NIT NO : PNMM/PC211/E/002

FOR

IMPLEMENTATION OF ZERO LIQUID DISCHARGE (ZLD) UNIT

AT

RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED (RFCL),

TELANGANA, INDIA

PREPARED & ISSUED BY

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

E-TENDER: **RFCL-2025-195**

October, 2025

COVER - 1

FOR

IMPLEMENTATION OF ZERO LIQUID DISCHARGE (ZLD) UNIT

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TELANGANA, INDIA

MASTER INDEX

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SCOPE IN BRIEF: PROJECT MANAGEMENT, BASIC DESIGN ENGINEERING & DETAILED ENGINEERING; DISMANTLING; PROCUREMENT; FABRICATION; INSPECTION BY THIRD PARTY INSPECTION AGENCY (TPI) AS APPLICABLE; SUPPLY; SUPPLY OF ALL SPARES AND CONSUMABLES; SUPPLY OF CHEMICALS (INCLUDING PROPRIETARY CHEMICALS, IF ANY); MANUFACTURE; INSURANCE; OBTAINING ALL NECESSARY STATUTORY APPROVALS; TRANSPORTATION OF ALL EQUIPMENT / MATERIALS TO WORK SITE & STORAGE AT SITE INCLUDING LOADING & UNLOADING; ASSEMBLY, ERECTION & INSTALLATION; CONSTRUCTION AND ERECTION OF ALL CIVIL & STRUCTURAL, MECHANICAL, ELECTRICAL, INSTRUMENTATION & PIPING WORKS (INCLUDING TIE-IN POINTS); ACID/ALKALI RESISTANT PROOF TILING; PAINTING, TESTING; MECHANICAL COMPLETION, PRE-COMMISSIONING, TRIAL RUN FOR 14 DAYS BEFORE COMMISSIONING; COMMISSIONING; TRAINING OF RFCL PERSONNEL & PERFORMANCE GUARANTEE TEST RUN (PGTR) FOR 72 HOURS; OPERATION & MAINTENANCE OF THE PLANTS FOR A PERIOD OF 1 YEAR INCLUDING SUPPLY OF SPARES, CHEMICALS & CONSUMABLES; AND HANDING OVER OF THE PLANTS AND FACILITIES UNDER CONTRACTOR'S SCOPE OF WORK DULY COMPLETED ON SINGLE POINT RESPONSIBILITY BASIS.

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PART I: COMMERCIAL

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AT

RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED (RFCL)

TELANGANA, INDIA

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LETTER INVITING BID

SUBJECT: IMPLEMENTATION OF ZERO LIQUID DISCHARGE (ZLD) UNIT AT RFCL, RAMAGUNDAM PLANT

(NIT NO: PNMM/PC211/E/002)

Dear Sir(s),

1.0 M/s Projects and Development India Limited (PDIL) on behalf of **M/s Ramagundam Fertilizers & Chemicals Limited** (**RFCL**) has the pleasure of inviting eligible bidders to submit Bid in Single Phase Two Bid System, on Lump-Sum Turn Key (LSTK) basis, for the subject Project(s) in compliance with the Bidding documents. The entire set of bidding documents is placed on https://www.tenderwizard.in/RFCL and website of **RFCL** (http://www.rfcl.co.in) & PDIL (www.pdilin.com).

2.0 **Brief Scope of work:**

PROJECT MANAGEMENT, BASIC DESIGN ENGINEERING & DETAILED ENGINEERING; DISMANTLING; PROCUREMENT; FABRICATION; INSPECTION BY THIRD PARTY INSPECTION AGENCY (TPI) AS APPLICABLE; SUPPLY; SUPPLY OF ALL SPARES AND CONSUMABLES; SUPPLY OF CHEMICALS (INCLUDING PROPRIETARY CHEMICALS, IF ANY); MANUFACTURE; INSURANCE; OBTAINING ALL NECESSARY STATUTORY APPROVALS; TRANSPORTATION OF ALL EQUIPMENT / MATERIALS TO WORK SITE & STORAGE AT SITE INCLUDING LOADING & UNLOADING; ASSEMBLY, ERECTION & INSTALLATION; CONSTRUCTION AND ERECTION OF ALL CIVIL & STRUCTURAL, MECHANICAL, ELECTRICAL, INSTRUMENTATION & PIPING WORKS (INCLUDING TIE-IN POINTS); ACID/ALKALI RESISTANT PROOF TILING; PAINTING, TESTING; MECHANICAL COMPLETION, PRE-COMMISSIONING, TRIAL RUN FOR 14 DAYS BEFORE COMMISSIONING; COMMISSIONING; TRAINING OF RFCL PERSONNEL & PERFORMANCE GUARANTEE TEST RUN (PGTR) FOR 72 HOURS; OPERATION & MAINTENANCE OF THE PLANTS FOR A PERIOD OF 1 YEAR INCLUDING SUPPLY OF SPARES, CHEMICALS & CONSUMABLES AND HANDING OVER OF THE PLANTS AND FACILITIES UNDER CONTRACTOR'S SCOPE OF WORK DULY COMPLETED ON SINGLE POINT RESPONSIBILITY BASIS.

2.1	**Salient features of bidding document**	
2.2	Tender/ No.	PNMM/PC211/E/002
2.3	Site visit	**RFCL Unit Head** Bidders may directly contact above person for site visit.
2.4	Last date of receipt of bidders queries	10 Days from Tender Issue Date.

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2.5	Deleted	
2.6	Earnest Money Deposit (EMD)	**₹ 1,06,72,000.00** (Rupees One Crore Six Lakh Seventy Two Thousand only)
2.7	Time Schedule for Completion Works	21 Months from Effective Date
2.8	Last Date & Time for Submission of EMD; PQ, Technical and unpriced - Commercial Bid (Cover 1) and Priced Bid (Cover 2)	07.11.2025, at 15:00 hrs. (IST)
2.9	Date & Time of opening of EMD; PQ, Technical and unpriced-Commercial Bid (Cover 1)	07.11.2025, at 16:00 hrs. (IST), at RFCL
2.10	Original Documents to be submitted at	Ramagundam Fertilizers & Chemicals Limited **(**RFCL**)** 4th Floor, Wing-A, Kribhco Bhawan, Sector-1, Noida, Uttar Pradesh – 201301. Kind Attention: Sh. Shashi Prakash, Chief Manager Tel no. : +91-120-2553614 E-mail: sprakash@rfcl.co.in
2.11	**Address for Communication with**	
2.11.1	PDIL	Projects & Development India Limited, (Materials Management Department) P.D.I.L Bhawan, A-14, Sector-1, Noida, (PIN 201301) Dist. Gautam Budh Nagar (UP). (India) Kind Attention: Mrs. Anjali Thakur, Deputy General Manager (M.M) Fax no. : +91-120-2529801 Tel no. : +91-120-2529842 (Ext:340/345) Mob. No.: 98681-84921 / 95997-66149 E-mail: anjali@pdilin.com / amitvarshney@pdilin.com
2.11.2	RFCL	Ramagundam Fertilizers & Chemicals Limited Kind Attention: Sh. Shashi Prakash, Chief Manager Tel no. : +91-120-2553614 E-mail: sprakash@rfcl.co.in

 # In case of the days specified above happens to be a holiday in RFCL / PDIL, the next working day shall be implied. Any changes (if required) in the above timelines shall be published on https://www.tenderwizard.in/rfcl. In case of any variance, the timelines displayed at the https://www.tenderwizard.in/rfcl shall only govern.

3.0 The bidder shall submit the bid ONLINE through **https://www.tenderwizard.in/rfcl**.

4.0 The following documents in addition to uploading the bid on **https://www.tenderwizard.in/rfcl** 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 **https://www.tenderwizard.in/rfcl** by the bidder along with e-bid within the due date and time to the address mentioned in Clause no. 2.0 of LIB:-
i) EMD/Bid Security
ii) Power of Attorney
iii) Pre-Signed Integrity Pact

5.0 OWNER/PDIL reserves the right to assess bidder's capability and capacity to perform the contract by taking into account various aspects such as concurrent commitments, responsiveness to bidding documents etc.

6.0 OWNER/PDIL reserves the right to accept/reject any or all Bids without assigning any reason whatsoever.

7.0 Transfer of Bidding Document is not permissible **in any other name at any stage.**

8.0 Bids complete in all respects should reach on or before the Bid Due Date and time. Bids received through Fax /E-mails shall not be considered. OWNER/PDIL takes no responsibility for delay, loss or non-receipt of Bid sent by post/courier.

9.0 Bidder may depute their representative with proper authorization letter to attend techno-commercial opening of bids.

10.0 EMD and Techno-Commercial un-priced bid shall be opened on the date indicated in this Letter/intimated by Owner.

11.0 The exact date and time of Price Bid opening shall be communicated to the bidders whose Techno-Commercial Bids are found Technically and Commercially acceptable.

12.0 Eligible bidders are requested to confirm their intention, within seven days from the placement of tender at **https://www.tenderwizard.in/rfcl**, to participate in subject bidding through a letter or e-mail as per proforma for Acknowledgement-Cum-Consent Letter, enclosed as Annexure-1.1 in the enclosed Bidding documents.

Thanking you,

For & on behalf of

Ramagundam Fertilizers & Chemicals Limited.

PART I: COMMERCIAL

SECTION – 1.0

INSTRUCTIONS TO BIDDERS

IMPLEMENTATION OF ZERO LIQUID DISCHARGE (ZLD) UNIT

AT

RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED (RFCL),

TELANGANA, INDIA

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1.0 INTRODUCTION

1.1 **RAMAGUNDAM FERTILIZERS & CHEMICALS LIMITED (RFCL)** hereinafter also referred to as "OWNER" was incorporated on 17th Feb, 2015 to set up natural gas-based ammonia urea complex along with offsite & utility facilities at Ramagundam, Telangana with design capacity of 2,200 MTPD Ammonia Unit and 3,850 MTPD Urea Plant.

RFCL is a Joint Venture Company of National Fertilizers Limited (NFL), Engineers India Limited (EIL) and Fertilizer Corporation of India Limited (FCIL) (Promoters) with 26% equity each by NFL & EIL. FCIL has been granted 11% equity in terms of CCEA approval. Govt. of Telangana has taken equity participation of 11% equity. GAIL (India) Ltd. has Equity capital participation of 14.3% and 11.7% of Equity Capital by HTAS Consortium.

The present NIT intends to invite Bids on Domestic Tender basis to establish ZERO LIQUID DISCHARGE UNIT within RFCL, RAMAGUNDAM on Lumpsum Turn Key (LSTK) basis on single point responsibility. For detailed scope or work, refer Technical Specification (Part 2 of NIT)

Projects & Development India Ltd. (PDIL) is Consultant for providing Engineering Consultancy Services and Project Management Services for the aforesaid project.

1.2 Scope of Work for LSTK Contractor shall broadly consist of Project Management, Basic Design Engineering & Detailed Engineering; Dismantling; Procurement; Fabrication; Inspection by Third Party Inspection Agency (TPI) as applicable; Supply; Supply of all spares and consumables; Supply of chemicals (including proprietary chemicals, if any); Manufacture; Insurance; obtaining all necessary statutory approvals; Transportation of all equipment / materials to work site & Storage at Site including Loading & Unloading; Assembly, Erection & Installation; Construction and Erection of all Civil & Structural, Mechanical, Electrical, Instrumentation & Piping works (including Tie-in points); Acid/Alkali resistant proof tiling; Painting, Testing; Mechanical Completion, Pre-Commissioning, Trial Run for 14 days before commissioning; Commissioning; Training of RFCL personnel & Performance Guarantee Test Run (PGTR) for 72 hours; Operation & Maintenance of the plants for a period of 1 year including supply of spares, chemicals & consumables and handing over of the plants and facilities under contractor's scope of work duly completed on single point responsibility basis.

1.3 **Location of The Project Site**

The Site is located at Ramagundam, Telangana. The Project will be accommodated within the existing boundary wall of factory.

Plant Location	Ramagundam in Peddapalli district
State	Telangana
Nearest Important Town	Ramagundam
Nearest Railway Station	Ramagundam at about 10 km
Nearest Air port	Hyderabad Airport at about 220 km
Nearest National Highway	State Highway One

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1.4 Plant Configuration and Capacity

The broad provision of facilities envisaged for the project shall be as per details specified in Part-II, Section 1.0-Project Description.

2.0 SCOPE OF PROPOSAL

The scope of the Work shall be on the basis of Single Point responsibility, completely covering the works specified under the accompanying technical specifications and documents. It shall include but not limited to the following:

a. Supply of Basic Design including Process Flow Diagrams & P&IDs.
b. Detailed Engineering including Process & engineering datasheets & specifications.
c. Standard Specification
d. HAZOP Studies and implementation of its recommendation
e. Dismantling
f. Site Grading, Site survey & soil investigation
g. Equipment layout
h. 3D modeling
i. Modification of existing control room of water block and integration with existing facilities.
j. Installation of ZLD panels in existing Sub-station no. 5.
k. Appointment of Third party inspection agency (as per TPI list) & arranging Inspection as per approved QAP (Quality Assurance Plan),
l. Procurement as per vendor list
m. Supply of all equipment.
n. Supply of spares for as per Technical part of NIT.
o. Supply of Lubricants, consumables and Chemicals (including proprietary chemicals, if any).
p. Inspection/expediting of orders for Equipment including Third Party Inspections wherever required
q. All Statutory Clearances including Environmental Clearance / Amendment to EC from MoEFCC for the facility as applicable till the day of handing over of the project. All statutory approval / clearance fee shall be paid by the Contractor and the same shall be reimbursed by RFCL on actual basis after submission of documentary evidence for payment done to the Statutory Agencies by the Contractor.

   It is aware that the fertilizer complex has been granted EC from MoEFCC vide EC letter reference no. J11011/371/2013-IA II (I) dtd. 16.10.2015. Subsequent to appraisal of the EC compliance submitted by RFCL to statutory bodies as per rules in force, Telangana State Pollution Control board has issued a letter to RFCL for construction/establishment of ZLD system vide letter Ref. No RGM-01/TSPCB/TF/BO/2022-303 dated 28.05.2022 to ensure no effluent/ treated effluent is discharged beyond the plant boundary.

   Hence, this ZLD project is conceived which requires CTE before commencement of construction activities and CTO at least 06 months prior to date of commissioning. The bidder is required to do the required statutory activities post EC for the facility as applicable till the day of handing over of the project."

r. Work under overall supervision of Owner's Project Management Consultants
s. Progress reporting of project completions
t. Monthly progress report (with S- curve)

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u. Training of Owner's Personnel.
v. Construction / Erection and Pre Commissioning of the Plants
w. Commissioning and Startup of the Plants
x. Performance & Guarantee test and handing over the Plants
y. Supply of required drawings and documents, softwares and hard wares, including 3 sets of As-built drawings and O&M manuals. Editable file of As-built drawings shall also be provided. 2 Sets of separate harddisks containing editable and pdf files. (1 set for RFCL and 1 set for PDIL) also to be provided after review and approval from Client and Consultant.
z. One (1) year Operation and Maintenance.
aa. Sludge generated from ZLD unit to be taken to a designated pre-storage area (identified by RFCL) before disposal is in bidder scope.
bb. Re-routing of few Utility lines (Service water, Fire water, Instrument air, etc.) as per details specified in Part-II of the NIT.
cc. Provision of Operator room with Washroom facilities in the ZLD plot and integration of sanitary waste with existing Plant SWS network.
dd. Installation of new Lab equipments in the existing Chemical Lab building.
ee. Updated Overall plot plan, with location of all ZLD facilities including Guard Pond, Control room extension and existing Sub-station no. 5 & Chemical Lab. Editable file of Updated Overall plot plan shall be provided
ff. Preparation of Tender for disposal of sludge / salt generated by the ZLD unit, along with list of recommended agencies to sludge disposal, tender preparation/lining up of the disposal party shall be in bidder's scope. The coordination with TSDF for disposal of sludge along with the necessary handling like storing Hazardous waste building, loading to truck etc. shall be in the bidder's scope. The payment for the disposal to the party selected/authorized by TSPCB/PCB for disposal shall be done at actual basis to the party directly by the bidder/LSTK Contractor.
gg. Other items as per details specified in Part-II of NIT
hh. Any other item / work /activities deemed necessary for completion of Plants, safe and reliable operation of the Plants.

3.0 BIDDING DOCUMENTS

The bidder is expected 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 his proposal 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

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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 https://www.tenderwizard.in/RFCL 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.

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 THE BID

The bid prepared by the bidders and all correspondence and documents relating to the Bid exchanged by the Bidder and the Company shall be written in the English language and all units shall be in Metric system. 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:

Commissioning, Trail Run, Performance & Guarantee Test leading to Preliminary Acceptance	21 Months from Effective Date of Contract

6.2 The Effective Date of Contract shall be the date of issuance of Letter of Award (LOA).

6.3 Strict adherence to the time schedules for performing the specified works as stipulated in the Contract shall be of utmost importance.

6.4 Any deviation in Time Schedule isn't permitted & it shall be a criterion of rejection.

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 by the Bidder with his usual signature. The names of all persons signing should also be typed or printed below the signature

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 Secretary or any other person or persons holding powers of attorney for signing their Bid.

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7.3 **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.**

7.4 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 BIDDER QUALIFICATION CRITERIA (BQC)

Refer Section 1.1

9.0 PRE-BID QUERIES

9.1 The bidder may submit any queries/clarification/information pertaining to bidding documents in writing delivered by hand or by Fax or by E-mail as per Annexure-1.10 enclosed in the bidding documents so as to reach PDIL not later than the date specified in the Cover Letter. Queries/ Clarifications/ Information sought in any other manner shall not be responded to.

9.2 Deleted

9.3 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 become necessary shall be sent to all bidders through the issue of an Addendum/Amendment/Corrigendum.
Note: No pre-bid meeting will take place

10.0 EARNEST MONEY DEPOSIT (EMD)

10.1 The Bidder shall furnish as part of his Bid, EMD for an amount as indicated in the cover letter for this NIT in any of the following forms:

Crossed Demand Draft favouring Ramagundam Fertilizers and Chemicals Ltd. and issued by any scheduled/nationalized bank payable at Delhi. (the details of DD No. & date, amount, bankers name etc. has to be submitted in relevant field/column of online module).

OR

Bank Guarantee from a Scheduled Indian Bank (except Gramin/ Cooperative Banks) as per our prescribed format (see Annexure-1.12). The Bank Guarantee should be valid for a period of Bid Validity plus Three Months and you will give an undertaking for extension of the Bank Guarantee in case the same is desired by RFCL (the details of BG No. & date, amount, bankers name etc. has to be submitted in relevant field/column of online module).

OR

Online mode. Under this option, charges if any, shall be borne by the vendor. RFCL's Bank details for RTGS/NEFT are as follows:

a) Beneficiary Name : M/S. RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED.
b) Name of Bank : STATE BANK OF INDIA,

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c) Branch : Commercial Branch, 70, The Great Eastern Centre, Nehru Place, New Delhi - 110 019.
d) Branch code : 04298
e) IFSC No. : SBIN0004298
f) Current Account : 40306767010

NOTE: If the bidder is making electronic payment i.e., through RTGS / NEFT for submission of EMD then details / receipt of such payment should immediately be forwarded to sprakash@rfcl.co.in and sudhirsharma@rfcl.co.in within 24 hours of remittance.

10.2 Any Bid not accompanied with EMD shall be rejected by the Owner/Consultant as being non-responsive.

10.3 The EMD of unsuccessful Bidders will be returned by OWNER without any interest to the unsuccessful Bidders as promptly as possible on acceptance of Bid of the successful Bidder or when the Bidding process is cancelled by OWNER, whichever is later. Where EMD has been paid by demand draft, the refund thereof shall be in the form of demand draft or Electronic fund transfer mode in favour of the unsuccessful Bidder(s). Bidders may indicate the name and address in whose favour the said demand draft shall be drawn by the OWNER for refund failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Transmittal Letter.

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

10.5 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

If the successful bidder is seeking modifications to the agreed terms and conditions after issue of 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 LOA.

11.0 COST OF BIDS

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

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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 https://www.tenderwizard.in/RFCL.

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.

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 Un-priced Commercial Bid has been submitted as per clause 21.4 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 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

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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 Bidder particularly foreign bidders are requested to familiarize themselves with the Income Tax Act 1961, the Companies Act, 1956, the Customs Act, 1961, including any amendments thereof and other related acts and laws prevalent in India.

14.4 Deleted.

14.5 The Owner shall not entertain any request for clarification from the bidder, regarding such local conditions.

14.6 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.

14.7 Bidder should Visit to site at their own cost and expense before submission of Bid.

15.0 PRICE BASIS & CURRENCY OF BIDS

15.1 Bidder may quote for entire scope of work in Indian currency only.

15.2 Contract Price to be quoted by the LSTK contractor shall be fixed and firm shall be valid until completion of the Contract to be executed with the successful Bidder pursuant hereto and shall not be subject to variation/escalation on any account except as otherwise specifically provided in the Contract documents.

15.3 Ramagundam site is located in Telangana state, India. LSTK bidder(s) are required to check & confirm before bidding for applicability of taxes & duties for the procurement of supply and service by them for the execution of contract.

15.4 Lumpsum price shall be inclusive of all taxes, duties, custom duty, levies including BOCW cess etc. as applicable but excluding GST.

15.5 The firm CONTRACT PRICE quoted by the Bidder shall be inclusive but not be limited to the following:

a. Supply of Basic Design including Process Flow Diagrams & P&IDs.

