments should be encouraged to incorporate similar provisions in their respective tenders.
 - v. The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.
- e. Specifying foreign certifications/ unreasonable technical specifications/ brands/ models in the bid document is restrictive and discriminatory practice against local suppliers. If foreign certification is required to be stipulated because of non-availability of Indian Standards and/or for any other reason, the same shall be done only after written approval of Secretary of the Department concerned or any other Authority having been designated such power by the Secretary of the Department concerned.
- f. "All administrative Ministries/Departments whose procurement exceeds Rs. 1000 Crore per annum shall notify/ update their procurement projections every year, including those of the PSEs/PSUs, for the next 5 years on their respective website."
- 10A. Action for non-compliance of the Provisions of the Order:** In case restrictive or discriminatory conditions against domestic suppliers are included in bid documents, an inquiry shall be conducted by the Administrative Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.
- 11. Assessment of supply base by Nodal Ministries:** The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing the higher minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.
- 12. Increase in minimum local content:** The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.

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

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

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

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



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

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

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

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

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

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

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

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

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



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



(Rajesh Gupta)
Director

Tel: 23063211

rajesh.gupta66@gov.in

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FORM-A

(DECLARATION BY BIDDER REGARDING LOCAL CONTENT)

To be submitted in Bidders' LETTER HEAD

To,
M/s NFL

SUB:

TENDER NO:

Dear Sir

We, M/s _____ (**Name of Bidder**) _____ furnishing below the information for claiming our eligibility for Purchase Preference to be accorded by the Owner in term of Order No. P-45021/2/2017-B.E-II dated 15.06.2017 of GOI, issued by DIPP of Ministry of Commerce and Industry, as revised from time to time:

- (A) We confirm/certify that the item/s offered under this tender contains '**Local Content**' not less than ____%.
- (B) The **details of the location** at which the local value addition is made as follows:



Sl.	Item Description	Detailed address of the Location(s) where the local value addition is made
1		
2		
3		

Place:
Date:

[Signature of Authorized Signatory of Bidder]
Name:
Designation:
Seal:

Note:

- 1) In case the total quoted price (excluding GST) is less than Rs 10 crore, the bidder is required to provide self-certification regarding their above certification.
- 2) In case the total quoted price (excluding GST) is more than Rs 10 crore, the bidder is required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of bidder other than companies) regarding their above certification.

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**CLAUSE REGARDING PROVISION FOR PROCUREMENT FROM A BIDDER WHICH
SHARES A LAND BORDER WITH INDIA**

1. Order (Public Procurement No. 1) dated 23.07.2020, Order (Public Procurement No.2) dated 23.07.2020 and Order (Public Procurement No. 3) dated 24.07.2020, Department of Expenditure, Ministry of Finance, Govt. of India refers. The same are available at website <https://doe.gov.in/procurement-policy-divisions>.

2. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. For details of competent authority refer to Annexure I of Order (Public Procurement No. 1) dated 23.07.2020.

Further the above will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs, Govt. of India



3. "Bidder" (including the term 'tenderer', 'consultant' 'vendor' or 'service provider' in certain contexts) for purpose of this provision means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.

4. "Bidder from a country which shares a land border with India" for the purpose of this:

- a) An entity incorporated, established or registered in such a country; or
- b) A subsidiary of an entity incorporated, established or registered in such a country; or
- c) An entity substantially controlled through entities incorporated, established or registered in such a country; or
- d) An entity whose beneficial owner is situated in such a country; or
- e) An Indian (or other) agent of such an entity; or
- f) A natural person who is a citizen of such a country; or
- g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above



5. "**Beneficial owner**" for the purpose of above (4) will be as under:

- i) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means.