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b. Detailed Engineering including Process & engineering datasheets & specifications.
c. Standard Specification
d. HAZOP Studies and implementation of its recommendation
e. Dismantling
f. Site Grading, Site survey & soil investigation
g. Equipment layout
h. 3D modeling
i. Modification of existing control room of water block and integration with existing facilities.
j. Installation of ZLD panels in existing Sub-station no. 5.
k. Appointment of Third party inspection agency (as per TPI list) & arranging Inspection as per approved QAP (Quality Assurance Plan),
l. Procurement as per vendor list
m. Supply of all equipment.
n. Supply of spares for as per Technical part of NIT.
o. Supply of Lubricants, consumables and Chemicals (including proprietary chemicals, if any).
p. Inspection/expediting of orders for Equipment including Third Party Inspections wherever required
q. All Statutory Clearances including Environmental Clearance / Amendment to EC from MoEFCC for the facility as applicable till the day of handing over of the project. All statutory approval / clearance fee shall be paid by the Contractor and the same shall be reimbursed by RFCL on actual basis after submission of documentary evidence for payment done to the Statutory Agencies by the Contractor.
r. Work under overall supervision of Owner's Project Management Consultants
s. Progress reporting of project completions
t. Monthly progress report (with S- curve)
u. Training of Owner's Personnel.
v. Construction / Erection and Pre Commissioning of the Plants
w. Commissioning and Startup of the Plants
x. Performance & Guarantee test and handing over the Plants
y. Supply of required drawings and documents, softwares and hard wares, including 3 sets of As-built drawings and O&M manuals. Editable file of As-built drawings shall also be provided. 2 Sets of separate harddisks containing editable and pdf files. (1 set for RFCL and 1 set for PDIL) also to be provided after review and approval from Client and Consultant.
z. One (1) years Operation and Maintenance.
aa. Sludge generated from ZLD unit to be taken to a designated pre-storage area (identified by RFCL) before disposal is in bidder scope.
bb. Re-routing of few Utility lines (Service water, Fire water, Instrument air, etc.) as per details specified in Part-II of the NIT.
cc. Provision of Operator room with Washroom facilities in the ZLD plot and integration of sanitary waste with existing Plant SWS network.
dd. Installation of new Lab equipments in the existing Chemical Lab building.
ee. Updated Overall plot plan, with location of all ZLD facilities including Guard Pond, Control room extension and existing Sub-station no. 5 & Chemical Lab. Editable file of Updated Overall plot plan shall be provided
ff. Preparation of Tender for disposal of sludge / salt generated by the ZLD unit, along with list of recommended agencies to sludge disposal, tender preparation/lining up of the disposal party shall be in bidder's scope. The coordination with TSDF for disposal of sludge along with the necessary handling like storing Hazardous waste building, loading to truck etc. shall be in the bidder's scope. The payment for the disposal to the party selected/authorized by

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TSPCB/PCB for disposal shall be done at actual basis to the party directly by the bidder/LSTK Contractor

gg. Other items as per details specified in Part-II of NIT

hh. Any other item / work /activities deemed necessary for completion of Plants, safe and reliable operation of the Plants.

15.6 One (1) year Operation and Maintenance.

For 1 year O&M services, no separate work order shall be placed by Owner. The Start date (Zero date) of O&M activities shall be the date of commissioning of the entire plant. O&M services shall be inclusive of manpower/operators, supply of all spares and consumables, tools & tackles and supply of chemicals including proprietary chemicals, if any.

Bidder to decide the number of competent manpower required for the round the clock operation (24x7) without any interruption of Operation and Maintenance as per NIT.

The minimum qualification of manpower:

- *Operators: Diploma/BSc*
- *Maintenance staff (Mechanical/Electrical): ITI/Diploma*
- *Manager Operations: BE/B.Tech Chemical*
- *Shift supervisor: BE/B.Tech Chemical*
- *Electrical & Instrumentation In-charge: BE/B.Tech Electrical & Instrumentation*
- *Maintenance In-charge: BE/B.Tech Mechanical*
- *Shift Supervisors to have at least 2 years of experience in RO based water plant or ZLD plant operation and maintenance.*

In case of interruption in plant operation for one day or more apart from already defined downtime in NIT for the reasons solely attributable to the contractor, Price adjustment will be applicable @ 0.1% (of the O&M Contract Price) of interruption or part thereof, subject to a maximum deduction of 10% (ten percent) of the O&M Contract Price.

For example: Assume that O&M Contract Price is Rs. 1000/- and plant operation is interrupted for continuous period of 24.1 hours (apart from already defined downtime in NIT) for the reasons solely attributable to the contractor, then Price adjustment of Rs. 1 shall be applicable.

15.7 Deleted.

15.8 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.

15.9 Income Tax, BoCW cess, 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.

16.0 DELETED

17.0 NUMBER OF BIDS

17.1 A bidder shall on no account submit more than one bid either directly or indirectly.

17.2 A bidder shall be deemed to have submitted an indirect bid if (i) the bidder is a consortium member in an another independent bid or (ii) a subsidiary (partly or wholly owned) of the bidder is participating as a direct or consortium member in an another

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independent bid (iii) two subsidiaries of a single holding Company participating as direct bidders or consortium member in an another Independent bid.

To clarify, if a supplier with experience of MVR based Technology is submitting bid either directly or indirectly, such supplier cannot enter into MOU with other bidders participating in the bid.

17.3 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.

18.0 CONFIDENTIALITY OF DOCUMENTS

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

19.0 DUTIES AND TAXES

19.1 The lumpsum price shall include all duties, taxes and levies etc. including but not limited to personnel and corporate tax, Custom Duty, BOCW Cess, surcharge as applicable but exclude GST.

19.2 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. 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-10.0 of SCC.**

20.0 BIDDING DOCUMENTS AND DEVIATIONS

20.1 Bidders shall confirm compliance to Bidding Documents.

20.2 It is expected that bidders will submit bids based strictly on the terms and conditions and specifications contained in the bidding documents and will not stipulate any deviations. OWNER reserves the right to reject as non-responsive any bid containing deviation(s).

20.3 As it is a “Zero Deviation Tender” wherein Bid with deviation shall not be accepted, Bidder’s authorized representative(s) shall attend the pre bid meeting on the prescribed day at the given venue specified in NIT. During the pre-bid meeting, all the technical and commercial issues shall be discussed and concluded to ensure that the bid received subsequent to pre bid meeting shall be without any deviations to terms and conditions. Hence, bidders shall treat the pre bid meeting as utmost important and depute competent & senior person capable of taking on the spot decision to sort out all the technical and commercial issues.

However, in case any bidder does not attend the pre bid meeting, it shall be understood that the bidder has a clear understanding of the scope, terms & conditions of the bidding document and does not have any comments/ deviations to the requirements of the bidding document.

20.4 The bidder is requested to submit any queries/clarification/information pertaining to Bidding document in writing delivered by hand or by e-mail in the format provided in

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Bidding Forms. These queries shall be replied suitably. The editable soft copies of the queries shall also be e-mailed to concerned persons specified in LIB, to enable Consultant to prepare replies to the queries in the same format expeditiously.

20.5 Deleted

20.6 Replies to the pre-bid queries (as required) shall be uploaded under Addendum/Amendment section as "Record Notes of Pre-bid Meeting / Reply to Pre-bid Queries" on https://www.tenderwizard.in/RFCL. Reply to Pre-bid Queries shall be considered as part of enquiry document (if any).

20.7 Any modification of the Bidding Document, which may become necessary as a result of the prebid queries, shall be intimated to all bidders through the issue of an Addendum/Amendment at the Portal.

Based on the response to the pre-bid queries, Letter of Waiver of Conditions / Deviations shall be signed and submitted by the bidders as part of their offer. After response to Pre-bid Queries by Owner/Consultant, no deviation shall be accepted. Bidder in their own interest shall submit bids fully complying with bidding document requirements and Consultant shall reserve the right to proceed with the available compliant bids for evaluation without raising any technical/ commercial queries.

20.8 Technical/ Commercial queries (TQ/CQ) shall not be issued once the bids have been opened. However, wherever CQ/ TQ are unavoidable, the same shall be raised (Only once in case of Pre-Qualification Criteria) and the cut-off date given for CQ/ TQ replies shall be adhered to. So far as the submission of documents is concerned with regard to Pre-Qualification Criteria, if the bidder has submitted /mentioned about an order without its completion/performance certificate (or vice-versa), the shortfall document is asked for and considered. However, no new order (i.e. order without any reference in the original submitted bid) is asked for so as to qualify the bidder.
Offers shall be evaluated based on the information available upto cut-off date for CQ/ TQ replies. Bidder shall not submit any Price against TQ/ CQ raised unless specifically sought in writing by Owner/Consultant.

20.9 Bidder is advised to visit and examine the Project Site and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for execution of the Works. All costs towards the same including the cost of visiting the Site shall be at the bidder's own expense.

20.10 Bidder and any of its personnel will be granted permission by Consultant/ Owner to enter upon its premises and lands/ Project Site for the purpose of such visit, but only upon the express condition that the bidder and its personnel will relieve and indemnify Consultant/ Owner and its personnel from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection. Bidder shall refer LIB for schedule and contact details related to site visit.

21.0 SUBMISSION OF BIDS & BIDDING DOCUMENTS

21.1 The Bid shall be submitted in electronic format (through https://www.tenderwizard.in/RFCL) as per given time schedule.

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21.2 **Instruction for Online Submission of Bid**

Instructions to the Bidders to submit the bids online through https://www.tenderwizard.in/RFCL

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.
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 of 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.

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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) Deleted

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) Deleted

19) Deleted

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.

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 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.

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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.

21.3 The Bidder is expected to examine all instructions, forms, 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, -and except deviations, if any, specifically stated in seriatim by the Bidder. 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.

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

COVER-I	PART-I: EARNEST MONEY DEPOSIT
	PART-II: POWER OF ATTORNEY, INTEGRITY PACT , DECLARATION FOR LOCAL CONTENT AND PRE-QUALIFICATION BID
	PART-III: TECHNICAL AND UNPRICED COMMERCIAL BID
COVER-II	PRICED BID (BOQ, EXCEL SHEET)

21.4.1 Under online submission, **Cover-I shall contain**:

PART-I

EARNEST MONEY DEPOSIT

i) Details of Earnest Money Deposit submitted.

PART-II

POWER OF ATTORNEY

i) Relevant documents related to Power of Attorney of Bid Signatory from the competent authority.

INTEGRITY PACT

i) Pre-signed Integrity Pact as per performa.

DECLARATION FOR LOCAL CONTENT

i) Relevant declaration(s) as per performa.

PRE-QUALIFICATION BID

i)	Letter of submission and synopsis of the proposal.

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ii)	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.
iv)	Exhibit-1 alongwith documents in favour of Technical Criteria. **(Refer Section 1.1)**
v)	Exhibit-2 alongwith documents in favour of Financial criteria. **(Refer Section 1.1)**
vi)	Declaration in support of General Criteria: Non-Blacklist-regarding as per Annexure -1.15 **(Refer Section 1.1)**

PART-III

Technical and Unpriced Commercial Bid shall contain following:

SECTION-I:	i.	Acknowledgement cum Consent Letter as per Annexure-1.1
	ii.	Bid Form as per Annexure-1.2
	iii.	Commercial Questionnaire as per Annexure-1.3
	iv.	Contents of Bid and Checklist as per Annexure-1.4
	v.	Declaration for not submitted indirect bid as per Annexure-1.5
	vi.	Details of Bidder's Concurrent Commitment as per Annexure-1.6
	vii.	Bidder's Proposed Schedule as per Annexure-1.7
	viii.	Letter of Waiver of Conditions/Deviations as per Annexure-1.8
	ix.	Declaration towards Sharing of Land Border as per Annexure-1.10
	x.	Declaration by Bidder regarding Local Content as per Annexure-1.11
	xi.	Duly filled, signed and stamped Annexure(s) as per SCC
SECTION-II:	i.	Preamble to Schedule of Prices.
	ii.	Blank copy of Schedule of Prices indicating "Quoted" or "Not Applicable" against each head and duly stamped & signed on each page, strictly as per as per format uploaded on https://www.tenderwizard.in/RFCL, failing which bid may be rejected.
SECTION-III:		Technical Details/ documents specified under "Technical Information Required along with Bid".
SECTION-IV:		Any other information required in the Bidding Documents or considered relevant by the Bidder.
SECTION-V:		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.

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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.

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

Price Bid (BOQ) [**in the form of excel file containing various spread sheets**] 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 https://www.tenderwizard.in/RFCL 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.

22.0 DEADLINE FOR SUBMISSION OF BIDS:

22.1 Bids must be submitted not later than the time and date as specified in the Cover Letter

22.2 The OWNER may extend this deadline for the submission 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.

22.3 Any bid received after the deadline specified in the NIT or as extended shall be liable to be rejected.

23.0 OPENING OF BIDS

23.1 OWNER will open Bids in the presence of Bidder's representatives who choose to attend at Date and time specified on cover page of NIT or as informed by OWNER. The Bidder's representative(s) present during the Bids opening shall sign a Bids opening record sheet evidencing their attendance.

23.2 The Bidder's name, modifications, Bid withdrawal and the presence or absence of the requisite EMD and such other details, as the OWNER at its discretion may consider appropriate, will be announced during Bids opening.

23.3 The Bids shall be opened and evaluated in two stages:

23.3.1 Stage-I: Opening & Review of EMD, Pre-Qualification document, Technical and Un-priced Commercial Bids

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On the date of Public Bid opening as indicated on the Cover Letter of this NIT, cover containing EMD shall be opened and reviewed

The OWNER will review the Bank Guarantee (BG) submitted by Bidder against EMD, with respect to:

a. Its value,
b. Validity &
c. Issuing Bank.
d. The format attached with the tender document.

In case, the Bidder has not submitted the EMD or the BG submitted by the Bidder is not as per the requirement of NIT with respect to the above mentioned parameters, the Bids submitted by them may be rejected.

If the EMD submitted by the Bidder is found to be in order with respect to above mentioned parameters but if there is a minor deviation with respect to the format enclosed with the NIT, the OWNER may at its discretion inform the Bidder who shall have to rectify the same before the date of opening of the Price Bid. In case the Bidder fails to rectify the EMD, its Bids will be rejected and the Bidder will be informed to take back its Bid, including the Price Bid.

Thereafter, OWNER will open Pre-Qualification Bid, technical and un-priced commercial Bids of those Bidders, whose EMD is found to be in order as described here above.

OWNER/Consultant will first review Pre-qualification bid. Technical and Un-priced Commercial Bids shall be evaluated only for those bidders whose bid is found to be Pre-qualified based on the Pre-qualification Criteria.

Before opening the Priced Bid of the technically and commercially acceptable Bidders, if required, a meeting with the Bidders shall be arranged. Date and Venue of such meeting shall be informed at the appropriate time.

Waiver of deviations and conditions (if any) as per Annexure-1.8, should be submitted by the Bidders before the opening of the Priced Bid failing which the Priced Bid of concerned Bidder shall not be opened.

23.3.2 **Stage – II: Opening of Price Bid**

The date of the opening of the Price Bid shall be intimated to technically and commercially acceptable Bidders. The price bids of such shortlisted Bidders will be opened in the presence of Bidder's representative who chooses to attend, on the date and time to be intimated. The bidder's name, bid price and such other details as the OWNER at its discretion may consider appropriate, will be announced at the opening of price bids.

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

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23.3.3 If 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 will 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 DEPUTATION OF REPRESENTATIVE FOR TECHNICAL & COMMERCIAL DISCUSSIONS

After opening of the Bids, to assist in the examination, evaluation and comparison of Bids, OWNER 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.

Further OWNER may ask BIDDER to visit OWNER's/PDIL's office for technical, commercial or financial clarifications.

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

If required Owner reserves the right to seek the price implications (if any) with justification to the extent and in areas required for evaluation only of such bidder(s) whose technical and Un-priced commercial proposals are acceptable and complete. Owner's decision in this regard shall be final and binding on the bidders.

After opening of the Price Bid, no change in the quoted price shall be sought, offered or permitted

26.0 EFFECT AND VALIDITY OF BID

26.1 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.

26.2 The bids should be kept valid for acceptance for a period of 6 (Six) Months from the date of opening of Technical and Un-priced commercial Bids. A Bid valid for shorter period may be rejected by the Owner as being non-responsive.

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

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

26.4 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. The provisions of Clause-10.0 regarding discharge and forfeiture of EMD shall continue to apply during the extended period of Bid Validity

27.0 COMPLETE SCOPE OF SUPPLIES/WORK

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 subject to meeting Pre-Qualification Criteria.

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).

28.1.2 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 (refer Section 1.1).

c. Similarly a copy of 'Certificate of Acceptance after Performance & Guarantee

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Test is a mandatory document which establishes that the Performance & Guarantee Test of Plant under reference has been successfully completed.

d. Proof of operation of Plant is also a mandatory document to establish that plant was in operation for at least one year as mentioned under Experience Criteria, Clause no. 8 above.

e. In case these mandatory documents as required under (b) to (d) above are not enclosed, such works may not be considered as meeting/ contributing the Experience Criteria.

f. For evaluating, only such Financial details shall be taken into consideration, which have been submitted by the Bidder as per Exhibits and Bidding Forms.

28.1.3 Deleted

28.1.4 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.

28.1.5 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.

28.1.6 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.

28.1.7 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.

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, which shall stand frozen after Pre-Bid Conference, 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.

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28.3 The bidder shall also submit self certificate duly notarised conforming for the following unpriced proposals.

a) The availability of spare parts and components within India.

b) The availability of after sales *Technica*l services *support in India.*

c) Willingness of Bidders to give shop drawings of spare parts and main equipments.

28.4 **Deleted**

28.5 The subject work is indivisible and complete work shall be awarded to successful overall lowest (L1) bidder (post Reverse Auction) as per evaluation methodology described below:

Total Lumpsum Price (EXCLUDING GST) for ZLD unit at RFCL, Ramagundam Plant.

Plus(+)

Lumpsum Price (EXCLUDING GST) for one (1) year Operation & Maintenance services (includes comprehensive maintenance & all spares for ZLD Unit including Control System for 01 year).

Plus(+)

Total GST amount

Prices quoted for One (1) Year O&M spares in SP-4 shall not be considered for Bid Evaluation purpose.

28.6 It is mandatory for the bidder to indicate "QUOTED/Not applicable/Nil" in the unpriced schedule of Priced Schedule submitted along with the Technical and unpriced commercial bid. If the Bidder fails to quote for any item in the Price bid, it will be implied that such item is either included elsewhere in the quoted prices or Not Applicable/Nil as per Owner's decision depending upon the item.

29.0 MUTUALLY AGREED DAMAGES (MAD)

29.1 FOR FAILING TO MEET GUARANTEED WORKS COST

In the event the works cost of ZLD Unit as demonstrated during the Guarantee Test Run is more than 100% but less than 102.5% of the Guaranteed Works Cost then, the CONTRACTOR will pay Owner Mutually Agreed Damages (Performance) as specified hereunder.

For every 0.50% increase in Works Cost above the Guaranteed Work Cost or part thereof, CONTRACTOR will pay Mutually Agreed Damages (Performance) equal to 0.5 % of the TOTAL CONTRACT PRICE.

If the Works Cost as demonstrated during the Guarantee Test Run is more than 102.5% of the Guaranteed Works Cost then it shall be breach of Contract requiring corrective action by CONTRACTOR irrespective of the cost involved (Make Good).

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29.2 FOR FAILING TO MEET GUARANTEED PARAMETERS

In the event the Value of Guaranteed Parameter as specified in Part II (Technical) of NIT is less than 100% but more than 97.5% of the Guaranteed Value then, the CONTRACTOR will pay Owner Mutually Agreed Damages (Performance) as specified hereunder.

For every 0.50% decrease in value below the Guaranteed Value or part thereof, CONTRACTOR will pay Mutually Agreed Damages (Performance) equal to 0.5 % of the TOTAL CONTRACT PRICE.

If the value is less than 97.5% of the Guaranteed Value then it shall be breach of Contract requiring corrective action by CONTRACTOR irrespective of the cost involved (Make Good).

The Parties acknowledge that actual damages for Contractor's failure to achieve the Guaranteed Works Cost for ZLD Unit are difficult to determine and that the MUTUALLY AGREED DAMAGES (PERFORMANCE) as provided herein are reasonable and appropriate measures of the damages for such failure calculated in a best efforts attempt to quantify Owner's actual losses associated with such failure and are not a penalty or consequential damages for losses sustained by Owner as a result of such failure.

Note: The above is in addition to Price Reduction due to delay in completion as specified in clause 13.2 of GCC.

30.0 PRICE VARIATION

The Bidder shall quote firm prices/ rates in the "Schedule of Prices". 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.

31.0 REBATE

31.1 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.

32.0 CONTACTING OWNER

32.1 A bidder shall not contact the OWNER 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 in writing. Any effort by a bidder to influence the OWNER in the OWNER's decisions in respect of bid evaluation or contract award will result in the rejection of that bidder's bid.

33.0 AWARD OF CONTRACT

33.1 The CONTRACT will be awarded subject to the terms and conditions of this NIT to the competitive lowest evaluated Bidder submitting responsive bid, which is technically acceptable to the OWNER, in conformity with the requirements of this NIT and the Bidder is to the OWNER's satisfaction competent to undertake the Scope of Work. The OWNER shall be the sole judge in behalf of the matters aforesaid. A responsive Bid is

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one which fulfills all requirements under NIT and accepts all terms and conditions of these specifications and documents without any modifications. A modification is one which affects in any way the prices, quality, quantity or completion period of the Work or which limits in any way the responsibilities or liabilities of the Bidder or any rights of the OWNER as required in these specifications. The decision of OWNER is final in this regard.

33.2 After selection, Letter of Award ("LOA") shall be released by the OWNER to the selected Bidder. Bidder shall acknowledge the LOA within 7 (seven) days of date of LOA.

33.3 After acknowledgement of the LOA by the Bidder, the Bidder shall enter into the CONTRACT with the OWNER.

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34.0 SIGNING OF CONTRACT

On acceptance of the bid of the successful bidder by the OWNER, such bidder shall be informed about it and a Letter of Award (LOA) issued. The successful bidder will be required to give his unconditional acceptance in writing to LOA within 15 (fifteen) days. The date of issue of LOA shall be considered as EFFECTIVE DATE of the CONTRACT. Thereafter a contract agreement as per Annexure 1.16 shall be executed between the OWNER and the BIDDER within Thirty (30) days from date of acceptance of LOA, 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.

35.0 OWNER'S RIGHT TO ACCEPT/REJECT BIDS

35.1 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 Contract without thereby incurring any liability to the affected bidder(s) or any obligation to inform the affected bidder(s) of the ground of OWNER's action.

35.2 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-contractor(s) in terms of bidding documents shall apply to such arrangements.

35.3 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.

35.4 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.

36.0 CONTRACT SECURITY CUM PERFORMANCE BANK GUARANTEE (CS cum PBG)

36.1 As a Contract Security, a successful BIDDER, to whom the work is awarded, shall be required to furnish a Contract Security cum Performance Bank Guarantee (CS cum PBG) in the form attached as Annexure- 1.13. The Bank Guarantee amount shall be equal to ten per cent (10%) of the Contract Price and it shall guarantee the faithful performance of the contract in accordance with the terms and conditions specified in these documents and specifications. The Bank Guarantee shall be valid for a period not less than 3 (Three) months after the expiry of extended defect liability period.

In case of breach of contract the guarantee amount shall be payable to the Owner without any conditions whatsoever. This Bank Guarantee shall be an irrevocable Bank Guarantee issued by any Nationalized/scheduled Bank (except Gramin & Co-

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operative banks). The Bank Guarantee shall be on a stamp paper of applicable value only (for Banks in India) and as per the Performa enclosed as Annexure-1.13.

36.2 Failure of the successful Bidder to comply with the requirement of Clause 35.1 hereof shall constitute sufficient grounds for the annulment of the award in which event OWNER may call for fresh Bids, without prejudice to its rights and remedies as set forth in this NIT or otherwise in law.

36.3 The CS cum PBG has to cover the entire contract value including extra works/services also. As long as the CS cum PBG submitted at the time of award takes care the extra works/ services executed and total executed value are within the awarded contract price, there is no need for additional CS cum PBG. As soon as the total executed value is likely to burst the ceiling of awarded contract price, the contractor should furnish additional CS cum PBG

37.0 DELETED

38.0 GENERAL INSTRUCTIONS

38.1 Suitability of Plant

Before submitting his bid the bidder shall ensure that compliance with any requirements of the specification would not render the plant unsuitable in any respect for the purposes mentioned or inherent in the Specification. Should the Bidder consider that compliance with any requirements of the Specification would render the plant unsuitable, he shall submit a proposal or proposals for modifying the requirements and shall include these in the "Schedule of Deviations" from the specification.

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38.2 TRANSFER OF TENDER DOCUMENTS/PROPOSAL

38.2.1 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.

38.3 OWNER 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.

38.4 OWNER shall not entertain any correspondence with any Bidder on acceptance or rejection of any Bid.

38.5 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.

38.6 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.

38.7 Bidder will furnish the Bid with all relevant information's as called for. Bids with incomplete information are liable for rejection.

38.8 The Bid shall be submitted in line with clause wise compliance of this NIT.

38.9 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.

39.0 PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA) POLICY

The "PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA) POLICY" shall be applicable for this tender as per Annexure1.11.

For the purpose of implementation of the said policy, the following shall be applicable for this tender:

a) The contract is non-splittable.

b) MSE (Micro and Small Enterprises) order 2012 shall not be applicable for this tender.

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40.0 POLICY FOR PROVIDING PREFERENCE TO DOMESTICALLY MANUFACTURED IRON & STEEL PRODUCTS IN GOVERNMENT PROCUREMENT (DMI &SP)

The "Policy for providing Preference to Domestically Manufactured Iron & Steel Products in Government Procurement (DMI&SP)" shall be applicable for this tender as per Annexure-XIII of SCC.

41.0 REVERSE AUCTION

Refer Annexure – A (Instruction to Bidder for Reverse Auction)

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Instruction to Bidder for Reverse Auction

1. Purchaser reserves the right to go in for reverse auction among the technically and commercially acceptable bidders. The decision to conduct reverse auction or not, will be conveyed to short listed bidders as per policy *(five lowest bidders in hierarchy)* prior to opening of price bid. In view of this, the bidders must quote most competitive prices in the first instance itself.

2. Once the decision to conduct Reverse Auction is conveyed to the bidders, it will be mandatory for the bidders to participate in Reverse Auction, failing which, the bidder shall be liable for punitive action i.e. Encashment of bid security, wherever applicable, etc. For this purpose, even log-in to the system shall be construed as participation.

   Further, if the L1 bidder (based on the lowest evaluated prices out of all the techno-commercial acceptable bidder) does not, log-in during Reverse Auction and Reverse Auction does not lead to any bid lower than the above L1 bid, then the case shall be refloated for that item/ group/ part and the bidder shall be liable for punitive action including but not limited to encashment of bid security, wherever applicable, or any other action as defined in RFQ/ Bidding document.

3. In case a bidder in unpriced bid/ during the techno-commercial evaluation, does not agree for the Reverse Auction or takes deviation to methodology of the reverse auction, then:

   a) The offer of such bidder(s) with deviation to reverse auction shall be rejected and not recommended for Priced Bid Opening but reverse auction shall be conducted provided no. of remaining techno-commercially acceptable bids is three (03) or more.

   b) In the above case, if the No. of remaining techno-commercially acceptable bidders accepting the RA methodology is less than three (03), then reverse auction shall not be recommended and award recommendation shall be processed considering the priced bid of all the remaining bidders, without reverse auction. However, in such cases, the prices shall be negotiated, if required, as per the approved C&P procedure.

4. Bid opening price will be based on the lowest evaluated price out of all the techno-commercial acceptable bidders. The evaluated prices *(All inclusive, FOR destination)*, shall be the base price for conduction of Reverse Auction.

5. Wherever the number of techno-commercially acceptable bidders is three (03) or more, the lowest bidder shall be determined based on the lowest evaluated price obtained in the Reverse Auction. However, if Reverse Auction does not lead to any bid, RFCL shall reserve the right to award the job based on the lowest prices quoted in priced bid. Subsequent to reverse auction, no further negotiation shall be carried out with the L1 bidder.

6. Due to system malfunctioning or break in internet connectivity at Service provider's end on the basis of recommendation of C&P/Mtls./Executing deptt. & approval of C.A, decision shall be taken whether to suspend or pause the reverse auction or cancel Reverse Auction and re-conduct it, based on the report submitted by service provider.

7. In case, RFCL goes for Reverse Auction for a Group/Item, all the techno-commercially

acceptable bidder including MSE (Micro & Small Enterprise) shall have the opportunity to bring down the prices. The MSE bidder(s) in such a case would be aware of his rank, viz-a-viz the L1 bidder prices and would have the opportunity in the Reverse Auction to bring down their prices. Subsequent to RA, no further opportunity shall be given to MSE bidder, to match the L1 bidder's prices.

8. The entire event shall be at no cost to the Bidders.

9. **Training to bidder:**

Before the Reverse Auction, RFCL Authorized Service Provider shall demonstrate/ train bidder's nominated person(s) on the steps involved and explain the methodology of the reverse auction. The training and registration shall be without any cost to the bidder. On completion of the training, bidders are required to confirm that they have received the complete training before start of bidding process and furnish the process compliance form to the service provider. It is the responsibility of the bidder to get acquainted with the reverse auction methodology so as to avoid any confusion or misunderstanding during the auction.

Submission of the compliance form before price opening is a mandatory requirement and not submitting the same shall be considered equivalent to withdrawal of offer. In such an event, the prices of this bidder shall not be opened and reverse auction shall be conducted without this bidder. Such a bidder shall be liable for punitive action including but not limited to rejection of offer, encashment of bid security, in line with prevailing RFCL policy on such matters.

For participation in the Reverse Auction, the authorized signatory of the bid shall have a valid class III digital signature certificate in his name issued from an agency certified with certifying authority of India.

10. **Schedule for Reverse Auction:**

The Reverse Auction shall be scheduled for a duration of 45 minutes. If a bidder places a Bid in the last 3 minutes of scheduled closing time of the Auction, the Auction time shall get extended automatically for another 5 minutes from the time of the last Bid placed. Accordingly, as the bidders keep on bidding the prices in the RA, RA will keep on extending for 5 minutes from the bid. However, when there is no Bid in the last 3 minutes, the Auction shall be closed automatically without any extension.

11. **Grouped items/ parts:**

The term "item" in this document shall also mean "group of items", wherever formed for basket level bidding, evaluation and ordering.

12. **Bid Price:**

The price shall be based on the scope, technical specifications and commercial terms & conditions and other part of Bidding document agreed upto the date of reverse auction.

13. **Bid Decrement:**

Bid decrement shall be 0.1% of the Opening Price (all inclusive, FOR, destination). The bidder has to lower his bid in multiples of the bid decrement (maximum of 10 multiples at a time).

14. Bidding Currency:

Bidding will be conducted in Indian Rupees (INR) for Indian Bidders and equivalent Indian Rupees for foreign bidders. The equivalent Indian Rupees for foreign bidders shall be worked out by foreign bidders using the multiplication factor as given in the Evaluation Criteria.

15. Auction process:

Each Bidder shall be assigned a Unique Username & Password The Bidders are requested to change the Password and edit the information in the Registration Page after the receipt of initial Password. All bids using the Login ID given to the bidder(s) will be deemed to have been submitted by the bidders. During the auction, bidders will be referred by proxy names say B1, B2, B3, etc. and identity will not be disclosed. Accordingly, during the auction, the bidders will be visible with these proxy names to all monitoring the auction.

- The Reverse Auction shall be conducted based on the lowest item wise evaluated price out of all the bidders as the Opening Price. The Bidder shall be able to bid lower than the opening price in multiples of the decrement.

- Only one bidder shall be at a particular position / rank, which means only one L1.

- The Bidder shall be able to view the following on his screen along with the necessary fields:
  - i) Opening Price.
  - ii) Leading Bid in the Auction, i.e., the lowest bid.
  - iii) Bid placed by him.
  - iv) Minimum Decrement

- The Opening Price and the Bid Decrement shall be displayed on the auction site at the start of the auction. However, the bidders shall be able to view the auction details, generally, 15 to 30 minutes before the start of actual auction.

- At no point of time will any bidder see the names of other bidders, or the prices of bidders other than the lowest bid.

- A bidder can continue to revise his bid till the auction ends. However, the Bidder cannot quote / Bid equal to the Leading/ Lowest Bid. He must always quote lower than the Leading / Lowest Bid.

- The evaluation criteria is based on Price alone. The Bidder who quotes the lowest evaluated Price is determined as the lowest bidder.

- However, if Reverse Auction does not lead to any bid, RFCL shall reserve the right to award the job based on the lowest prices quoted in priced bid.

- Apart from the participating bidders, the Reverse Auction shall be visible, while in progress to authorized officials of Purchaser, who are monitoring the process. During the auction, bidders will appear by their proxy names to anybody accessing the portal.

16. Bid Validity:

The Bid Price submitted in the reverse auction shall be firm and valid for acceptance for a period of 30 days from the date of reverse auction and shall not

be subject to any change whatsoever.

17. Bids once placed, binding on the Bidder:

The bid of the bidder will be taken to be an offer to sell. Bids once submitted by the bidder cannot be cancelled. The bidder is bound to sell the material/ services at the price that they bid. If any bidder back out and does not accept the order as per the rates quoted in Revere Auction, the bidder shall be liable for penal action in line with the prevailing RFCL policy, including encashment of Bid security, as applicable and the case shall be refloated.

18. Lowest bid of a Bidder:

During the process of reverse auction, the bidder may submit several bids. In case the bidder submits such multiple bids, the lowest bid will be considered as the bidder's final offer to sell.

19. Submission of final prices by successful bidder:

Bids shall be evaluated based on the "single all-inclusive Price" for the entire scope (as per NIT) quoted on portal plus Technical Loading as per NIT.

Bidder to note that Bidder's status shown on portal after reverse Auction shall not be final. Bidder's final status shall be uploaded on portal after considering the Technical Loading calculation as per clause no. 28.4.5 of "Evaluation and Comparison of Bids" (Doc. No. NMM/ PC211 /E /001 /PI / Sec.-1.0 of NIT)

Net reduction offered by the Bidder during the auction from his quoted prices will be distributed proportionally among, as applicable:

- All the head considered for evaluation of particular item/ group in case of MR
- On all items of item rate tender and amount on which taxes & duties considered
- Break-up of lumpsum prices in case of packaged/ lumpsum tender.

RFCL shall place the order after back calculating the final price based on the multiplication factor informed to the bidder as per clause 12 above. Accordingly, bidders need not to submit cost breakup of their final quoted prices in the reverse auction.

20. General:

The bidders may quote from their own offices/ place of their choice. Internet connectivity shall have to be ensured by each agency on its own with necessary backups to take care of any connectivity problem. In extreme case of failure of internet connectivity, (due to unforeseen circumstances other than power failure), communication shall have to be sent by fax/E-mail/ phone immediately. Purchaser shall extend the bidding time, in such a case, appropriately (generally by half an hour) but not more than once per bidder.

However, due to malfunctioning or breakdown in internet connectivity at Service Provider's end, RFCL can suspend or pause the reverse auction or may also decide to cancel Reverse Auction and re-conduct it.

Message of extension of auction time or suspend or paused shall be communicated to all the bidders through system broadcast message on the RA portal.

The Bidder, himself or any of his representative shall not involve in Price manipulation of any kind directly or indirectly by communicating with other bidder.

The Bidder shall not divulge either his Bids or any other exclusive details of purchaser to any other party.

Bidders agree to non-disclosure of trade information regarding the purchase, identity of RFCL, bid process, bid technology, bid documentation and bid details

Purchaser can decide to extend, reschedule or cancel any Auction. No bidder can claim any kind of compensation on account of the same.

Purchaser shall not have any liability to Bidders for any interruption or delay in access to the site irrespective of the cause.

Purchaser shall not be responsible for any direct / indirect / consequential losses / damages, on account of systems problems, inability to us the system, loss of electronic information etc.

Purchaser shall be at liberty to cancel the reverse auction process / tender at any time, before ordering, without assigning any reason.

Purchaser's decision on award of Contract shall be final and binding on all the Bidders.

1.0 BIDDER QUALIFICATION CRITERIA (BQC)

S.N.	Conditions	Documents required (To be submitted along with Technical bid)
1.	Bidder should have experience of Design, Engineering, Procurement/Supply, Erection/ Installation and Commissioning in last 7 years and in addition successful operation of 1 year of the following: i. At least one, RO based RWTP / WWTP / Effluent Treatment Plant (ETP) Plant with minimum capacity of **<u>200 m3/hr</u>**. **AND** ii. MVR Technology based Evaporator system preferably with ZLD plant having minimum capacity of **<u>10 m3/hr</u>**. In case Bidder does not have experience of MVR technology mentioned above: a. Bidder shall have experience of at least one MEE / TVR based Evaporator system. In such case, bidder to execute an MoU with sub-vendor(s) / contractor(s) who has successfully completed the installation and commissioning of MVR Technology based Evaporator preferably in ZLD plant system of minimum capacity of 10m 3/hr. b. Bidder to submit the Work Order and completion certificate in respect of a) above for compliance of BQC. c. Bidder should also give an undertaking that in case bidder emerges as successful bidder, they will execute the MVR Type Evaporator System through the sub-vendor(s) / contractor(s) as per submitted MoU only and single point responsibility for successful implementation would be with bidder only for RFCL Project. **<u>Note:</u>** 1. The above period (including O&M Period) shall be counted from last date of preceding month in which tender has been issued.	Following documents should be submitted with the bid: 1) Copy of Works order and client approved relevant document / datasheet indicating the type of treatment systems and capacity/chain (for RO based RWTP/ WWTP/ Effluent Treatment Plant (ETP)). 2) Copy of Works order and client approved relevant document / datasheet for MVR Technology based evaporator system. 3) Completion Certificate for RO RWTP/ WWTP/ Effluent Treatment Plant (ETP) as well as MVR Technology based evaporator system preferably for ZLD Unit. 4) In case of bidder who does not have Experience of MVR Technology then: a. Bidder has to submit copy of a valid MoU duly signed by both parties (i.e. bidder and prospective sub-vendor(s) / contractor (s) who has successfully completed the installation and commissioning of MVR Technology based Evaporator System of minimum capacity of 10 m3/hr.) b. Copy of work order & completion certificate of execution of MVR based Evaporator system with minimum capacity of 10m3/hr, in support of meeting the criteria by the concerned sub-vendor(s) / contractor(s), as per requirement of SI. No.-1 of BQC. c. Bidder should also give an undertaking that in case bidder emerges as successful bidder, they will execute the MVR Type Evaporator system through the sub-vendor(s) / contractor(s) as per submitted MoU only and single point responsibility for successful implementation would be with bidder only for RFCL Project.

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	2. Experience under separate Contract / Work order shall be acceptable for each Category.	
2.	The Annual turnover of the bidder shall not be less than **Rs. 96 Crore** in at least one of the preceding three financial years from the date of issuance of enquiry. **Note:** • In case financial year closing date is within 3 months of date of issue of enquiry and audited annual report of preceding financial year is not available, bidder has the option to submit the financial details of the three previous years immediately prior to the last financial year. Otherwise, it is compulsory to submit the financial details of the immediate three preceding financial years. (Example, in case, audited annual report of immediate preceding financial year (year ending 31st March) is not available and where enquiry issue date is up to 31st December, the financial details of the three previous years immediately prior to the last financial year may be submitted. However, in case the enquiry issue date is after 31st December, it is compulsory to submit the financial details of the immediate three preceding financial years only. • In case bidder is having subsidiaries but only a single consolidated annual report is prepared as per prevailing law of land and audited which includes the financial details of their subsidiaries, consolidated audited annual report shall be considered for establishing the financial criteria subject to statutory auditor / chartered accountant of the bidder certifying that separate annual report of Bidder (without the financial data of subsidiaries) is not prepared and audited. • Further, in case a bidder is a subsidiary company and separate annual report of the Bidder is not published, but only a consolidated annual report of the parent company is available, consolidated annual report shall be considered for establishing the financial criteria subject to statutory auditor of Parent Company / Chartered accountant of the Bidder certifying that separate annual report of the Bidder is not prepared and audited.	Bidder shall submit financial standing through audited* Balance Sheet/ Profit & Loss Account for the last three financial years. (FY 2021-22, 2022-23 & 2023-24*) *(FY: 2023-24 – means ending 31.03.2024) Where audited accounts are not mandatory as per law, bidder can submit financial standing duly certified by practicing Chartered Accountants *(not being an employee or a director or not having any interest in the bidder's company)*.
3.	The net worth of the bidders should be positive for the financial year ending 31.03.2024*. **Note:** *FY: 2023-2024	A copy of Audited* Balance Sheet should be submitted in support of your claim. *Where audited accounts are not mandatory as per law, bidder can submit financial standing duly certified by practicing Chartered Accountants (not being an employee or a director or not having any interest in the bidder's company).

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4.	Bidder should have minimum working capital of **Rs. 17 Cr** as per Audited Financial result of FY 2023-24. *"Working Capital should be current assets minus current liabilities."*	Copy of audited balance sheet for the Financial year 2023-24 ending 31.03.2024 should be submitted. And, If the bidder's working capital is negative or inadequate, the bidder shall submit a letter from their bank having net worth not less than INR 100 crores (or equivalent in USD) confirming the availability of un-utilized line of credit equivalent to working capital amount mentioned here in above as on as on preceding month in which tender has been issued. Declaration Letter/Certificate for line of credit due to short fall of working capital shall be from single bank/ banking syndicate only. The bank shall be required to issue the letter for declaration/certificate of line of credit on their letter head along with the contact details of the issuing authority like email id, contact number etc. Submission of original "Line of Credit" is mandatory within 10 calendar days of Tender Closing date and non-submission shall lead to rejection of bid. Requisite document issued either from any Scheduled Bank (except co-operative bank and Gramin Bank).
5.	(i) Bidder must not be **banned/ debarred** by any government department/public sector undertaking/co-operative Unit as on date of participating in the tender. (ii) Bidder must not be on the **Holiday list** of RFCL.	Self-certification(s) for all two should be submitted on Party's letterhead for the same.

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GENERAL CONDITIONS OF CONTRACT (GCC)

Preface

The General Conditions of Contract shall be read in conjunction with respective provisions specified in Special Conditions of Contract, Specifications, Drawing and any other Part of the Contract. In case of irreconcilable conflicts the provisions under clause no 2.1 herein of General Conditions of Contract shall prevail.

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1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In the Contract, capitalised words and expression defined by way of inclusion in "parenthesis" shall have the meaning so ascribed thereto. Further, in the Contract, unless repugnant to the context thereof, the following words and expressions used in these General Conditions of Contract and elsewhere in the Contract, shall have the meanings assigned to them hereunder:

"**Affected Party**" shall have the meaning ascribed to it in Clause 27.2.

"**Agreed Variations**" shall mean the statement of agreed variations annexed to the detailed Letter of Acceptance and any document signed by RFCL and the Contractor as an amendment of contract.