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Explanation-



- a) "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
 - b) "Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
- ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
 - iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
 - iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 - v) In case of a trust; the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
6. **"Agent"** for the purpose of this Order is a person employed to do any act for another, or to represent another in dealings with third persons
7. **SUBMISSION OF CERTIFICATE IN BIDS:**
- Bidder shall submit a certificate in this regard as Form-I / Form-II.
- If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate rejection of the bid/termination and further action as per "Procedure for Action in case of Corrupt/Fraudulent/ Collusive / Coercive Practices" of tender document.
8. The registration, wherever applicable, should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly

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registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution.

9. PROVISION TO BE IN WORKS CONTRACTS, INCLUDING TURNKEY CONTRACTS:

The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. The definition of "contractor from a country which shares a land border with India" shall be as in Para 4 herein above. A Certificate to this regard is to be submitted by bidder is placed at Form-II

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FORM - I

UNDERTAKING ON BIDDER'S LETTERHEAD

To,
M/s NFL.

SUB:.....

NIT NO:.....

Dear Sir,

We have read the clause regarding Provisions for Procurement from a Bidder which shares a land border with India, we certify that, bidder M/s_____ (Name of Bidder)_____ is:



- (i) Not from such a country []
- (ii) If from such a country, has been registered with the Competent Authority. []
(Evidence of valid registration by the Competent Authority shall be attached)

(Bidder is to tick appropriate option (✓ or X) above).

We hereby certify that bidder M/s _____ (Name of Bidder)_____ fulfills all requirements in this regard and is eligible to be considered against the tender.

Place: [Signature of Authorized Signatory of Bidder]
Name:

Date: Designation:
Seal:

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FORM - II

UNDERTAKING ON BIDDER'S LETTERHEAD

**CERTIFICATE FOR TENDERS FOR WORKS INVOLVING POSSIBILITY OF
SUB-CONTRACTING**

To,
M/s NFL

SUB:

TENDER NO:

Dear Sir,

We have read the clause regarding Provisions for Procurement from a Bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; we certify that, bidder M/s _____ (*Name of Bidder*) _____ is:

- (i) not from such a country []
- (ii) if from such a country, has been registered []
with the Competent Authority. (*Evidence of valid
registration by the Competent Authority shall be attached*)

(Bidder is to tick appropriate option (✓ or X) above).

We further certify that bidder M/s _____ (*Name of Bidder*) _____ will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority.

We hereby certify that bidder M/s _____ (*Name of Bidder*) _____ fulfills all requirements in this regard and is eligible to be considered.



Place: [Signature of Authorized Signatory of Bidder]

Name:

Date:

Designation:

Seal:

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL FORMAT FOR FINANCIAL DETAILS	PNMM/PC-281/E-001/ P-I/Annx-1.19		
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FINANCIAL DETAILS as per PQC

Bidder shall furnish Turn Over and Net Worth as per the PQC Clause 8.0 of "Instructions to Bidders".

1.0 ANNUAL TURNOVER

SI No.	Financial Year	Annual Turnover (INR)
a.	FY:2022-23	
b.	FY:2021-22	
c.	FY:2020-21	

2.0 NET WORTH

Net worth for FY:2022-23 (in INR)	
-----------------------------------	--

Notes: (i) Bidder to submit Copies of Audited Annual Report for the above three financial years.

(ii) Other income shall not be considered for arriving at annual turnover.

Place:

[Signature of Statutory Auditor]



Name of Audit Firm:

Date:

Designation:

Seal:

Membership no.

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DELETED

Integrity Pact

(To be executed on plain paper and submitted along with technical bid/tender documents for tenders having a value of Rs.1 crore or more. To be signed by the bidder and NFL.)

National Fertilizers Limited (NFL) 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, Contract/s for _____. The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of and of fairness/transparency in its relations with its Bidder(s) and/or Contractor(s).

In order to achieve these goals, the Principal will appoint an Independent External Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 – Commitments of the Principal.