"**Applicable Laws**" means all laws in force and effect, including Tax laws but excluding direct Tax laws (which includes income tax, corporate tax, profession tax and wealth tax), as of the Base Date and which may be promulgated or brought into force and effect hereinafter including any revisions, amendments or re-enactments including without limitation regulations, rules and notifications made thereunder and judgments, decrees, injunctions, writs, orders and notifications issued by any court or Authority, as may be in force and effect during the subsistence of the Contract and applicable to either Party, their obligations or this Contract from time to time.

"Appendix" means formats/enclosures attached to the General Conditions of Contract.

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"**Approval**" shall mean the written and signed consent or approval of RFCL or Engineer-In-Charge authorized in this behalf by RFCL, and with respect to a plan, design or drawing or other documents submitted by the contractor for such approval and shall include and mean a consent and/or an approval subject to the limitations (s) specified in such consent/approval, and the term 'Approved' shall be interpreted accordingly.

"**Arbitration Act**" means the (Indian) Arbitration and Conciliation Act, 1996.

"**Authority**" means the Government of India, any state government or any local authority or any department, instrumentality or agency thereof or any corporation (to the extent acting in a legislative, judicial or administrative capacity and not as a contracting party with RFCL or the Contractor) or commission under the direct or indirect control of such central, state or local government or any political sub-division thereof or any court, tribunal or judicial body within India.

"**Base Date**" means the last date for submission of the Bid/revised Bid i.e. Bid Due Date (BDD).

"**Background Information**" means all and any materials, data, documents, drawings, plans, surveys, reports or other information relating in any way to the Site or the Facility, whether or not made available by RFCL and/or its agents to the Contractor.

"Bid" means the Contractor's signed offer for the Works and all other documents submitted along with the Bid.

"**Bidding Documents**" mean the Notice Inviting Bids/ Letter Inviting Bids, the instruction to bidders (including annexures), form of bid (including appendices), the Contract Agreement, the General Conditions of Contract, the Special Conditions of Contract, the Specifications and all other reports, surveys, drawings and documents including amendments, if any, provided to the Contractor by RFCL.

"**Billing Schedule**" means the schedule submitted by the Contractor in accordance with Clause 23.3.1, in terms of which RFCL shall be required to make progressive payments to the Contractor.

"**Bill of Quantities**" means the bill of quantities as per the provisions of the Contract.

"**Business Day**" means a day other than a Sunday or a public holiday on which banks are open for business in New Delhi and any other place mentioned in the Contract.

"**Change in Law**" means the occurrence of any of the following after the Base Date:

(a) The enactment of any new law in India;

(b) The repeal, modification or re-enactment of any existing Indian law;

(c) The commencement of any Indian law which has not entered into effect until the date of signing of the Contract;

(d) Change in the interpretation or application of any Indian law by Government Authority via issuance of circulars/ clarifications or by a court which has become final conclusive and binding;

(e) Increase/ Decrease in the rate of Taxes in force after the Base Date;

(f) Change in the basis of computation of Taxes in force after the Base Date,

in such a manner that it has a material effect (positive or negative) on the Contract.

Notwithstanding anything mentioned above, Change in Law will not include any change in direct tax laws (which include income tax, corporate tax, profession tax and wealth tax) for which the Contractor is the responsible party.

"**Clause**" means a clause of this Contract.

"**Code-1 Approval**" means final approval of drawings/documents incorporating all comments of RFCL (including any consultant appointed by RFCL).

"**Code-2 Approval**" means tentative approval of the drawings/documents by RFCL (including any consultant appointed by RFCL) with comments to be incorporated by Contractor, with the intent that subject to incorporation of and/or rectification in accordance with such comments, construction/manufacture can proceed based on commented drawings/documents pending their re-submission and grant of Code-1 Approval.

"**Code-3 Approval**" means that on review of the drawings/documents by RFCL (including any consultant appointed by RFCL) the same have not been found in accordance with the applicable codes, standards, design basis and contractual stipulations and must therefore be re-submitted for review and approval after appropriate correction and/or re-preparation.

"**Commercial Operation**" means when marketable / sellable products come out from the respective plant /unit.

"**Commissioning**" shall have the meaning assigned to it in Clause 16.

"Completion" shall mean the successful provision of all materials and inputs and the successful completion and conclusion of all activities and tests (including the Tests on Completion) required to complete the Works in accordance with the Contract, but shall not include the obligation to rectify defects during the Defect Liability Period.

"**Completion Certificate**" shall have the meaning assigned to it in Clause 17.3.

"**Confidential Information**" means the Contract and everything contained therein, all documentation, data, particulars of the Works and technical or commercial information made by (or on behalf of) RFCL or obtained directly or indirectly from RFCL by the Contractor or which is generated or obtained by the Contractor or any Subcontractor in relation to the Works or any information or data that the Contractor receives or has access to as a result of the Contract, other than information:

(a) which is generally available in the public domain other than by any unauthorised actions or fault of the Contractor; or

(b) that is in the possession of the Contractor with a right to disclose.

"**Contract**" means the agreement between RFCL and the Contractor for execution of the Works and includes the Contract Agreement, the General Conditions of Contract, the Special Conditions of Contract, the other Bidding Documents, the Specifications, the Price Schedule, and such further documents which are listed in the Contract Agreement and/or these General Conditions of Contract and includes any amendment thereto made in accordance with the provisions hereof.

"**Contract Agreement**" means the agreement entered into between RFCL and the Contractor along with the Price Schedule and other annexures and includes any amendments thereto made in accordance with the provisions thereof.

"Contract Performance Bank Guarantee (CPBG)" means a duly executed,

irrevocable, unconditional on demand bank guarantee that is to be procured and maintained by the Contractor in accordance with Clause 9.4.2, to secure the due and proper performance of the Contract.

"**Contract Validity Period**" means the period commencing from the Effective Date up to the end of the Extended Defects Liability Period.

"**Contract Price**" means the total price payable to the Contractor for performing the Works based on the rates and breakdown of prices provided by the Contractor in the Price Schedule, subject to such additions thereto and deductions there from as may be made under the Contract and as adjusted by the actual quantities, if applicable, of the items mentioned in the Price Schedule utilized in the execution of the Works.

"**Contract Spares**" shall have the meaning assigned to it in Clause 9.23.

"**Contractor's Documents**" means the documents to be prepared by the Contractor under the Contract including, without limitation, such technical documents specified in the Specifications and such data, designs, information, calculations, specifications, schedules, plans, test plans, programs, the Drawings and Designs, the Billing Schedule, Test Records, As-Built-Drawings and all other information and documents including eye readable or computer readable data relating to the execution of the Works or otherwise for the performance of the Contract.

"**Contractor's Equipment**" means all machinery, apparatus, equipment, material, vehicles, plant and all other things of whatsoever nature required for the execution and Completion of the Works and remedying of any defects, but does not include Plant, Goods and Materials and any other thing intended to form or forming a part of the Permanent Works.

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"**Contractor's Event of Default**" shall have the meaning assigned to it in Clause 32.2.

"**Contractor's Insurance**" has the meaning assigned to it in Clause 33.2.

"**Contractor's Personnel**" means the Contractor's Representative and all personnel whom the Contractor utilizes on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor, and any other personnel assisting the Contractor in the execution of the Works.

"**Contractor's Representative**" means the person nominated by the Contractor to act on its behalf for the purposes of the Contract and notified as such in writing to RFCL.

"**Cost**" means all expenditure reasonably and properly incurred by the Contractor, whether on or off the Site and includes overhead, profit and similar charges.

"**Defect**" means any defect, imperfection or other fault in the Facility or any part thereof arising from or in connection with the execution of the Works or any defect, imperfection or other shortcoming in the Contractor's Documents, or a breach of the Contract or the neglect or failure of the Contractor to comply with any of its obligations, express or implied, under the Contract and the term '**Defective**' shall be construed

accordingly.

"**Defect Liability Period**" means the period specified in Clause 18.1 for notifying defects in the Works, calculated from the date of Completion as specified in the Completion Certificate for the Works or part of the Works.

"**Dispute**" shall have the meaning assigned to it in Clause 35.2.

"**Design Data**" means all specifications, sketches, plans, graphs, details, dimensions, models and calculations provided by RFCL as a part of the Bidding Documents and verified by the Contractor.

"**Drawings and Designs**" means the drawings and designs provided by Engineer-in-Charge or prepared by the Contractor on the basis of the Design Data and submitted to and Approved by the Engineer-in-Charge in accordance with Clause 9.13 & 10.5, in accordance with which the Contractor shall proceed with the execution of the Works.

"**Effective Date**" means date of issuance of Fax of Acceptance/Letter of Award of Work.

"**Engineer-in-Charge**" means the Person designated by RFCL to act as the engineer-in-charge for the purposes of this Contract and notified in writing to the Contractor.

"**Extended Defect Liability Period**" shall have the meaning assigned to it in Clause 18.7.

"**Facility**" means the facility to be construed under and in accordance with this Contract and as described in greater detail in the Specifications.

"**Final Completion**" shall mean the successful completion and discharge of all obligations of the Contractor under the Contract, including the obligation to rectify Defects, if any, during the Defects Liability Period and the Extended Defects Liability Period, if any.

"**Final Completion Certificate**" means the certificate issued by RFCL to the Contractor under Clause 19.

"**Final Bill**" has the meaning assigned to it in Clause 23.5.1.

"**Force Majeure**" has the meaning assigned to it in Clause 27.2.

"**Format-I**" has the meaning assigned to it in Clause 15.4.

"**Format-III**" has the meaning assigned to it in Clause 15.5.

"**Format-IV**" has the meaning assigned to it in Clause 15.10.3.

"**Format-V**" shall have the meaning assigned to it in Clause 16.1.3.

"Free Issue Materials" means any equipment, machinery, apparatus, accessories, auxiliaries, spare parts, tools and tackles and articles and things provided by RFCL to the Contractor for incorporation in the Permanent Work and which shall be bailed to the Contractor upon their delivery at Site in accordance with Clause 9.29.

"**General Conditions of Contract**" means these general conditions of contract.

"**Goods and Materials**" means things of all kinds (other than Plant) intended to form or forming a part of the Permanent Work, including materials (if any) to be supplied by the Contractor under the Contract.

"**Good Industry Practice**" means the exercise of that degree of skill, diligence, prudence and foresight in compliance by the Contractor with the undertakings and obligations under the Contract, which would be expected from a skilled and experienced professional person engaged in works that are of the type, nature and scope similar to the Works.

"**Guaranteed Performance Levels**" means the guaranteed levels of performance set out in the Contract that are needed to be met by the Plant, Goods and Materials , the Works and the Facility on conduct of the Tests on Completion.

"**Intellectual Property**" means copyright, registered and unregistered trademarks and service marks, registered and unregistered designs, circuit layouts, all rights conferred under statute, common law or equity in relation to inventions (including patents), proprietary information and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

"**INR**" or "**Rupees**" means the legal currency of the Republic of India.

"**Key Date**" means a date identified for the completion of a Stage set out in the Works Completion Schedule, relating to execution of the Works, unless revised in accordance with the terms of the Contract.

"**Key Personnel**" shall have the meaning assigned to it in Clause 12.2.

"**Letter of Award/ Fax of Acceptance**" or "LOA" or "FOA" means the Letter of Award / Fax of Acceptance issued by RFCL to the Contractor, awarding the Works to the Contractor.

"**Mechanical Completion**" shall have the meaning assigned to it under Clause 15.1.

"**Mobilisation**" means the organisation of sufficient and adequate resources, including labour, materials and equipment (including Contractor's Equipment and Goods and Materials) by the Contractor for execution of the Works.

"**Mobilization Advance**" means the amount specified in the Payment Schedule that is paid by way of advance by RFCL to the Contractor pursuant to Clause 23.

"**Mobilization Advance Guarantee**" means a duly executed, irrevocable,

unconditional on demand bank guarantee that is to be procured and maintained by the Contractor as security for the **Mobilization Advance** received by the Contractor.

"**Monthly Progress Reports**" means the monthly progress reports submitted by the Contractor in accordance with the scope of Works / Contract.

"Operation and Maintenance Manuals" means the operation and maintenance manual submitted by the Contractor in accordance with Clause 10.7.

"**Payment Milestones**" means the milestones listed in the Payment Schedule.

"**Payment Schedule**" means the document containing the terms of payment of the Contract Price to the Contractor as annexed to the Contract Agreement.

"**Performance Compensation**" means the compensation to be paid by the Contractor to RFCL as compensation for failure of the Facility and the Works to meet the Guaranteed Performance Levels under Clause 20.1.

"**Performance Tests**" means the tests described in the Specifications which are to be carried out by the Contractor in accordance with the Contract in order to demonstrate compliance with the Guaranteed Performance Levels.

"**Performance Guarantee Test Run**" means the continuous operation of the Facility for a period, in accordance with the Contract, on full load during the Trial Operations.

"**Permanent Works**" means the permanent works to be executed by the Contractor (including all permanent structures and all work intended to form a continuing function after Completion of the Works) in accordance with the Contract.

"**Person**" or "**person**" means an individual, partnership, limited partnership, corporation, trust, joint stock company, unincorporated association, joint venture or Authority.

"**Plant**" means any and all permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided for incorporation or intended to be incorporated (whether later incorporated in the Facility or otherwise, including Contract Spares) in the Facility whether or not supplied from outside India or from within India, but does not include consumables, Contractor's Equipment and Goods and Materials.

"**Pre-Commissioning**" shall have the meaning assigned to it in Clause 14.

"**Price Schedule**" or "**Schedule of Rates**" shall mean the price schedule annexed to the Contract Agreement.

"**Project**" means the development, design, procurement, engineering and construction, erection, commissioning, testing, operation and maintenance of the Facility as applicable.

"**Punch List**" shall have the meaning assigned to it in Clause 15.6.

"**Punch-list Items**" means items of works of a minor or snagging nature which do not affect the operations of the Facility which remain incomplete on the date of issuance of Format-III.

"**Quality Assurance Plan/Project Quality Plan**" means the Approved quality assurance plan and manual developed by Contractor in accordance with Clause 9.19.

"**RFCL**" means RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED, a company incorporated under the Companies Act, 1956 with its Corporate office at 4th Floor, Wing-A, Kribhco Bhawan, Sector-1, Noida, Uttar Pradesh, Pin Code-201301.

"**RFCL's Insurance**" shall have the meaning assigned to it in Clause 33.1.

"**RFCL's Personnel**" means all staff and employees of RFCL.

"**Related Dispute**" shall have the meaning assigned to it in Clause 35.2.6.

"**Review Period**" means the period of 14 (fourteen) days unless specified elsewhere in the Contract, within which the Engineer-in- Charge or his authorized engineer must complete his review of the Contractor's Documents, as calculated from the date of submission of the relevant Contractor's Document.

"Running Bill" means the fully supported invoice delivered to RFCL by the Contractor at the times set out in the Payment Schedule, containing all the requisite information and complying with all the requirements set out at Clause 23.3.2.

"**Safety Code**" means the safety code set out at Appendix 3 (Safety Code).

"**Secured Advance**" means the amount specified in the Payment Schedule that is paid by RFCL to the Contractor pursuant to Clause 23.2

"**Site**" means the land, location, right of way and/or places provided by RFCL where the Works are to be executed and to which Plant and Goods and Materials are to be delivered and any other place as may be specifically designated in the Contract as forming part of the Site or designated as such by the Engineer-in-Charge.

"**Special Conditions of Contract (SCC)**" means the special conditions of contract setting out specific deviations from the General Conditions of Contract and other relevant provisions and data, which are to be read in conjunction with the General Conditions of Contract.

"**Specifications**" means all general and technical specifications and directions attached to and forming a part of the Bidding Documents which describe the purpose, scope, design and technical criteria of the Works including, the method and manner of performing the Works, the quality and quantity of the Works to be performed and the materials to be supplied under the Contract and includes all modifications or

amendments made thereto by RFCL.

"**Stage**" means the level of progress of the Works identified as such in Works Completion Schedule.

"**Subcontract**" means any contract awarded to a Subcontractor.

"**Subcontractor**" means any person named in the Contract as a subcontractor or an original manufacturer, supplier of any Goods and Materials, Plant, labour or services for the Works or any person to whom a part of the Works has been subcontracted by the Contractor, each having been appointed as such with the prior Approval of Engineer- in- Charge and the permitted legal successors in title to such person, but not any assignee of such person.

"**Submissions Schedule**" has the meaning assigned to it in Clause 9.13.1.

"**Suspension Order**" shall have the meaning assigned to it in Clause 26.1.

"**Taxes**" means all taxes, duties, imposts, levies and charges pursuant to any law (whether currently in force or coming into force on or after the date of base date as defined above), including income tax, capital gains tax, Value Added Tax ("VAT"), Central Sales Tax ("CST"), works contract tax (WCT) or VAT on works contract, customs duty, service tax, excise duty, fees, cess, octroi, entry tax, fringe benefit tax and any interest, surcharge, penalty or fine in connection therewith.

"**Temporary Works**" means all temporary and ancillary works including enabling works and maintenance works connected with the Works and required for the execution and completion of the Permanent Works.

"Tests on Completion" mean the tests which are specified in the Contract and designated as such and any includes any other tests that have to be carried out before the Works, or any part thereof is taken over by RFCL.

"**Time for Completion**" means the period specified in the Contract Agreement or the Special Conditions of Contract for Completion of the Works, calculated from the Effective Date.

"**Time for Mobilisation**" means the period specified in Clause 9.3.2 for completion of Mobilisation, as calculated from the Effective Date.

"**Trial Operation**" means the integrated operation of the Facility in automatic control system for a continuous period specified in the Contract or the Specifications.

"**Variation**" means any alteration and/or modification to the Specifications, which is instructed by the Engineer-in-Charge or as suggested by the Contractor and Approved as a variation by the Engineer-in-Charge in accordance with Clause 24.

"**Variation Order**" shall have the meaning assigned to it in Clause 24.1.

"Week" means a period of any consecutive seven days.

"**Working Day**" means a day other than a Sunday or a public holiday on which RFCL is open for business.

"**Works**" means:

(a) all work and services required in connection with the turnkey design, engineering, procurement, permitting, fabrication, manufacture, construction, construction management, coordination of Subcontractors work, inspection, expediting, transportation, shipment, delivery, import, erection, installation, commissioning, start-up, testing and completion of the Facility, completion of all Performance Tests, in accordance with this Contract;

(b) the provision of all Plant, Goods and Materials, Contract Spares, machinery, tools, labor, utilities, chemicals, lubricants consumables, transportation, administration, oversight, incidentals and other services and items related to the foregoing in accordance with this Contract;

(c) the correction of defects in the Facility; and

(d) the performance of all other obligations and services that are described in, or necessarily implied by, this Contract.

"**Works Completion Schedule**" means the schedule for the performance of the Works and fulfilment of the Parties' obligations as annexed to the Contract Agreement/Special Conditions of Contract, as may be revised in accordance with the terms of the Contract.

"**Works Programme**" means the program showing the sequence, method and timing of the design, procurement, construction, erection, installation, testing, commissioning of the Works (and related activities in the form and content prescribed by the Specifications, or any amended or varied version thereof, as submitted by the Contractor and for which the Engineer-in-Charge has issued a notice of no objection.

1.2 Interpretation

In the Contract, except where the context requires otherwise:

(a) References to any statute or statutory provision or order or regulation made thereunder shall include that statute, provision, order or regulation as amended, modified, re-enacted or replaced from time to time whether before or after the date hereof.

(b) References to persons shall include corporate bodies, unincorporated associations, partnerships and any organisation or entity having legal capacity.

(c) Headings of General Conditions of Contract or of the Specification or of any other Bidding Document are solely for the purpose of giving general guidance

for convenience in reading and segregating the general subject matter of various clauses and are not a summary of contents thereof and shall not form part of the operative provisions of the Contract and shall not govern the meaning or importation of the clauses thereunder.

(d) References to Clauses or Schedules are, unless the context otherwise requires, references to recitals, clauses of, or, schedules to these General Conditions of Contract.

(e) Unless the context otherwise requires, reference to one gender includes a reference to the other, words importing the singular include the plural and *vice versa*.

(f) References to the words “include” or “including” shall be construed as being suffixed by the term “without limitation”.

(g) Reference to an agreement, deed, instrument or other document include the same as amended, novated, supplemented, varied or replaced from time to time.

(h) Words indicating the singular also include the plural and words indicating the plural also include the singular.

(i) Provisions of the Contract including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing.

(j) The expression “writing” or “written” shall include communications by telex, e-mail, telegram, facsimile (fax) and letter.

(k) If any provision in Clause 1.1 is a substantive provision conferring a right or imposing an obligation on any Party, effect shall be given to it as if it were a substantive provision in the body of the Contract.

(l) The Schedules shall form an integral part of the Contract and shall be in full force and effect as though they were expressly set out in the body of the Contract.

(m) Where the day on or by which any thing is to be done is not a Business Day or a Working Day, as the case may be, that thing must be done on or by the immediately occurring next Business Day or Working Day, as the case may be.

(n) The rule of construction, if any, that a contract should be interpreted against the party responsible for the drafting and the preparation thereof, shall not apply to the Contract.

(o) No verbal agreement, assurance, representation or understanding given by any employee or officer of RFCL or so understood by the Contractor, whether given or understood before or after the execution of the Contract, shall bind RFCL or alter the Contract documents unless specifically given in writing and signed by

the Engineer-in-Charge/ RFCL and the Contractor's authorised representative as an Agreed Variation and amendment of the relative term(s) in the Contract.

(p) Subject to Clause 2 below, All documents forming part of the Contract are to be read together as a whole and are to be taken as mutually explanatory.

2 CONTRACT

2.1 The documents forming the Contract are to be taken as mutually explanatory of one another. If there is an ambiguity or discrepancy in the documents, the Engineer-in-Charge shall issue necessary clarifications or instructions to the Contractor, and the order of precedence of the documents shall be as follows:

(a) Contract Agreement

(b) Detailed Letter of Acceptance along with its enclosures

(c) Letter of Award / Fax of Acceptance

(d) Job Specifications

(e) Drawings

(f) Technical Specifications

(g) Special Conditions of Contract

(h) Instruction to Bidders

(i) General Conditions of Contract

(j) Other Documents

3 COMMUNICATION

3.1 No verbal agreement, assurance, representation or understanding given by any employee or officer of RFCL whether before or after the execution of the Contract shall bind RFCL or alter the Contract unless specifically given in writing.

3.2 Any consent, approval, authorization, certificate, report, information, notice or request from or by any Party or the Engineer-in-Charge shall be effective and valid only when made in writing under the hand of a duly authorized representative of such Party or the Engineer-in-Charge, as the case may be, and delivered by hand against receipt, sent by the recognized courier, registered mail or transmitted by facsimile transmission, e-mail to the address for the recipient's communication as stated in Clause 3.3 below. In case any communication is delivered by registered mail and/or courier, it shall be deemed to be duly served within forty eight (48) hours after posting and a communication sent by facsimile, e-mail shall be deemed to have been served at the time of its transmission and in proving service of the same. It will be sufficient to prove, in the case of a letter, that such letter was sent by registered airmail, addressed and placed in the post and in the case of a facsimile transmission, e-mail that such facsimile/ e-mail was duly transmitted to a current facsimile number/ e-mail of the addressee at the address referred above.

3.3 Any notice, instruction, decision, order, report, certificate or other communication that is to be exchanged between the Parties shall be served by sending the same by e-mail or facsimile transmission, with a confirmation copy by courier or registered post to the following addresses:

If to RFCL:

Address: [■]
Attention: [■]
e-mail: [■]
Fax: [■]

If to the Contractor:

Address: [■]
Attention: [■]
e-mail: [■]
Fax: [■]

If to the Engineer-in-Charge

Address: [■]
Attention: [■]
e-mail: [■]
Fax: [■]

3.4 Any change in the address for communication shall be duly notified by RFCL and/or the Contractor to the other Party within 7 (seven) days in accordance with the provisions of this Clause 3.

4 STAMP DUTY

Stamp duties, registration fees (if any) and any related charges payable under the Applicable Laws in relation to the Contract shall be borne by the Contractor.

5 CONFIDENTIALITY AND CONFIDENTIAL INFORMATION

5.1 Both Parties shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out obligations under it or to comply with Applicable Laws. The Contractor shall not publish, permit to be published, or disclose any particulars of the Works in any trade or technical paper or elsewhere without prior consent of RFCL.

5.2 The Contractor shall treat the Confidential Information as private and confidential, save in so far as may be necessary for the fulfilment of its obligations under the Contract, and shall not use, copy, publish, disclose or otherwise deal with, nor cause nor permit its Subcontractors or any persons for whom it is contractually or otherwise responsible for, to use, copy, publish, disclose or otherwise deal with the Confidential Information, without prior consent in writing of RFCL. If any dispute arises as to the necessity of any

publication or disclosure for the purpose of the Contract the same shall be referred to the decision of RFCL, whose decision shall be final.

Without limiting the generality of the foregoing paragraph:

(a) the Contractor shall take all practicable steps to ensure that no photographs, drawings or other image of the Site or of the Works or any part thereof or any property of RFCL or any physical or virtual model thereof, are taken or made, except as may be expressly directed or Approved beforehand in writing by RFCL;

(b) the Contractor shall not in regard to anything concerning the Works publish any information, drawing or photograph and shall not make public statements, give interviews to or comment to the press or to any person associated with the news media or take part in radio or television schedules except with the express prior written consent of RFCL and subject to such conditions as it may prescribe;

(c) the Contractor shall not use any part of the Site for the purpose of any advertisement, except by way of notice boards approved (as to location, number and content) by RFCL; and

(d) the Contractor shall use its reasonable endeavours to procure that its servants and agents comply with this sub-Clause.

5.3 The Contractor shall procure that each and every Subcontractor shall contain confidentiality undertakings on the part of the Subcontractor in substantially similar terms to those entered into by the Contractor, and shall use all reasonable endeavours to enforce them.

5.4 In the event that the Contractor is lawfully required or requested by order of any competent Authority to disclose any Confidential Information, then the Contractor shall, to the extent permitted by the Applicable Laws, prior to disclosure immediately notify RFCL so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the Contractor may disclose to the competent Authority that portion of the Confidential Information which it is legally required to disclose and shall use all reasonable endeavours to obtain assurances that confidential treatment will be accorded to any Confidential Information so disclosed.

5.5 The Contractor agrees that, upon request at any time by RFCL, the Contractor shall promptly, but in any event within 5 (five) days of receipt of written notification from RFCL:

(a) return all Confidential Information that is in tangible form (including, without limitation, Confidential Information contained in software or on computer disc) furnished to the Contractor, together with all copies or extracts thereof; and

(b) destroy all analysis, compilations, studies or other documents which have been

prepared upon or reflect in any way the Confidential Information.

5.6 The provisions of this Clause 5 shall survive the expiration or termination of the Contract.

6 COMPLIANCE WITH APPLICABLE LAWS

6.1. The Contractor shall, in performing the Contract, comply with all Applicable Laws.

6.2. Without prejudice to the foregoing, the Contractor shall be responsible for bearing all registration and statutory inspection fees payable under any Applicable Laws in respect of the Works executed or completed pursuant to the Contract. If the Contractor defaults in complying with the Applicable Laws, the Contractor shall, at its own risk and Cost, bear any and all additional fees, fines, penalties or charges. RFCL may make reasonable efforts to assist the Contractor in rectifying any such default under Applicable Laws upon the Contractor's specific request, including any specific request to issue letters to the relevant Authorities on behalf of the Contractor.

6.3. The Contractor shall not be absolved from any of its obligations under Applicable Laws or the Contract or claim any additional amount from RFCL or seek any extension of the Time for Completion due to its ignorance of any Applicable Law. This Clause 6.3 shall not however restrict the right of the Contractor to claim increase in cost due to Change in Law in accordance with the provisions of Clause 25.

7 BACKGROUND INFORMATION

7.1. Should there be any doubt or ambiguity in the interpretation of the Contract or contradiction in the various documents that comprise the Contract or should there be any discernable error or omission in any document comprising the Contract, the Contractor shall, prior to commencing the Work likely to be affected by such ambiguity, error or omission, apply in writing to the Engineer-in-Charge for resolving the ambiguity or rectifying the error, as the case may be. If the Contractor fails to apply to the Engineer-in-Charge prior to commencing the relevant Work, the Contractor shall perform such Work at its own risk and if the Work are at variance with the requirements of the Contract, then such Work shall be deemed to Defective Work and the provisions of Clause 9.16 shall apply.

7.2. The decision of the Engineer-in-Charge on any application under Clause 7.1 shall be in writing and shall be final and binding on the Contractor and shall form part of the Contract.

7.3. The Parties agree that any ambiguity, discrepancy, inconsistency, divergence, impracticality or omission as aforesaid shall not vitiate the Contract.

7.4. As soon as possible and no later than 7 (seven) days following a request from the Engineer-in-Charge to do so, the Contractor shall provide such reasonable information as the Engineer-in-Charge may request to assist it in resolving the ambiguity or rectifying the error, including if so requested, the Contractor's proposals for overcoming the ambiguity, discrepancy, inconsistency, divergence, impracticality or

omission (as the case may be) but the Engineer-in-Charge shall not be obliged to adopt or instruct the same.

7.5. The Contractor is required to make all necessary inquiries and fully acquaint himself with all Background Information, and the Contractor acknowledges that any failure to acquaint itself with the Background Information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing its obligations under the Contract and RFCL shall have no responsibility to the Contractor (whether in contract, tort, for breach of statutory duty or howsoever other arising) for or in relation to such Background Information whether as to its accuracy, adequacy, sufficiency or completeness.

8 GENERAL OBLIGATIONS OF RFCL

8.1 Access to and Possession of the Site

8.1.1 RFCL shall provide access to the Site to the Contractor for the execution of the Works. In the event of delay in transfer of the Site by RFCL to the Contractor, for reasons not attributable to the Contractor, the Contractor shall only be entitled to a reasonable extension of the Time for Completion pursuant to Clause 14. The Contractor shall take all necessary precautions to ensure that no damage is caused to any building or establishment within the Site. The Contractor shall be liable for any loss suffered by RFCL on account of damage to the Site or any building or establishment within the Site. The Contractor shall ensure that day to day activities of RFCL are not hampered because of Works executed by the Contractor. The Contractor shall ensure that until the issuance of the Completion Certificate (RFCL shall start operations from COD upon completion of the Trial Operations), in accordance with Clause 17 by RFCL, RFCL's Personnel, their representatives and assignees shall have the right to visit the Site at any time and inspect or audit the Contractor's books and records relating to the execution and completion of the Works.

8.1.2 Without prejudice to Clause 8.1.1 above, the Contractor agrees that the Site will be handed over to the Contractor in stages with a view that the Contractor shall plan the Works in a manner so as to achieve Completion in a sequential manner, without affecting the Time for Completion and without starting all the Works at the same time. To this end, within 28 (twenty eight) Working Days from the Effective Date, the Contractor shall finalize, in agreement with the Engineer-in-Charge, sequential requirement of the Site, taking into account the other works concurrently being undertaken by RFCL at or about the Site or on the performance of which depends the Contractor’s performance of the Works.

8.2 Permits, Licenses or Approvals

Without prejudice to the obligations of the Contractor, contained in the Contract, if requested by the Contractor, RFCL shall use its reasonable endeavours to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all local, state or national government authorities or public service undertakings, in India that such authorities or undertakings require the Contractor or Subcontractors or the personnel

of the Contractor or Subcontractors, may require, as the case may be, pursuant to Applicable Law in India. However, it is clarified that the primary responsibility of obtaining necessary permits, approvals and/or licenses necessary for the execution of the Contract shall remain that of the Contractor.

8.3 RFCL's Personnel

Without prejudice to the obligations of the Contractor under the Contract**,** RFCL shall be responsible for ensuring that RFCL's Personnel:

(a) co-operate with the Contractor's and the Contractor's Personnel; and

(b) take actions similar to those which the Contractor is required to take under Clause 9.16, on the Site, in respect of any other works undertaken by RFCL at the Site.

8.4 Engineer-in-Charge

RFCL shall appoint the Engineer-in-Charge to act on behalf of RFCL in connection with the Contract. The Engineer-in-Charge shall have the powers and duties specified in the Contract. The Engineer-in-Charge shall have no authority to amend the Contract or to relieve either Party of any of its duties, liability, obligations or responsibilities under the Contract, unless expressly authorised by RFCL by way of a notice to the Contractor.

9 GENERAL OBLIGATIONS OF CONTRACTOR

9.1 General Obligations

9.1.1 The Contractor shall execute the Works, as described in greater details in the Specifications, in accordance with the Contract, the Specifications, the Safety Code and Applicable Laws. The Works shall be fit for the purposes for which they are intended, as defined in the Contract. The Works shall include any work which is necessary to do to comply the Specifications, or as implied by the Contract, or arises from any obligation of the Contractor, and all works not mentioned in the Contract but which are necessary for stability, completion or the safe, reliable and efficient operation of the Facility.

9.1.2 The Contractor agrees and acknowledges that at any time after acceptance of the Bid, RFCL shall have the right to add, amend or delete any item of the Works in the overall interest of the Project. Further, RFCL shall have the right to split the scope of Works under this Contract between two or more contractors without assigning any reasons thereof.

9.1.3 The Contractor shall execute the Works in accordance with the Works Completion Schedule and shall complete each Stage within the relevant Key Date and the entire Works within the Time for Completion and for this purpose the Contractor shall make use of such necessary resources, Goods and Materials, Plant and Contractor's Personnel having the requisite experience for the purposes stated in the Contract.

9.1.4 The Contractor agrees and acknowledges that it shall perform all of its obligations and responsibilities under the Contract at its own risk, Cost and expense. RFCL shall have no obligation or responsibility whatsoever with respect to the Completion of the Works or the fulfillment of other obligations of the Contractor under the Contract, except as expressly provided in the Contract.

9.1.5 The Contractor shall provide all superintendence, Goods and Materials and Contractor's Equipment and all other things, whether of a temporary or permanent nature, required for the execution of the Works.

9.1.6 Wherever applicable, the Contractor shall submit within 45 (forty five) days from the Effective Date, a detailed Bill of Quantities, specifying the materials which, on a preliminary determination made by the Contractor, will be required for incorporation in the Permanent Work. Each item entered in the Bill of Quantities shall be priced, to the extent possible, in conformity with the details given in the Bid. RFCL shall review or cause to be reviewed the adequacy, sufficiency, validity and/or suitability of the materials listed in the Bill of Quantities and of the prices indicated in the Bill of Quantities in this regard. Such review shall be performed in conjunction with design, engineering and other technical reviews to be done by RFCL and all provisions applicable to review of critical drawings and designs shall be applicable to the review of the Bill of Quantities. However, no such review or Approval of the priced Bill of Quantities by RFCL shall absolve the Contractor of its obligation to supply all Goods and Materials required to be incorporated in the Permanent Work, within the price quoted for such Goods and Materials in the Price Schedule.

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9.1.7 The Contractor shall supply all materials, works, labour and other services, which although not specifically mentioned in the Contract:

(a) can be reasonably inferred from and is necessary for the execution of the Works, in accordance with Good Industry Practice, including where the Contract describes any portion of the Works in general terms but not in complete detail; or

(b) that are necessary in order for the Contractor to cause the Facility to satisfy the Guaranteed Performance Levels and the warranties set forth in the Contract or as otherwise necessary in order to meet the purposes for which the Facility is being developed,

as if such superintendence, materials, works, labour and other services were expressly mentioned in the Contract. The performance of such obligations by the Contractor shall not be construed as a Variation and the Contractor shall not be entitled to any revision of the Contract Price or extension of the Time for Completion.

9.1.8 The Contractor shall take full responsibility for the methods of construction, adequacy, stability and safety of the operations carried out at the Site relating the execution of the Works, all Contractor's Documents, Goods and Materials, Contractor's Equipment, irrespective of any Approval or consent by the Engineer-in-Charge.

9.1.9 The Works shall be free of all Defects in materials and workmanship and shall be

adequate, stable, safe and strictly compliant with the instructions of Engineer-in-Charge, the Drawings and Designs, the Specifications and Good Industry Practice, such that the Facility when complete shall be capable of meeting the Guaranteed Performance Levels.

9.1.10 The Contractor shall use proven and reliable technologies, configurations and architecture and exercise strict professional standards of skill, care and diligence, adhered to by experienced and competent contractors specializing in performing services of the same type and magnitude.

9.1.11 Within 30 (thirty) days of the Effective Date, the Contractor shall, to the extent necessary, register itself and the Contract, at its own Cost, with Reserve Bank of India, Income Tax Authorities, Sales Tax Authorities, Excise Authorities and other relevant statutory Authorities and provide copies of all documents related to such registrations to RFCL for record.

9.1.12 Notwithstanding anything contained herein, the Contractor shall obtain and maintain all permits, licenses and approvals required for the execution of the Works as per Applicable Laws.

9.1.13 (a) If there is any doubt or ambiguity in the interpretation of the Contract or error, omission or contradiction therein or any of them, the Contractor shall prior to commencing the relative work, apply in writing to the Engineer-in-Charge for his decision in resolution of the doubt, ambiguity, contradiction or correction of the error or omission, as the case may be. Should the Contractor fail to apply to the Engineer-in- Charge for his decision, as aforesaid, prior to commencing the relative Work, the Contractor shall perform the said work at his own risks, and the provisions of Clause 9.1.13 (b) hereof shall apply to any such Work performed by the Contractor.

(b) In the event of the Contractor having already performed or executed any Work at variance with the decision of the Engineer-in-Charge as aforesaid, then, notwithstanding payment in respect of such Work having made to the Contractor, such Work shall be deemed to be Defective Work and the relevant provisions hereof and associated Clauses thereunder shall apply thereto.

9.1.14 The Contractor is deemed to have satisfied itself as to the correctness and sufficiency of the Specifications and other terms of the Contract relating to its risks, liabilities and obligations set out in or implied by the Contract and all matters and things necessary for the proper execution of the Works.

9.1.15 The Contractor shall take all steps to cause minimum disturbance to vehicular traffic and other movement of the public, on or in the vicinity of the Site.

9.1.16 Without prejudice to the provisions of the Contract and notwithstanding any testing or certification pursuant to this Contract, RFCL shall at any time during the subsistence of this Contract, have the right (but not the obligation) to reject any part of the Works, the Plant, the Goods and Materials, or the Contractor's Equipment, which is found not to be in compliance with the requirements of this Contract including, the Specifications.

9.1.17 In such a situation, RFCL may instruct the Contractor to:

(a) remove from the Site and replace the rejected Plant, Goods and Materials or Contractor's Equipment or re-instate the Works; or

(b) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise,

in accordance with the requirements of this Contract, the cost of which shall be to the sole account of the Contractor. The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is of the nature specified under paragraph (b).

9.1.18 If the Contractor fails to proceed with the repair or replacement of the rejected item of the Works or the Contractor's Equipment within reasonable time, RFCL may, by contract with third Persons or otherwise, repair or replace such part of the Works and/or terminate this Contract pursuant to Clause 32.2 and the Contractor shall be liable to reimburse RFCL upon demand for all costs and damages incurred by RFCL relating to such repair or replacement by a third party.

9.1.19 If RFCL requires the Works, Goods and Materials, Contractor's Equipment or workmanship to be retested after such remedy of the Defect therein or replacement, the tests required to be conducted under this Contract and as instructed by RFCL shall be repeated under the same terms and conditions. If the rejection and retesting cause RFCL to incur additional costs, the Contractor shall pay these costs to RFCL.

9.1.20 The Contractor shall provide, comply with and require and ensure that its Subcontractors also provide and comply with such documentation/information or any other support as may be requested by RFCL from time to time as may reasonably be deemed fit by RFCL for meeting its obligation under any Applicable Laws for the time being in force or in relation to the said Works, as also matters including but not limited to exemptions, concessions etc as may be availed, sought to be availed by RFCL.

9.1.21 The Contractor shall furnish to RFCL, promptly upon request, such information concerning the Contractor, its Subcontractors and their respective employees or the Works as RFCL may be required to furnish to any competent Authority for the procurement of any licences, permits or approvals mentioned in Clause 8.2.

9.1.22 To the extent possible, the information regarding existing structures/ overhead lines, existing pipelines and utilities are already indicated on alignment sheets forming part of the Background Information. However, the Contractor may encounter other structures/ pipelines/ optical fiber cables etc. that may not be appearing on alignment sheets, for which, the Contractor is required to collect information on his own before commencing the Work. The Contractor shall execute the Works in such a manner that the said structures, utilities, pipelines etc. are not disturbed or damaged, and shall indemnify and keep indemnified RFCL from and against any destruction thereof or damages thereto.

9.2 Contractor's Representative

9.2.1 The Contractor shall, within **30 (thirty)** days of the Effective Date, appoint the Contractor's Representative with the prior written Approval of RFCL (and such Approval shall not be unreasonably withheld) and vest in him the authority to act on behalf of the Contractor for all purposes of the Contract. If the consent is withheld or subsequently revoked, or if the appointed person fails to act as the Contractor's Representative, the Contractor shall submit the name and particulars of another suitable person for such appointment.

9.2.2 The Contractor shall not, without the prior consent of RFCL, revoke the appointment of the Contractor's Representative or appoint a replacement.

9.2.3 The Contractor's Representative shall coordinate all matters relating to the Contract with RFCL, receive all instructions from Engineer-in-Charge and shall devote substantially all of his time to the performance of the Contractor's obligations under the Contract.

9.3 Mobilisation

9.3.1 The Contractor shall be responsible for Mobilisation including, setting up of offices at the Site with infrastructure facilities such as power, water, communication, conveyance etc., procuring an adequate strength of skilled, semi-skilled and unskilled workers, who, with such infrastructure facilities shall be in a position to commence and execute the Works. The Contractor shall carry out the Mobilisation in accordance with the agreed quality standards and Applicable Laws.

9.3.2 The Contractor shall complete Mobilisation in accordance with the terms of the Contract within the Time for Mobilisation, which is **21 days** from the Effective Date.

9.4 Security

9.4.1 **Mobilization Advance Guarantee**

(a) The Contractor shall furnish the Mobilization Advance Guarantee for a sum equal to 10% (ten percent) of 110% (one hundred and ten percent) of the Contract Price, to cover the Mobilization Advance to be received by the Contractor under the Contract, from an Indian nationalized / scheduled bank / Indian branch of an international bank acceptable to RFCL, in the form set out at Appendix 2 (Form of Mobilization Advance Guarantee). The Mobilization Advance Guarantee shall have a claim period of 90 (ninety) days beyond validity.

(b) The mobilization advance guarantee shall remain valid until the earlier of the following:
i) Upto the date when the mobilization advance has been fully recovered; or
ii) Upto the date of Final Completion;

(c) If the Mobilization Advance Guarantee is or becomes invalid for any reason (other than its expiry), the Contractor shall immediately notify the Engineer-in-Charge and obtain within **7 (seven)** days a replacement Mobilization Advance

Guarantee in the form appearing in Appendix 2 (Form of Mobilization Advance Guarantee).

(d) RFCL shall have an unqualified option under the Mobilization Advance Guarantee to draw on the guarantee and claim the amount there under in the event of the inadequate adjustment of the Mobilization Advance in accordance with Clause 23.1.3.