1. The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles :-
 - 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 personal 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 process or the contract execution.
 - c) The Principal will exclude from the process all known prejudiced persons.
2. If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the 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 himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
 - a. The Bidder(s)/contractor(s) will not, directly or through any other persons 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 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)/Contractors will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or documents 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)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly, the bidder(s)/contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. All the payments made to the India agent/representative have to be in Indian Rupees only.
 - 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 contract

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 or to terminate the contract, if already signed, for such reasons.

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 Section3, or if the Principal is entitled to terminate the contract according to Section3, 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 TII's anticorruption approach or with any other 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 and appropriate action can be taken including termination of the contract, if already awarded, for such reason.

Section 6: Equal treatment of all Bidders/Contractors/Sub-contractors.

1. The Principal will enter into agreements with the identical conditions as this one with all bidders, contractors and sub-contractors.
2. 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 violation Bidder(s)/Contractor(s)/Sub-contractors(s).

If the Principal obtains knowledge of conduct of a Bidder(s)/ Contractor(s) 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: Independent External Monitor/Monitors

1. The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
2. The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. It will be obligatory for him to treat the information and documents of bidders /contractors as confidential. He reports to the Chairman & Managing Director, NFL.
3. The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/Subcontractor(s) with confidentiality.
4. The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
5. As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
6. The Monitor will submit a written report to the Chairman & Managing Director,, NFL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should be occasion arise, submit proposals for correcting problematic situations.
7. Monitor shall be entitled to compensation on the same terms as being extended to/provided to Independent Directors on NFL Board.
8. If the Monitor has reported to the Chairman & Managing Director, National Fertilizers Limited, a substantiated suspicion of an offence under relevant IPC/PC Act, and the Chairman & Managing Director, NFL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief

Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.

9. The word “Monitor” word include both singular and plural.

Section 9: Pact Duration

This pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidder 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 Chairman & Managing Director of NFL.

Section 10: Other Provisions

- This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal i.e. New Delhi.
- Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- If the contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- 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.
- A person signing IP shall not approach the courts while representing the matters to IEMs and he/she will await their decision in the matter

(For & on behalf of the Principal)
(Office Seal)

(For & on behalf of Bidder/Contractor)
(Office Seal)

Place _____
Date _____



Place _____
Date _____

Witness 1:
(Name & Address)

Witness 1:
(Name & Address)

Witness 2:
(Name & Address)

Witness 2:
(Name & Address)

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL	PNMM/PC-281/E-001/ P-I/Annx-1.22		
		DOC. NO.		
		REV. 0	Page 1 of 1	
PERFORMA FOR DECLARATION OF SOLE PROPRIETORSHIP				

Performa for declaration of Sole Proprietorship
(On stamp paper of Rs. 30/- and notary attested)

AFFIDAVIT

I, _____ S/o Shri _____, resident of _____ do hereby solemnly affirm and declare as under:-

- 1) That _____(date), I the deponent has started the business under the name and style of _____ as Sole Proprietor and at present M/s _____ is a Sole Proprietorship Firm.
- 2) That the deponent is holding documents like PAN No. _____, Service Tax No _____, Provident Fund No _____, ESI No _____, Bank Account No. _____ etc. in the name of Sole Proprietorship Firm.
- 3) That my above declarations are true and correct to the best of my knowledge and in case of any declaration found to be incorrect in that even my bid / tender may be rejected.



DEPONENT

VERIFICATION

Verified that the above contents of my affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

DEPONENT

Place :-----

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL Declaration regarding any relation(s) with employees of NFL	PNMM/PC-281/E-001/ P-I/Annx-1.23		
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Declaration regarding any relation(s) with employees of NFL



The following declaration to be signed by Contractor and to be submitted along with required documents which would be duly self- certified:

S. No	DESCRIPTION	YES / NO(If Yes, give the following details)		
		Name & Designation of the Employee	Place of Posting	Relation with the Employee
1.	If a Tenderer has relation(s) whether by blood or otherwise with any of employee(s) of NFL (Company), the Tenderer must disclose the relation at the time of submission of Tender, failing which, NFL shall reserves the right to reject the Tender or rescind the Contract.			
2.	P.F. Registration No. of the firm / company to be intimated along with Documentary proof thereof.			
3	PAN No. (Permanent Account Number) of the firm / company issued by Income Tax Deptt. along with Documentary Proof thereof.			
4	GST Registration No. of the firm / company issued by Goods & Service Tax authorities along with Documentary Proof thereof.			
	Party may also mention the Service Accounting Code No. (SAC) of the job.			
	GST No. linked with PAN No. mentioned at Sl. No.3			
5	ESI Registration No. issued by ESI Authorities along with documentary proof thereof.			
6	If the firm is registered as Micro / Small / Medium Enterprises as per MSMED Act, 2006, the same may be confirmed by the tenderer and submit a photocopy (Self certified) of the registration certificate in support thereof. Otherwise it will be construed that the firm is not registered as per MSMED Act, 2006.			
7	The tenderer shall submit:			
	a) The Name and Address of the firm / company along with its constitution giving style / status of the same such as Individual / Proprietorship Firm / Partnership Firm / Public or Pvt. Ltd. Firm / Company etc. along with its copies duly attested by Notary Public as evidence.			
	b) Year of Establishment			
	c) Place of Business.			

Note: Please attach separate sheets for the details, wherever necessary.

Place: _____

Dated: _____ **Signature of the Contractor/ Tenderer with SEAL**

	NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL DECLARATION FORM	PNMM/PC-281/E-001/P- I/Annx-1.24		
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DECLARATION FORM

Tender No.:

Date:

To,

M/S. Projects & Development India Limited
PDIL Bhawan,
A-14, Sector-1, Noida-201 301
India

Kind Attention. : Mrs. Anjali Thakur, Dy General Manager (MM),

Sub: "New 2500 cubic meter capacity Horton sphere for storage of Ammonia at NFL, Nangal"

Dear Sir,



I/We _____ have read the conditions of tender attached hereto and agree to abide by such conditions. I/We offer to do the job of **"New 2500 cubic meter capacity Horton sphere for storage of Ammonia at NFL, Nangal"** work at the rates quoted in the attached Schedule of Rates and in accordance with the specifications, standards and instructions in writing to the Engineer-in-charge of M/s. National Fertilizers Limited and hereby bind myself/ourselves to complete the work schedule and progress of work.

I/We further agree to abide by all the conditions of contract and to carry out all work within the specified time in accordance with specifications of materials and workmanship and instructions referred to in the Notice Inviting Tenders.

I / We agree to accept payment by ECS / EFT from your Bank i.e. SBI, Naya Nangal, Branch Code: 0689. Details of my/our Bank A/c No. are as under:

Bank A/c No. (In SBI / any Nationalized Bank)	
Name & Address of the Bank & Branch	
Branch Code:	
IFSC Code	

In case of acceptance of the tender by National Fertilizers Limited, I/We bind myself/ourselves to execute the contract as per the conditions mentioned in the tender documents, failing which, I/We shall have no objection to the forfeiture of the Earnest Money lodged with National Fertilizers Limited, Nangal Unit.

	<p align="center">NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL</p> <p align="center">DECLARATION FORM</p>	PNMM/PC-281/E-001/P- I/Annx-1.24		
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Further, if it is found at a later date that the Contractor has secured the Contract by furnishing wrong information or by suppressing facts in the bid submitted, NFL reserves the right to cancel the contract and forfeit the EMD/ Security cum Performance Guarantee and put the CONTRACTOR on Holiday / Banned / Blacklist list of NFL.

Thanking you.



Yours faithfully

For M/s _____

(Signature of Contractor/Tenderer with SEAL)

Address: _____

Date: _____

	<p>NEW 2500 CUBIC METER CAPACITY HORTON SPHERE FOR STORAGE OF AMMONIA AT NFL, NANGAL</p> <p>DECLARATION FORM</p>	PNMM/PC-281/E-001/P- I/Annx-1.24		
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