(e) The provision, maintenance or renewal, as the case may be, of the Mobilization Advance Guarantee by the Contractor in accordance with the terms of the Contract and to the satisfaction of RFCL shall be a condition precedent to any payment by RFCL to the Contractor.

(f) If the Contractor fails to provide, maintain or renew the Mobilization Advance Guarantee in accordance with the Contract, then RFCL may, without prejudice to any other rights and remedies to which it may be entitled, by written notice forthwith terminate the Contract.

(g) The Contractor agrees and acknowledges that RFCL shall be entitled to assign the Mobilization Advance Guarantee in favour of any party to whom this Contract may be assigned by RFCL.

(h) RFCL shall endeavor to release the Mobilization Advance Guarantee to the Contractor, within **30 days** after total recovery of the Mobilization Advance, including any interest/ charges, as applicable, on request of Contractor.

9.4.2 **Contract Performance Bank Guarantee (CPBG))/ Security Deposit (SD)**

(a) The Contractor shall within 15 days of award (i.e. issue of FOA / LOA), deposit an interest free Contract Performance Bank Guarantee (CPBG) / Security Deposit (SD) to RFCL. CPBG shall be obtained initially for 10% of Contract Value and shall be reduced to PBG of 5% after completion and acceptance of works performance during defect liability period in types and proportions of currencies in which the Contract Price is payable in accordance with the Contract. The Contractor shall procure the Contract Performance Bank Guarantee in the form set out in Appendix 1 (Form of Contract Performance Bank Guarantee). The Contractor shall maintain the Contract Performance Bank Guarantee at its own expense, and shall ensure it shall remain valid for a period of not less than 3 (three) months after the expiry of the Extended Defects Liability Period. The Contract Performance Bank Guarantee shall be extended by such period as RFCL may require if the Completion is delayed beyond the Time for Completion and/or the Final Completion is delayed beyond the scheduled date of Final Completion and any extension thereof as per directions of the Engineer-in-Charge. In the event that the Contract Price is increased during the Contract Validity Period for any reason whatsoever, the value of the Contract Performance Bank Guarantee shall be increased proportionately by the Contractor within **7 (seven)** Business Days to ensure that it remains an amount which is equivalent to 10% of the revised Contract Price, as determined by the Engineer-in-Charge.

(b) RFCL shall have an unqualified option under the Contract Performance Bank Guarantee to draw on the security and claim the amount there under in the event of the Contractor's failure to honor any of its obligations, responsibilities or commitments under the Contract or in respect of any amount due from the Contractor to RFCL. Provided however that, nothing stated under this Clause shall make it incumbent upon RFCL to utilize the Contract Performance Bank Guarantee in preference to any other remedy which RFCL may have, nor shall it be construed as confining the claims of RFCL against the Contractor to the value of the Contract Performance Bank Guarantee.

(c) The Contractor undertakes that in case of encashment of the CPBG, the Contractor shall be liable to replenish the CPBG to the full amount within 7 (seven) days ("Guarantee Replenishment Period"). The Contractor shall, within 3 (three) days of the Guarantee Replenishment period, provide to RFCL, as may be required by RFCL, documents evidencing the replenishment of the CPBG.

(d) If the Contract Performance Bank Guarantee is or becomes invalid for any reason (other than its expiry), the Contractor shall immediately notify the Engineer-in-Charge and obtain within **7 (seven)** days a replacement Contract Performance Bank Guarantee in the form appearing in Schedule 1 (Form of Contract Performance Bank Guarantee).

(e) Without prejudice to the obligation of the Contractor under sub-clause (a) above, not later than **30 (thirty)** Business Days before the expiry of the Contract Performance Bank Guarantee, the Contractor shall, upon request of the Engineer-in-Charge obtain extension of the validity of such Contract Performance Bank Guarantee for the period stated in such request by the Engineer-in-Charge and provide a copy of such renewed security. If the Contractor fails to extend the Contract Performance Bank Guarantee, RFCL shall be entitled to receive the un-drawn amount there under pending the completion of the Works, provided that the amount so received shall be treated as a cash retention and to the extent that there are no outstanding claims thereto, shall be released upon submission of a new Contract Performance Bank Guarantee acceptable to RFCL.

(f) The Contract Performance Bank Guarantee shall be returned to the Contractor after **3 (three)** months from the expiry of Extended Defect Liability Period.

(g) If the Contractor fails to provide, maintain or renew the Contract Performance Bank Guarantee in accordance with the Contract, then RFCL may, without prejudice to any other rights and remedies to which it may be entitled, by written notice terminate the Contract forthwith.

(h) The Contractor agrees and acknowledges that RFCL shall be entitled to assign the Contract Performance Bank Guarantee in favour of any party to whom this Contract may be assigned.

9.5 Site Data

9.5.1 RFCL has made available to the Contractor all the relevant data in RFCL's possession

on hydrological and subsurface conditions relating to the Site. The accuracy or reliability of the data/studies/reports and of any other information supplied at any time by Engineer-in-Charge is not warranted and the Contractor shall be solely responsible for the consequences of its interpretation of all such data/studies/reports. The Contractor shall conduct further investigations considered necessary by it at its own Cost and any error or discrepancies, if found in the data made available by RFCL at any stage shall not constitute ground for extension of the Time for Completion or any monetary claim.

9.5.2 The Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the execution of the Works.

9.5.3 The Contractor shall be deemed to have inspected and examined the Site, its surroundings, the studies/reports/data mentioned in Clause 9.5.1 above and other available information with respect to the viability of its design and the execution of Works and satisfied itself by careful examination before submitting its Bid, as to all the relevant matters including:

(a) The form and nature of the Site, including the surface strata, sub-soil, sub-surface conditions, local conditions;

(b) The hydrological and climatic conditions;

(c) The extent, nature and magnitude of the Work, availability of the Plant and Goods and Materials necessary for the execution of the Works and remedying any defects;

(d) Applicable Laws;

(e) The Contractor's requirement for access, accommodation, facilities, personnel, supply of power and water, availability of labour, transport and other services;

(f) The risk of injury or damage to property adjacent to the Site and to the occupiers of such property or any other risk;

(g) The state of traffic both of passengers and vehicles on, along and adjacent to the Site at all times of the day, during various seasons, festivals, etc.; and

(h) The suitability of any building, structure, foundation or means of access to the Site to be provided by RFCL for reception, movement, commissioning and maintenance of the Works within the time or times indicated in the Works Programme.

9.5.4 The Contractor now hereby agrees that the Contractor shall not be relieved from any risks or obligations imposed on or undertaken by it in relation to the Works on the grounds of any misunderstanding or misapprehension in respect of the matters referred to in paragraphs (a) to (h) above or on the ground that it did not or could not reasonably have been expected to foresee any such matter stated above which may,

in fact, affect or have affected the Completion of the Works and remedying of any Defects therein or the meeting of its obligations in respect of the Works under the Contract.

9.5.5 The Site shall be handed over to the Contractor free from any encroachment and the Contractor shall satisfy itself to such effect prior to taking over the Site for the execution of the Works. It is clarified for the avoidance of doubt that after handing over of the possession of the Site or part of the Site, it shall be the sole obligation of the Contractor to ensure that the Site or part of the Site handed over remains free from any encroachment or squatters and the Contractor shall take all necessary steps at its Cost and expense to give effect to its obligations under this Clause.

9.6 Access Routes

9.6.1 The Contractor shall be deemed to have satisfied itself as to the suitability and availability of the access routes to the Site. The Contractor shall be responsible for the maintenance of such access routes. The contractor shall construct, if necessary, at his own cost and initiative, temporary access road to site from main public feeder roads. The Contractor shall provide at its own Cost, signs or directions which it may consider necessary or as instructed by the Engineer-in-Charge for the guidance of its employees, labourers, representatives and others. Upon the request of the Contractor and at the risk and Cost of the Contractor, RFCL may assist the Contractor to obtain any permission, concessions and related easement right that may be required from the relevant authorities for the use of such routes, signs and directions.

9.6.2 RFCL shall not be responsible for any claims which may arise from the use or otherwise of any access route. RFCL does not guarantee the suitability or availability of any particular access route, and shall not be liable to any claim for any non-suitability or non-availability for continuous use during the execution of the Works of any such route.

9.6.3 All transport operations for the execution of the Works shall be carried out as stipulated in the Specifications. The Contractor shall indemnify RFCL in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to any such matters.

9.6.4 The Contractor shall take all reasonable measures to ensure that the transportation of the Contractor's Personnel, Goods and Materials or Contractor's Equipment do not interfere with local traffic in the vicinity of the Site.

9.7 Rights of Way and Facilities

RFCL shall provide a non-exclusive right of way for access to the Site. The Contractor shall bear all Costs and charges for special or temporary rights of way which it may require including those for access to the Site. The Contractor shall also obtain, at its risk and Cost, any additional facility outside the Site which it may require for the purpose of the execution of Works. RFCL reserves the right to make use of these service roads/rights of way for itself working in the area, as and when necessary without any payment to the Contractor.

9.8 Sufficiency of Contract Price

9.8.1 The Contractor in fixing the rates/prices specified in the Price Schedule shall be deemed to have independently obtained all information necessary for the purpose of preparing the Bid and executing the Works and to have satisfied itself as to the correctness and sufficiency of the Bid and the Contract Price. Any error in description of the quantity or quality of the Works or omission of any item of work shall not vitiate the Contract or release the Contractor from its obligation to perform the Works at the prices specified in the Price Schedule and the Contractor shall be deemed to have known the scope, nature and magnitude of the Works and the materials, equipment and labour required for executing the Works.

9.8.2 Unless otherwise stated in the Contract, the Contract Price and the rates and prices stated in Contract shall, except as otherwise provided for in the Contract, cover all its obligations under and in relation to the Contract, including the obligation to supply Contract Spares; and all matters and all things necessary for the proper execution of the Works. The Contract Price shall not be adjusted save as expressly provided in the Contract, and includes any and all direct, indirect and ancillary charges and costs of whatsoever nature, all profit, all licenses, royalty and other fees, the cost of all spare parts required for the execution of the Works. The Contractor acknowledges and agrees that the Contractor shall be liable to arrange and obtain any and all licenses on Intellectual Property rights required to execute the Works and to perform the Contract, and that any fees associated with such licenses shall be included within the Contract Price and shall be the sole responsibility of the Contractor.

9.9 Works Programme

9.9.1 The Contractor shall submit a detailed Works Programme to the Engineer-in-Charge not later than **30 (thirty)** days from the Effective Date. The Contractor shall also submit a revised Works Programme whenever the Engineer-in-Charge finds that the previous Works Programme is inconsistent with actual progress as provided in the Specifications/ scope of Work.

9.9.2 No alteration to the Works Programme, or to such arrangements and methods specified therein, shall be made without obtaining prior written consent of the Engineer-in-Charge. If the progress of the Works does not conform to the Works Programme, the Engineer-in-Charge may instruct the Contractor to revise the Works Programme, showing the modifications necessary to achieve Completion within the Time for Completion. The Contractor shall then follow the revised Works Programme at its own Cost.

9.9.3 The consent by the Engineer-in-Charge to the Works Programme shall not relieve the Contractor of any of its responsibilities or obligations under the Contract. If the Works Programme indicate that a Key Date has not, or shall not be met, it shall not, by itself entitle the Contractor to an extension of time in relation to such Key Date.

9.10 Progress Reports

9.10.1 The Contractor shall submit to the Engineer-in-Charge, by the end of each month, Monthly Progress Report which shall, amongst other things, highlight actual or

potential departures from the Works Programme and state the measures which the Contractor proposes to take in order to make good or reduce any delay.

9.10.2 The Contractor shall continue to submit the Monthly Progress Report until the end of the Extended Defects Liability Period. Each Monthly Progress Report shall include:

(a) An executive summary;

(b) Charts showing the status of the Works;

(c) For the execution of each main part of the Works, the extent of progress (percentage of the whole), the actual or expected dates of commencement, anticipated completion date of the Stage, inspections and Tests on Completion to be carried out by the Contractor;

(d) Records of deployed manpower and Contractor's Equipment on the Site;

(e) Copies of quality assurance documents or reference thereto, test results and certificates;

(f) Safety statistics, including details of any hazardous incidents and activities relating to environmental aspects;

(g) Comparisons of actual progress against the planned progress, variance analysis and reasons for the variance and steps taken to mitigate the same, with details of any aspects which may jeopardize the Completion of the Works in accordance with the Contract, and the measures being (or to be) adopted to overcome such aspects;

(h) Inspection reports of regulatory authorities; and

(i) Status and details of Licenses/registrations/approvals/permits obtained/ required to be obtained under Applicable Laws.

9.10.3 The Contractor shall also submit to the Engineer-in-Charge such other reports as may reasonably be required by it or any relevant authority or public body.

9.10.4 The Contractor hereby acknowledges and accepts that any programme, Monthly Progress Report, schedule, plan, daily report or any other information to be submitted by it in accordance with this Clause shall not constitute the notices which it is required to give under any provision of the Contract.

9.11 Packing and Forwarding

9.11.1 Imported Supplies

(a) The Contractor shall, wherever applicable, after proper painting, pack and crate all materials for shipment in a manner suitable for export, in accordance with internationally accepted export practices and in such manner so as to protect the

supplies from damage and deterioration in transit by road, rail and/or sea and during storage at Site. Without prejudice to any other liabilities or obligations of the Contractor, the Contractor shall be responsible for all damage to the supplies due to improper packing.

(b) The Contractor shall notify RFCL and the Engineer-in-Charge of the date of each shipment from the port of loading as well as the expected day of arrival & expected time of arrival (ETA) of such shipment at the designated port of arrival.

(c) The Contractor's notification shall give complete shipping details with regard to the weight, size and content of each package, along with any other information which RFCL may require.

(d) The following documents shall be sent to RFCL within **[3 (three)]** days from the date of dispatch of the shipment to RFCL or any other person designated by RFCL:

(i) Invoices (2 copies) or any other document of title evidencing sale in transit
(ii) Packing list (2 copies)
(iii) Test certificate (4 copies)
(iv) Insurance certificate (2 copies)
(v) Third party inspection certificate as per Quality Assurance Plan Approved by RFCL/Engineer-in-Charge (2 copies).

9.11.2 Domestic Supplies

(a) The Contractor shall, wherever applicable, after proper painting, pack and crate all materials for in such manner so as to protect the supplies from damage and deterioration in transit by road and/or rail and during storage at Site. Without prejudice to any other liabilities or obligations of the Contractor, the Contractor shall be responsible for all damage to the supplies due to improper packing.

(b) The Contractor shall notify RFCL and the Engineer-in-Charge of the date of each shipment from the works, factory or warehouse and expected date of arrival as well as expected time of arrival (ETA) at the Site.

(c) The Contractor's notification shall give complete shipping details with regard to the weight, size and content of each package, along with any other information which RFCL may require.

(d) The following documents shall be sent to RFCL within **[3 (three)]** days from the date of dispatch of the shipment to RFCL or any other person designated by RFCL:

(i) Invoices (2 copies) or any other document of title evidencing sale in transit
(ii) Packing list (2 copies)
(iii) Test certificate (4 copies)
(iv) Insurance certificate (2 copies)

(v) Third party inspection certificate as per approved Project Quality Plan/Quality Assurance Plan Approved by RFCL/Engineer-in-Charge (2 copies).

9.12 Contractor's Equipment

9.12.1 All Contractor's Equipment and Temporary Works provided by the Contractor or any Subcontractor shall, when brought on to the Site, be deemed to be exclusively intended for execution of the Works and not be removed without the consent, in writing, of the Engineer-in-Charge. Such consent shall not be unreasonably withheld or delayed by the Engineer-in-Charge.

9.12.2 (a) Upon Completion of the Works, the Contractor shall remove from Site, the entire Contractor's Equipment, Temporary Works and surplus materials as defined in sub-clause 9.12.2(b) below, as per the directions of the Engineer-in-Charge.

(b) Surplus materials

Surplus civil construction materials comprising sand, cement, bricks, stones, aggregates and the products of dismantling the Temporary Works erected by the Contractor shall vest in and belong to the Contractor upon Completion of the Works and/or earlier termination of the Contract for any cause. The Contractor shall have the right, subject to the other terms & conditions of the Contract, to remove the surplus civil construction material from the Site, subject to satisfactory proof of supply and subject to compliance of taxes, if any. No other surplus material will be allowed to be removed from the Site and shall be deemed to be the property of RFCL and the same shall be transported properly to RFCL's store or as directed by RFCL. The Contract Price quoted by the Contractor shall be deemed to include the cost of all surplus materials which are deemed to be the property of RFCL.

9.12.3 RFCL shall not at any time be liable for the loss or damage to any of the Contractor's Equipment, Temporary Works or materials brought on Site by the Contractor for execution of the Works.

9.12.4 The Contractor shall be responsible for obtaining physical clearance from the customs, if any required for constructional plant, materials and other things required for the execution of the Works.

9.12.5 The Contractor shall, upon written request by the Engineer-in-Charge, produce to the Engineer-in-Charge, all documents evidencing title to or the contractual arrangement giving the right to the Contractor to use the Contractor's Equipment. In the event of failure to comply with such request within **15 (fifteen)** days, then without prejudice to any other rights, RFCL shall be entitled to withhold the payments due to the Contractor under the Contract.

9.12.6 The Contractor shall be responsible for maintaining the Contractor's Equipment at the Site in a safe and reliable working condition.

9.12.7 The Contractor shall be liable for loss of or damage to any of the Contractor's Equipment or to any Persons, as a result of handling, storage or use of the Contractor's Equipment which may occur at any time during the execution of the Works or the remedying of Defects therein.

9.12.8 Notwithstanding anything contained to the contrary in any or all of the Clauses of this Contract, where any goods, materials or equipment for the execution of the Contract are procured with the assistance of any Authority either by issue from the Authority stocks or purchased under orders, permits or licenses issued by the Authority, the Contractor shall use such goods, materials or equipment economically and solely for the purpose of the Contract and shall not dispose of them without the prior written permission of RFCL.

9.13 Contractor's Documents

9.13.1 The Contractor shall submit to RFCL a detailed list of the Contractor's Documents to be submitted as well as a schedule for submissions of the Contractor's Documents (taking into account the requirement for Approval by RFCL, the Engineer-in-Charge or any third party consultant appointed by RFCL) within 3 (three) months from the Effective Date, which shall be subject to Approval by RFCL.

RFCL shall, within 21 (twenty one) Working Days of the date of submission of such schedule, either Approve the same or reasonably require amendments to such schedule by a written notice to the Contractor. Where RFCL requires amendments to be made to the submission schedule, the Contractor shall make such changes and submit a fresh schedule for submissions. If RFCL does not notify its refusal to Approve such schedule within 30 (thirty) Working Days of the receipt of such schedule, then it shall be deemed to be Approved by RFCL. The latest revision of the Approved schedule for the submission of Contractor's Documents shall be the "**Submissions Schedule**" and shall form a Contract Document.

The Contractor shall comply with the Submissions Schedule for the purposes of submissions of the Contractor's Documents and shall, in any event, ensure the submission of the Contractor's Documents in relation to any element of the Works simultaneously with the performance of that element of the Works. Failure by the Contractor to do so shall entitle RFCL to reject that element of the Works and the consequences thereof shall be borne by the Contractor at its own Cost.

9.13.2 The Contractor's Documents shall be prepared in sufficient detail and shall satisfy all regulatory approvals. The Engineer-in-Charge shall have the right to inspect/review the preparation of the Contractor's Documents, while they are being prepared.

9.13.3 Each of the Contractor's Documents shall, when considered ready for use, be submitted to the Engineer-in-Charge for his review. Unless otherwise stated in the Specifications or elsewhere in the Contract, each review by the Engineer-in-Charge shall not exceed the Review Period.

9.13.4 If the Engineer-in-Charge during the Review Period, gives notice to the Contractor that a Contractor's Document fails (to the extent stated) to comply with the Specifications, it

shall be rectified, resubmitted and reviewed (and if specified, Approved) by the Engineer-in-Charge, at the Contractor's Cost within such time as the Engineer-in-Charge may specify to the Contractor.

9.13.5 Design, procurement, construction, manufacture and/or installation of any part of the Works shall not commence prior to the expiry of the Review Period for Contractor's Documents which are relevant for the execution of such part of the Works.

9.13.6 If the Contractor wishes to modify any Contractor's Document which has previously been submitted for such pre-construction review, the Contractor shall immediately notify the Engineer-in-Charge, and based on the Engineer-in-Charge's Approval, shall subsequently submit revised Contractor's Documents to the Engineer-in-Charge in accordance with the procedure set out in Clause 9.13.1.

9.13.7 If the Engineer-in-Charge instructs that further Contractor's Documents are required to be submitted by the Contractor which is necessary for carrying out the Works, the Contractor shall promptly and at Contractor's Cost prepare such documents.

9.13.8 If any errors, omissions, ambiguities, inconsistencies, inadequacies and other defects are found in the Contractor's Documents at any time, then such errors, omissions, ambiguities, inadequacies or other defects shall be rectified by the Contractor at its own Cost and any Approval or consent or review by the Engineer-in-Charge, of the Contractor's Documents shall not relieve the Contractor from any obligations or responsibility under the Contract.

9.13.9 Notwithstanding anything contained in this Contract in relation to the Contractor's Documents, the Contractor shall be fully responsible for the adequacy of the Contractor's Documents for the execution of the Works, any failure of the Contractor to comply with the Contract, or otherwise, for any ambiguity, inconsistency, deficiency, lack of fitness for purpose, errors and/ or omissions in such Contractor's Documents.

9.13.10 The Contractor's Documents shall be in the custody and care of the Contractor during the Contract. Unless otherwise stated in the Specifications, the Contractor shall provide 6 (six) copies of the Contractor's Documents along with a soft copy of the Contractor's Documents for the use of the Engineer-in-Charge and his assistants.

9.13.11 The Contractor shall keep on the Site, 1 (one) complete set of all relevant documents, including the Contract and all documents related to Variations, other communications given or issued from time to time under the Contract and all the Contractor's Documents Approved by the Engineer-in-Charge. RFCL, the Engineer-in-Charge shall have the right to access these documents at all reasonable times.

9.13.12 If a Party becomes aware of an error or Defect of a technical nature in the Drawings and Designs or in the Contractor's Documents or any other document which was prepared for use in executing the Works, such Party shall promptly give notice to the other Party of such error or Defect.

9.13.13 As-Built-Drawings: The Contractor shall prepare, and keep up to date, a complete set of "as-built records" of the execution of the Works, showing the exact "as-built" locations,

sizes and details of the Works as executed, with cross references to relevant specifications and data sheets in accordance with Clause 10.5.

9.13.14 Test-Reports: After the Performance Tests have been conducted in respect of the Facility, the Contractor shall furnish the test reports to the Engineer-in-Charge for evaluation in accordance with Clause 16.2.

9.14 Subcontractors

9.14.1 The Contractor shall not subcontract the whole of the Works and unless otherwise specifically stated:

(a) The Contractor shall not be required to obtain consent for purchases of Goods and Materials which are in accordance with the Approved vendor list/ Approved makes specified in the Contract or for provisions of labour or for the subcontracts for which the Subcontractors are named in the Contract Agreement/ Contract;

(b) The prior consent of Engineer-in-Charge shall be obtained for subcontracting any part of the Works other than as specified under Clause 9.14.1(a) provided that the execution of the Works (or any part thereof) by petty contractors or on piece work basis under the supervision of the Contractor (or its representative) shall not be deemed to be Subcontracting under the Contract; and

(c) Not less than **[30 (thirty)]** days before the intended date of each Subcontractor commencing work, the Contractor shall notify the Engineer-in-Charge of such intention.

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9.14.2 The Contractor shall be responsible for observance by all Subcontractors of any Applicable Laws and all the provisions of the Contract. The Contractor shall be entirely responsible for the acts or defaults of any Subcontractor, its representatives or employees, as if they were the acts, omissions or defaults of the Contractor, its representatives or employees and nothing contained in Clause 9.14.1(a) shall constitute a waiver of the Contractor's obligations under the Contract. The Contractor shall provide to the Engineer-in-Charge, certified true copies of all the executed Subcontracts containing complete terms and conditions, and annexures other than the price. The Contractor shall make timely payments to the Subcontractors and resolve all matters and differences with any Subcontractor speedily, without affecting the execution of the Works in any manner.

9.14.3 The terms and conditions of any Subcontract shall impose on the Subcontractor such terms and conditions of the Contract as are applicable and appropriate to the part of the Works to be executed by the Subcontractor, to enable the Contractor to comply with its obligations under the Contract.

9.14.4 Notwithstanding any consent to the selection of the Subcontractor given by the Engineer-in-Charge, the Engineer-in-Charge shall have full power to order the Contractor to terminate any Subcontractor and substitute such Subcontractor with any other sub-contractor and the Contractor shall be bound to follow such order, provided

that such order is provided in writing by Engineer-in-Charge, clearly specifying the reasons for such termination.

9.14.5 RFCL shall, under no circumstances be liable to any Subcontractor and the Contractor shall indemnify and keep indemnified RFCL against all liabilities, costs, claims and demands of whatsoever nature by any Subcontractors.

9.14.6 The Contractor shall be solely responsible for the payments to be made to the Subcontractors in accordance with their respective Subcontracts and ensure proper and uninterrupted execution of the Works. RFCL shall not interfere in the day to day management of the Subcontract between the Contractor and its Subcontractor, but if any complaint is received by RFCL (or Engineer-in-Charge) from any Subcontractor regarding non-payment or delay in payment by the Contractor to such Subcontractor, then RFCL may, by a written notice, require the Contractor to resolve such complaint within a reasonable period (to be specified in the notice) and provide the details of the steps taken by the Contractor to resolve the complaint, to RFCL. If the issue is not satisfactorily resolved and the details provided by the Contractor are not considered satisfactory, RFCL may, at its sole discretion, make direct payment to the Subcontractor as per its claim and recover such payments from any payment due to the Contractor under the Contract.

9.15 Setting Out

9.15.1 The Contractor shall be responsible for:

(a) The accurate setting out of the Works in relation to the original points, lines and levels of reference given by the Engineer-in-Charge in writing;

(b) The correctness of position, levels, dimensions and alignments of all parts of the Works;

(c) The provisions of all necessary instruments, equipment, apparatus and labour in connection with the foregoing responsibilities; and

(d) Carefully protecting and preserving all bench marks, sight rails, pegs and other things used in setting out the Works.

9.15.2 The Contractor shall first review, validate and undertake its own due diligence of RFCL's alignment survey reports and fix the alignment of the Works, pier locations, maintaining vertical and horizontal clearances keeping in view the important Site references and obligatory locations, in consultation with the Engineer-in-Charge. The Contractor shall establish, at suitable points and at its own Cost, additional reference lines and benchmarks as may be necessary for the proper execution of the Works while ensuring, at all times, that the reference lines, points and benchmarks fixed by the Engineer-in-Charge are not disturbed and/ or damaged and the Contractor shall be liable to make good any damage thereto. The verification/ inspection of any setting out or of any line or level by the Engineer-in-Charge shall not in any way relieve the Contractor of its responsibility for the accuracy or correctness thereof and the Contractor shall carefully protect and preserve all benchmarks, sigh-rails, pegs and

other things used in setting out the works.

9.15.3 If at any time during the execution of the Works, an error appears in the positions, levels, dimensions or alignment of any part of the Works, the Contractor, on being required to do so by the Engineer-in-Charge, shall, at Contractor's Cost, rectify such error to the satisfaction of the Engineer-in-Charge.

9.16 Safety of Works

9.16.1 The Contractor shall throughout the execution of the Works:

(a) Take full responsibility for the adequacy, stability, safety and security of the Works, Plant, Contractor's Equipment, Temporary Works, operations on the Site and methods of manufacture, construction and transportation;

(b) Have full regard for the safety of all persons on or in the vicinity of the Site (including persons to whom access to the Site has been allowed by the Contractor), comply with the Safety Code, all relevant safety regulations, including provision of safety gear. Insofar as the Contractor is in occupation or otherwise is using areas of the Site, the Contractor shall keep the Site and the Works (so far as the same are not completed and occupied by RFCL) in an orderly state appropriate for the avoidance of injury or accident to all persons on and in the vicinity of the Site and shall keep RFCL indemnified against all costs, charges, losses and damages that may be suffered by RFCL in any manner whatsoever as a result of any injury or accident to any person on or in the vicinity of the Site in connection with the execution of the Works;

(c) Provide and maintain all lights, guards, fences and warning signs and watchmen when and where necessary or as required by the Engineer-in-Charge or by any Applicable Laws or by any relevant Authority for the protection of the Works and for the safety and convenience of the public and all Persons on or in the vicinity of the Site;

(d) Where any part of the Works would otherwise be carried out in darkness, ensure that all parts of the Site where such part of the Works is being carried out are so lighted as to ensure the safety of all Persons on or in the vicinity of the Site and of such part of the Works;

(e) The Contractor shall ensure that its employees and the employees of the Subcontractors wear identification badges (cards), uniforms, helmets, safety shoes, gum boots and other safety/protection wear as directed by the Engineer-in-Charge, and to be provided by the Contractor.

9.16.2 The Contractor shall submit a detailed and comprehensive contract specific Site safety plan and system safety assurance plan in accordance with the Specifications.

9.16.3 The Engineer-in-Charge's consent or rejection of the safety plans and/or supplements thereto shall be without prejudice to the Contractor's obligations with respect to safety measures required to be undertaken or implemented in accordance with the Safety

Code and shall not excuse any failure by the Contractor to adopt proper and recognized safety practices throughout the execution of the Works.

9.16.4 The Contractor shall provide all necessary access, assistance and facilities to enable the Engineer-in-Charge or any other third party safety audit agency to carry out inspections to verify that the safety plans are being properly and fully implemented.

9.16.5 The Works, including materials to be used for execution of the Works shall be protected from exposure to and damage due to water.

9.16.6 The execution of the Works shall not be carried out in weather conditions that may adversely affect the execution of the Works or damage the Works (or any part thereof) unless proper protection is provided, to the satisfaction of the Engineer-in-Charge.

9.16.7 During the execution of the Works, storm restraint systems shall be provided by the Contractor where necessary to the satisfaction of the Engineer-in-Charge.

9.16.8 The Contractor shall ensure that the Execution of the Works is carried out in such manner that there is no damage to or interference with:

(a) watercourses and drainage systems on and in the vicinity of the Site;

(b) utility services on and in the vicinity of the Site;

(c) structures (including foundations), roads, street fixtures, etc. on and in the vicinity of the Site;

(d) public or private, vehicular or pedestrian access routes and roads on and in the vicinity of the Site; and

(e) monuments, graves or burial grounds other than to the extent that is necessary for them to be removed or diverted for the execution of the Works. Heritage structures shall not be damaged or disfigured on any account. The Contractor shall inform the Engineer-in-Charge, as soon as practicable, of the structures or roads which are not stated in the Contract to be removed or diverted but which the Contractor considers necessary to be removed or diverted. The Contractor shall not remove or divert any such structure or roads until the consent of the Engineer-in-Charge to such removal or diversion has been obtained.

9.17 Security of the Site

The Contractor shall be wholly responsible for security of the Site and the Works. Unless otherwise stated in the Contract:

(a) The Contractor shall be responsible for keeping unauthorized persons off the Site; and

(b) Authorized persons shall be limited to the employees, workmen or consultant

or representative of the Contractor and its Subcontractor or persons authorized by the Engineer-in-Charge.

9.18 Contractor's Operations on Site and Clearance of Site

9.18.1 The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by RFCL as working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to restrain them from encroaching on adjacent land.

9.18.2 At all times during the execution of the Works, the Contractor shall keep the Site clean, safe, in a workmanlike condition and free from all unnecessary obstruction, and shall safely store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required in accordance with Good Industry Practice, Applicable Laws and instructions of the Engineer-in-Charge, unless required to be maintained at the Site as per the express instructions of Engineer-in-Charge.

9.18.3 Upon Completion of the Works, the Contractor shall leave the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Liability Period, such Goods and Materials or Contractor's Equipment as are required for the Contractor to fulfil its obligations under the Contract.

9.18.4 The Contractor shall not sell or otherwise dispose of or remove except for the purpose of performing the Works, the sand, clay, ballast, earth, rock or other substances or materials obtained from any excavation made for the purposes of the Works or any building or produce that was on the Site at the time of handing over of the Site to the Contractor and all such substances, materials, buildings and produce shall be the property of RFCL, provided that the Contractor may use such substances, materials, buildings for the performing the Works with the prior permission of the Engineer-in-Charge at the rates determined by the Engineer-in-Charge.

9.19 Quality Management System

9.19.1 Unless otherwise agreed with RFCL, the Contractor's proposed quality system shall fully satisfy all the elements of ISO 9001 – 2000 "Quality Management Systems Requirement". As evidence of compliance with ISO 9001 – 2000 "Quality Management Systems Requirement", the Contractor shall be required to submit either the current certificate of quality system registration with ISO 9001 or a recent compliance audit recommending registration from a Registrar acceptable to RFCL. The quality management system developed by the Contractor shall provide for the planned and systematic control of all quality related activities for execution of the Works. Implementation of the quality management system shall be in accordance with the standard specification for quality management system provided with the Bidding Documents.

9.19.2 As a part of the quality management system to be developed and implemented by the Contractor, the Contractor shall prepare and submit the Project Quality Plan/ Quality

Assurance Plan for the Engineer-in-Charge's review, comments (if any) and approval within 21 (twenty one) days after the Effective Date. The Engineer-in-Charge shall review the Project Quality Plan/Quality Assurance Plan and provide any comments to the Contractor within 21 (twenty one) Working Days after its receipt of such draft. Within 14 (fourteen) days after its receipt of the Engineer-in-Charge's comments, the Contractor shall implement such comments re-submit the Project Quality Plan/Quality Assurance Plan to the Engineer-in-Charge for Approval. This procedure shall be repeated until the Project Quality Plan/ Quality Assurance Plan is approved by the Engineer-in-Charge. Any compliance by the Contractor with the Engineer-in-Charge's comments shall neither constitute a Variation nor entitle the Contractor to any extension of the Time for Completion or increase in the Contract Price. No proposed change to the Project Quality Plan/ Quality Assurance Plan shall be effective unless the Engineer-in-Charge approves of such proposed change. Notwithstanding any comments provided by the Engineer-in-Charge, the Contractor shall remain fully responsible for the Project Quality Plan/ Quality Assurance Plan, including rectifying all defects therein.

9.19.3 The Contractor shall follow and comply with the Approved Project Quality Plan/ Quality Assurance Plan and shall not amend it without the prior written consent of the Engineer-in-Charge. RFCL may, at any time during performance of the Works, conduct a compliance audit with respect to the Project Quality Plan/ Quality Assurance Plan. If such audit demonstrates non-compliance with any aspect of the Quality Assurance Plan, RFCL may notify the Contractor of such non-compliance and the Contractor shall promptly undertake appropriate remedial action, at Contractor's sole risk, Cost and expense.

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9.20 Fossils

9.20.1 All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the Site shall, as between the Contractor and RFCL, be deemed to be the absolute property of RFCL. The Contractor shall take reasonable precautions to prevent the Contractor's Personnel or any other person from retaining or damaging any such article or thing and shall, immediately upon discovery thereof and before removal, acquaint RFCL with such discovery and carry out RFCL's instructions for dealing with the same.

9.20.2 If, by reason of complying with RFCL's instructions under Clause 9.20.1, the Contractor incurs any costs and/or any delay, then RFCL shall, after following the procedure set forth at Clause 24, treat the same as a Variation.

9.21 Land, Power, Water and Other Facilities

The Contractor shall be responsible to provide within the scope of Work all facilities necessary for performance of the Works including (but not limited to) water (including water for hydrostatic testing, if any), power, transportation, handling and construction equipment, vehicles, vessels and any additional land at or about the Site required for the Contractor's field office(s), camps, godowns, workshops and residential accommodation for the Contractor's staff, quarry rights, borrow areas and access roads, to or about the Site and the Contractor's offices, camps, godown, workshops,

accommodations, and Temporary Works and facilities whatsoever required for execution and Completion of the Works.

9.21.1 **Water**

9.21.1.1 Subject to availability, RFCL may endeavour to provide water to the Contractor, at the cost specified in the Bidding Documents, for construction purposes at one point at the Site which is convenient to RFCL. In such case, the Contractor shall, at its own Cost, provide for water meters approved by RFCL/the Engineer-in-Charge for measurement of the quantity of water supplied to the Contractor for determination of payment due thereon to RFCL. Such meters shall be in custody of RFCL. The Contractor shall also provide at its own Cost and initiative other pipe networks etc. from source of supply to the Site and such distribution pipe network shall have prior approval of the Engineer-in-Charge so as not to interfere with the layout and progress of the other construction works.

9.21.1.2 In the event of failure or defect of meters, water charges will be calculated on the consumption determined by the Engineer-in-Charge (whose decision shall be final both as regards the existence of a defect or failure and as regards to the water consumed). The amount due to RFCL in respect of the water supplied shall, without prejudice to any other mode of recovery available to RFCL, be deductible from the Running Bills/Final Bill of the Contractor and/or any monies due or becoming due to the Contractor from time to time. The cost of water may be reviewed by RFCL on half yearly basis.

9.21.1.3 RFCL may without notice or specifying any cause suspend or discontinue water supply to the Contractor and such suspension or discontinuation shall not entitle the Contractor to any compensation or damages or constitute a basis or ground for extension of the Time for Completion.

9.21.1.4 The Contractor shall forthwith on Completion of the Work or earlier determination of the Contract or during the execution of the Works, if so required by the Engineer-in Charge, on grounds of hindrance or obstruction caused thereby or other cause whatsoever at its own Cost and initiative remove or re-route, as the case may be, any installation, pipes and/or other equipment put up or erected by the Contractor for the transportation and/or distribution of water, and fill any trenches, ditches or other excavations done by the Contractor for the purpose thereof and restore the Site to the same condition in which it was prior to the installation.

9.21.2 **Power**

9.21.2.1 Subject to availability of power supply, RFCL may, at its discretion provide for supply of power to the Contractor for execution of the Work from RFCL's convenient & nearest substation, from which source the Contractor shall at his own Cost and initiative make arrangements for temporary distribution of power to Contractor' Works at the Site.

9.21.2.2 All arrangements for the distribution or power from source aforesaid and the work relative thereto shall be made, performed and/or installed in conformity with Indian Electricity Act and other Applicable Laws governing the supply and transmission, distribution of electricity and shall be subject to prior approval by the Engineer-in-Charge.

9.21.2.3 The Contractor shall, at his own Costs and initiative on Completion or prior determination of the Contract or otherwise during execution of the Work, if required by the Engineer-in- Charge because of hindrance caused thereby or for any other cause, forthwith remove or re-route the distribution lines, installations and/or works or part(s) thereof, as the case may be required to be removed or re-routed.

9.21.2.4 RFCL shall recover from the Contractor for the power consumed by the Contractor from RFCL's source(s) of supply the cost thereof to RFCL as determined by RFCL in this behalf form time to time. The amount due to RFCL in respect of such power supplied shall, without prejudice to any other mode of recovery available to RFCL, be deductible from the Running Bill/Final Bill(s) of the Contractor and/or any monies due or becoming due to the Contractor from time to time. The cost of power may be reviewed by RFCL on half yearly basis.

9.21.2.5 The Contractor shall provide at his own Cost suitable electric meters approved by the Engineer-in- Charge for measurement of the power units supplied to the Contractor for determination of the payment due thereon to RFCL. Such meters shall be under the custody and control of RFCL.

9.21.2.6 In the event of failure or defect of meter(s), power charges shall be calculated on the consumption determined by the Engineer-in-Charge (whose decision shall be final both as regards the existence of a defect or failure and as regards the power consumed).

9.21.2.7 RFCL may at any time without notice and without specifying any cause, suspend or discontinue power supply as aforesaid to the Contractor, and such suspension or discontinuance shall not entitle the Contractor to any compensation or damages or constitute a basis for extension of Time for Completion.

9.21.2.8 Power supplied by RFCL to the Contractor shall be entirely at the risks of Contractor as to the continuity and regularity of supply, maintenance of voltage and adequacy of load and frequency without any warranty by or liability to RFCL in respect thereof and without entitlement to the Contractor to claim compensation from RFCL on grounds of discontinuance, fluctuation of voltage or inadequacy of load or frequency or any other cause whatsoever.

9.21.3 **Land**

9.21.3.1 Land for Contractor's Field Office, Godown and Workshop

RFCL may, at his own discretion and convenience and for the duration of the execution of the Works make available near the Site, land for construction of Contractor's temporary field office, godowns, workshops and assembly yard required for the execution of the Contract. The Contractor shall at his own Cost construct all these temporary buildings and provide suitable water supply and sanitary arrangement and get the same approved by the Engineer-in-Charge. On Completion of the Works undertaken by the Contractor, it shall remove all Temporary Works erected by it and have the Site cleaned as directed by Engineer-in-Charge.

If the Contractor shall fail to comply with these requirements, the Engineer-in-Charge may at the Cost of the Contractor remove such surplus, and rubbish materials and dispose off the same as he deems fit and get the Site cleared as aforesaid; and Contractor shall forthwith pay the amount of all expense so incurred and shall have no claim in respect of any such surplus materials disposed off as aforesaid. The Engineer-in- Charge reserves the right to ask the Contractor any time during the pendency of the Contract to vacate the land by giving 7 days notice on security reasons or on national interest or otherwise. Rent may be charged by RFCL for the land so provided to and occupied by the Contractor, which may be deducted from the Running Bills/Final Bill of the Contractor or from any other amount due or that becomes due to the Contractor.

The Contractor shall put up temporary structures as required by it for their office, fabrication shop and construction stores only in the area allocated to them on the Site by RFCL or his authorised representative. In addition, for uninterrupted fabrication work, the Contractor shall put up temporary covered structures at its Cost within area allocated to it within the Site by RFCL or its authorised representative. No tea stalls/canteens should be put up or allowed to be put up by any Contractor on the allotted land or complex area without written permission of RFCL

No unauthorised buildings, constructions or structures should be put up by the Contractor anywhere on the Site.

No person except for authorised watchman shall be allowed to stay on the Site, including on any area allotted to the Contractor pursuant to this Clause 9.21.3 after completion of the day's work without prior written permission from the Engineer-in-Charge.

9.21.3.2 Land for Residential Accommodation

No Land shall be made available for residential accommodation for staff and labour of Contractor.

9.22 Access for the Engineer-in-Charge

The Contractor shall allow the Engineer-in-Charge or its assistant or any other person authorized by the Engineer-in-Charge, access to the Site at all times, and to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where Goods and Materials or Plant are being manufactured, fabricated, constructed and/or assembled for incorporation in the

Facility, during usual working hours and beyond usual working hours, upon prior intimation. The Contractor shall ensure that the Subcontracts, if any, shall contain provisions entitling the Engineer-in-Charge or any person authorized by him to have such access.

9.23 Contract Spares

The Contractor shall procure and supply:

(a) all spare parts required during pre-commissioning and commissioning of the Facility and associated systems;

(b) all mandatory spares required for the Facility and specified in the Bidding Documents;

(c) all operation and maintenance spares, required during the Defects Liability Period

(collectively the "**Contract Spares**").

The Contract Price shall include the cost of procuring and supplying the Contract Spares, unless otherwise specified in the Contract.

9.24 Avoidance of Damage

9.24.1 While transporting any Plant, Goods and Material, Contractor's Equipment or any other equipment, the Contractor shall comply with Applicable Laws and take all steps necessary to ensure that roads, viaducts and bridges on any route leading to the Site, including access and link roads to the Site as well as any third party properties, are not damaged.

9.24.2 In case the transportation of any Plant, Goods and Material, Contractor's Equipment or other equipment by the Contractor is likely to cause damage to any road, viaduct or bridge on any route leading to the Site, including access and link roads to the Site and any third party property, it shall inform the concerned Authorities before transporting such Plant, Goods and Material, Contractor's Equipment or other equipment and obtain all necessary approvals and permits from the relevant Authorities as may be required, or give its proposal for strengthening such roads, viaducts or bridges. Any Cost incurred in this regard shall be borne by the Contractor.

9.24.3 The Contractor shall indemnify and keep RFCL indemnified against all losses, damages and claims incurred by RFCL due to any damage caused to any bridge or road or any other structure or street furniture leading to the Site, arising from the transportation of any Plant, Goods and Material, Contractor's Equipment or other equipment.

9.25 Quality Control

9.25.1 All Goods and Materials to be supplied under the Contract shall be constructed, and all Works shall be executed by the Contractor, in the manner set out in the Contract.

Where the manner of manufacture, construction and the execution is not set out in the Contract, the Works shall be executed in a proper, workman like and careful manner, with properly equipped facilities and non-hazardous materials, and in accordance with recognized and internationally accepted industrial standards and Good Industry Practice. The successful execution of the Works is the sole responsibility of the Contractor.

9.25.2 RFCL shall be entitled at all times, at the risk of the Contractor, to inspect and/or test by itself or through an independent person(s) or agency(ies) appointed by Engineer-in-Charge and/or to direct the Contractor to inspect and/or test or to get inspected and/or tested, all materials, items and components, whatsoever supplied or proposed for supply for incorporation in the works, inclusive during the course of manufacture or fabrication by the Contractor and/or at the Contractor's or his sub-vendors' works or otherwise, of such material, item or component. The inspection and/or tests shall be conducted at the expense of the Contractor and may be directed by Engineer-in-charge to be conducted by authorized representatives of Engineer-in-charge or third party inspection agency(ies) appointed by RFCL. RFCL may also require that all the inspections and tests conducted by the Contractor at his works or his sub-vendors' works be carried out in the presence of authorized representatives of Engineer-in-charge/ third party inspection agency(ies) appointed by RFCL. The Contractor shall provide Engineer-in-charge and/or their representatives/Agents every facility of assistance necessary for carrying out or witnessing, as the case may be the Test(s) / Inspection(s).

9.25.3 The Contractor shall be responsible for procurement, transport, receiving, unloading and safe keeping of all Goods and Materials and other things at the Site required for the successful execution of the Works.

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9.25.4 The Contractor shall provide all documents and other information necessary for testing of the Goods and Materials and such assistance, labour, materials, electricity, fuel, stores, apparatus and instruments as are necessary to carry out such tests efficiently.

9.25.5 The Contractor shall agree with the Engineer-in-Charge, the time and place for the testing of any Goods and Materials and other parts of the Works as specified in the Contract.

9.25.6 If the Engineer-in-Charge does not attend at the time and place agreed, or if the Contractor and the Engineer-in-Charge agree that the Engineer-in-Charge shall not attend, the Contractor may proceed with the tests, unless the Engineer-in-Charge instructs the Contractor otherwise, such tests shall be deemed to have been made in Engineer-in-Charge's presence.

9.25.7 The Contractor shall promptly forward to the Engineer-in-Charge duly certified reports of the tests. If the Engineer-in-Charge has not attended the tests, he shall accept the readings as accurate, except where there is a manifest error.

9.25.8 If, as a result of inspection, examination or testing, any Goods and Materials is found to be defective or otherwise not in accordance with the Contract, the Engineer-in-Charge may reject the same within 15 (fifteen) Working Days of such inspection,

examination or testing by giving notice to the Contractor with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item after rectification complies with the Contract.

9.25.9 If the Engineer-in-Charge requires such Goods and Materials to be retested, the tests shall be repeated under the same terms and conditions. If such rejection and retesting causes RFCL to incur additional costs, such costs shall be recoverable from the Contractor by RFCL, and may be deducted by RFCL from any monies payable to the Contractor under the Contract.

9.25.10 The Contractor shall not be released from any of its liabilities or obligations under the Contract by reason of any such inspection or testing or witnessing of testing, or by the submission of reports of inspection or testing to the Engineer-in-Charge.

9.25.11 Subject to Clause 11.5, each item of the Goods and Materials shall become the property of RFCL upon the earlier of: (i) delivery of such item to the Site; or (ii) payment for such item, either in part or full, by RFCL. The Contractor shall however continue to bear the risk and responsibility in respect of such items which continue to remain in its possession until the date of issuance of the Completion Certificate.

9.26 Covering up of Works

9.26.1 No Works or part of the Works shall be covered up or put out of view, without the prior Approval of the Engineer-in-Charge or his assistant.

9.26.2 The Contractor shall provide full opportunity to the Engineer-in-Charge to examine part of the Works which is to be covered up and to examine foundations before the Permanent Works are executed at such place. The Contractor shall also give due notice to the Engineer-in-Charge, whenever any such work or foundation is ready for examination and the Engineer-in-Charge shall without unreasonable delay, examine and/or measure such work.

9.26.3 The Contractor shall uncover any part or parts of the Works, or make openings in or through the same, as the Engineer-in-Charge may from time to time direct, and shall reinstate and make good such part or parts, to the satisfaction of the Engineer-in-Charge. If any such part or parts have been covered up, or put out of view and the Works are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating and making good the same, shall be borne by RFCL, but if the Works are found to be defective, costs shall be borne by the Contractor.

9.26.4 In case after completion of a part of the Works, such part of the Works is not fully consistent with the Specifications and in the view of the Engineer-in-Charge cannot be changed or removed, then such part of the Works in its present condition (provided it has no implication on safety and operation) shall be accepted only after suitable reduction (as reasonably determined by the Engineer-in-Charge) has been made from the Contract Price.

9.27 Samples

The Contractor shall submit at its own Cost the following samples and relevant information to the Engineer-in-Charge for pre-construction and/or pre-manufacture review:

(a) Manufacturer's standard samples of Goods and Materials;

(b) Samples (if any) specified in the Specifications.

Each sample shall be labelled as to its origin and intended use in the Works.

9.28 Records

The Contractor shall from time to time maintain at the Site (in addition to any other records or registers required to be maintained by the Contractor under any Applicable Law) such records and registers with respect to the Works as the Engineer-in-Charge or RFCL may require the Contractor to keep and/or maintain from time to time. The failure to maintain or submit any record or register required pursuant to this Clause 9.28 shall disentitle the Contractor from submitting any Running Bill pursuant to Clause 23.3 and shall constitute a breach of this Contract.

The review or acceptance of any record or register maintained by the Contractor pursuant to this Clause 9.28 shall be without prejudice to the rights and remedies of RFCL and obligations and liabilities of the Contractor under this Contract and shall not otherwise operate as an estoppel against RFCL by reason only of the fact that no notice of or objection to any information contained in any such record or register was taken.

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9.29 Free Issue Materials

9.29.1 If RFCL has undertaken in the Bidding Documents to procure and supply Free Issue Materials, the supply of Free Issue Materials to the Contractor shall be on the following terms and conditions:

(a) Deliveries shall be either from the storage of RFCL or from the factory/storage of a supplier designated by RFCL or from nearest suitable railhead or other point(s) of collection as may be determined by RFCL taking into account the source(s) of supply of the Free Issue Materials.

(b) It shall be the responsibility of the Contractor at his own risks and Costs to take delivery of the Free Issue Materials from the stores, factory, railhead or other collection point, as the case may be, and to arrange for its loading, transportation to the Site and unloading at the Site or other place of storage. The Contractor shall in taking delivery ensure compliance with any conditions for delivery applicable to deliveries from RFCL's or supplier's factory/stores or railways or other transporters concerned, and shall be exclusively responsible to pay and bear any demurrage or penalty or other charges payable by virtue of any failure or delay by the Contractor in lifting the supplies and/or any failure by

the Contractor to observe the conditions of supply as aforesaid, and shall keep RFCL indemnified from and against all consequences thereof.

(c) The Contractor shall inspect the Free Issue Materials supplied to it at the time of taking delivery thereof and satisfy itself of the quality, quantity and condition thereof prior to taking delivery and RFCL shall not be liable for any claims or complaints whatsoever in respect of quality, quantity or conditions of the Free Issue Materials once the Contractor has taken delivery thereof.

(d) The Contractor shall on receiving and opening the packing cases or other packaging of Free Issue Materials on behalf of RFCL, verify and tally the actual contents with the packing list and bring any discrepancies to the notice of the Engineer-in-Charge. The Contractor shall also sort out and segregate and hand over to RFCL's stores, the instruction manuals, operation and maintenance manuals, special maintenance tools, erection spares, commissioning spares, and maintenance spares and other extras, if received with the main equipment. The erection spares may be got issued from RFCL's stores if required, after getting authorization from the Engineer-in-Charge. The commissioning spares may be got issued from RFCL's stores, if commissioning is included in the Contractor's scope.

(e) The Free Issue Materials supplied or procured by RFCL shall be utilized by the Contractor only for incorporation in the Permanent Works and even so shall not unless specifically authorized by RFCL in this behalf) be utilized for manufacturing any item(s) which can be obtained in finished form from standard manufactures.

(f) The Contractor shall furnish to the Engineer-in-Charge sufficiently in advance a detailed statement showing his requirement of the types and quantities of Free Issue Materials agreed to be supplied by RFCL, indication of the time when relative types and quantities thereof shall be required by it for the Works so as to enable RFCL to verify the quantities of Free Issue Materials specified by the Contractor and to enable RFCL to make arrangements for the supply thereof.

(g) RFCL shall not be responsible for any delay in the supply of any Free Issue Materials supplied or procured or agreed to be supplied or procured by RFCL, and no such delay or failure shall anyway render RFCL liable for any claim for damages or compensation by the Contractor notwithstanding that an increase in the time of performance of the contract be involved by virtue of such delay and notwithstanding any labour, machinery or equipment brought upon the Site by the Contractor for the performance of the Work being rendered idle by such delay or failure, provided that if such delay shall in the opinion of the Contractor, necessitate an extension of Time For Completion, the provisions of clause 14 hereof relating to extension of time and associated provisions thereof shall apply.

(h) The Contractor shall maintain a day to day account of all Free Issue Materials supplied to it by RFCL indicating the daily receipt(s), consumption and balance(s) in hand of each Free Issue Material and category thereof. Such

account shall be maintained in such from (if any) as shall be prescribed by the Engineer-in-Charge 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's office at the Site, and shall be open for inspection and verification (by verification of documents in support of the entry as also by physical verification of the stocks) at all times by the Engineer-in-Charge without notice and for this purpose the Engineer-in-Charge shall be permitted and enabled without obstruction to enter into any godown or other place or premises where the Free Issue Materials or any part thereof shall be stored and to inspect the same and to take by himself and/or through his representative(s) an inventory thereof.

(i) All Free Issue Materials supplied by RFCL shall be taken delivery of, held, stored and utilized by the Contractor as trustee of RFCL, and delivery of Free Issue Materials to the Contractor shall constitute an entrustment thereof by RFCL to the Contractor, with the intent that any utilization, application or disposal thereof by the Contractor otherwise than for incorporation in the Permanent Works in terms hereof shall constitute a breach of trust by the Contractor.

(j) The Contractor shall hold and store any Free Issue Materials supplied by RFCL only at such place and/or premises as may be approved by the Engineer-in-Charge, provided that no such approval shall absolve the Contractor in whole or part of his full liabilities in respect of such Free Issue Material, and the Contractor shall be and remain responsible at all times at his own risk and cost to ensure that the Free Issue Materials supplied by RFCL is/are retained at all times in premises that are air and water tight and otherwise suitable for the storage of the concerned Free Issue Materials so as to prevent damage or deterioration for any cause whatsoever or theft or other loss, and shall arrange such watch and ward therefore as shall be necessary to ensure the safety thereof.

(k) The Engineer-in-Charge may at his discretion require that all premises in which any Free Issue Materials supplied by RFCL are stored, shall be double locked with the keys to one lock retained by Engineer-in-Charge or his representative and the other with the Contractor with the intent that all issues of RFCL supplied Free Issue Materials shall be with concurrence of the Engineer-in-Charge or his representative, as the case may be, provided that any such double-locking and/or concurrence as aforesaid shall be an additional precaution and shall not anywise absolve the Contractor of his full liabilities or responsibilities in respect of such Free Issue Materials.

(l) The Free Issue Materials supplied by RFCL shall be insured by RFCL against normal risks during transit, storage and erection. The Contractor shall, however, be responsible forthwith to make and pursue on behalf of RFCL any and all claims under the policy(ies) and to fulfill all formalities required to obtain payment thereunder and/or to assist RFCL in making or pursuing any such claim(s) and/or in obtaining payment thereunder.

(m) Wherever the Contractor is required to take out any material supplied by RFCL to a location outside the Plant premises, the Contractor shall be required to take out at his own Cost and initiative and keep in force at all times during the pendency of the Works, policy(ies) of insurance against the risks of fire, lightning, earthquake, riot, strike and theft and against any other damage or loss, for the full value (on reinstatement value basis) of the Free Issue Materials lying in the Contractor's custody and/or storage pending utilization/ incorporation in the Permanent Work and during incorporation in the Permanent Work. The insurance shall be kept valid till the Completion of the Works and till the Free Issue Materials is duly accounted for to the satisfaction of RFCL.

(n) Such insurance policy(ies) shall be in the joint names of RFCL and the Contractor with exclusive right of RFCL to receive all money(ies) due in respect of such policy(ies), and with right in RFCL (but without obligation to do so) to take out and/or pay the premium for any such policy(ies) and deduct the premium and any other costs and expenses in this behalf from the money(ies) for the time being due to the Contractor.

(o) Notwithstanding anything stated above, it shall be the responsibility of the Contractor to lodge with insurers and follow up claim(s), if any, under any policy(ies) of insurance aforesaid, and nothing herein provided shall absolve the Contractor from his full liabilities under the provisions of this clause and associated provisions hereof.

(p) Where the Free Issue Materials are being stored within the battery area under the security and gate-pass control of RFCL and are covered by the Overall Storage-cum-insurance Policy taken by RFCL for the Works, RFCL may, at his sole discretion, permit the Contractor to furnish an Indemnity Bond in the proforma prescribed by RFCL, for the entire value of RFCL supplied Free Issue Materials and for the entire duration during which the Free Issue Materials shall be lying in the storage and custody of the Contractor.

(q) No such Insurance(s), as aforesaid, shall absolve the Contractor from his full liabilities hereunder, with the intent that the same shall be held merely by way of additional security and not by way of substitution of liability. The Contractor shall at all times be exclusively responsible for any and all loss(es), damage(s), deterioration, misuse, theft or other application or disposal of the Free Issue Materials, supplied by RFCL or any of them contrary to the provisions hereof and shall keep RFCL indemnified from and against the same and shall forthwith at his own Cost and expense replace any such Free Issue Materials lost, damaged, deteriorated, misused, stolen, applied and/or disposed as aforesaid, with other equipment or material of equivalent quality and quantity to the extent that the same is not covered by any insurance as above, and if covered, payment under the relative policy(ies) is for any reason not available to RFCL.

(r) The Contractor shall use the Free Issue Materials supplied by RFCL for incorporation in the Permanent Works, carefully and judiciously with no

wastage or the minimum possible wastage, wherever some wastage is inevitable or unavoidable, in any case within the wastage limit, if any, specified by RFCL in respect of any such Free Issue Materials. For any excess wastage or scrap, due to misuse or injudicious, careless or wrong use of the Free Issue Materials, or in case of loss, damage or deterioration of the Free Issue Materials during storage with the Contractor, as to all of which the decision of the Engineer-in- charge shall be final and binding on the Contractor, the Contractor shall be bound to replace the Free Issue Materials with materials of equivalent quantity and grade, acceptable to RFCL within the time limit specified by RFCL, and where this is not possible, practicable or advisable, in the opinion of RFCL, which shall be final and binding on the Contractor, RFCL shall be compensated by the Contractor for the loss caused, for the replacement costs, which shall be worked out by RFCL based on the assessed landed cost plus the costs of procurement at 15% (fifteen percent) of the assessed landed costs for RFCL. This amount shall forthwith be remitted by the Contractor within a week of demand made by RFCL, failing which RFCL shall be entitled to recover/adjust the amount demanded from any money(ies) due from RFCL to the Contractor and / or from any security or any other deposits of the Contractor lying with RFCL, under this and/or any other contract, without any further notice to the Contractor. The decisions of RFCL in respect of the actions contemplated in this clause shall be final and binding on the Contractor.

(s) Notwithstanding anything herein provided and notwithstanding the transfer of all risks in respect of such Free Issue Materials to the Contractor, the ownership in respect of all the Free Issue Materials shall at all times be and remain with RFCL.

(t) The excess equipment and material and the scrap material generated from the Work, in so far as the Free Issue Materials are concerned, shall be returned to RFCL's Stores. On Completion of the Work, the Contractor shall duly render accounts for the materials and equipment issued by RFCL, to the satisfaction of RFCL. Any shortages, losses and/or damages shall be to the Contractor's account and all the conditions stipulated under sub-clause (r) above shall apply in this case also.

9.30 RFCL may do part of the Works

Upon failure of the Contractor to comply with any instructions given in accordance with the Contract, RFCL shall have the right to deploy additional labour force, tools, equipment and materials for such part of the Works as RFCL may designate and/or engage another contractor to carry out the Works. In such cases, RFCL shall deduct from the amount which might otherwise become due to the Contractor the cost of deploying additional labour or materials of the cost of engaging another contractor to complete the Works along with an additional 10% (ten percent) of such cost to cover all other expenses and departmental charges incurred by RFCL in this regard. Should the total amount thus calculated exceed the amount due to the Contractor, the difference shall be recovered from the Contractor as a debt due.

10 DESIGN, PLANS AND MANUALS

10.1 Design Data

10.1.1. RFCL shall prepare or cause to be prepared the Design Data required by the Contractor for preparing the Drawings and Designs and for the execution of the Works. The Design Data shall be supplied to the Contractor prior to commencement of the Works.

10.1.2. The Design Data and all other information forming a part of the Bidding Documents have been provided by RFCL in good faith with a view to assist the Contractor in preparing the Drawings and Designs and executing the Works. RFCL assumes no responsibility for the accuracy or adequacy of the Design Data and the Contractor is expected to undertake a complete and independent survey of all factors relevant to the performance of the Works and to verify the Design Data. The Contractor shall proceed with the use of the Design Data only after satisfying itself of its sufficiency and appropriateness for use.

10.1.3. The Design Data shall be in the custody and care of RFCL. Unless otherwise stated in the Contract, 2 (two) copies of the Design Data shall be supplied to the Contractor, who may make or request further copies at the Cost of the Contractor.

10.2 Contractor's General Obligations

10.2.1 The Contractor shall design and provide all necessary specifications for the Works, strictly in accordance with the Specifications and the Design Data. Any design detail, plan, drawing, specifications, notes, annotations, and information required shall be provided in sufficient detail, size and scale and within such time as may be required to ensure effective execution of the Works and/or as otherwise required by the Specifications.

10.2.2 All Drawings and Designs, assumptions, calculations, schedules, patterns, models and other relevant information provided by the Contractor or as may be required under the Specifications or as may be required by the Contractor for the execution of the Works, or as the Engineer-in-Charge may require for a full appreciation of any design, methods of construction and installations proposed by the Contractor, shall be submitted to the Engineer-in-Charge for acceptance in accordance with Clause 9.13 prior to implementation. Any acceptance by the Engineer-in-Charge shall not however relieve the Contractor of any of his responsibilities for the accuracy, suitability, adequacy, performance and practicality of any such Design and Drawings, assumptions, calculations, schedules, patterns, etc. and any subsequent amendment thereof. The cost of all necessary remedial works in relation to any Works required as a result of any inaccuracy, inadequacy or impracticality in the Contractor's proposals and any subsequent amendments at any time during and after the execution of the Works, shall be the entire responsibility of and shall be borne by the Contractor.

10.2.3 The Engineer-in-Charge shall have full power and authority to require the Contractor to amend or modify any Drawings and Designs (including related calculations, design documents or other affected particulars) if he finds any shortcomings thereto and the Contractor shall without delay, correct such shortcomings at its own Cost and submit all

revised Drawings and Designs, calculations, design documents or other affected particulars to the Engineer-in-Charge for his Approval in accordance with the provisions of Clause 9.13. Such instructions shall not however in any way relieve the Contractor of any of its responsibilities for the accuracy, suitability, adequacy, performance and practicality of the amended or modified Drawings and Designs.

10.2.4 RFCL shall have no liability whatsoever for the cost of orders placed or of manufacturing, construction or installation commenced by the Contractor, other than orders placed or of manufacturing, construction or installation commenced following the acceptance of the Engineer-in-Charge as provided under Clause 10.2.2.

10.2.5 The Contractor confirms that the Contractor possesses the experience and capability necessary for the design in relation to the Works. The Contractor undertakes that the Contractor (and its employees) shall be available to attend discussions with the Engineer-in-Charge to enable the Engineer-in-Charge to seek Approval of RFCL at all reasonable times during the Contract Validity Period.

10.3 Contractor's warranty of Design

10.3.1 The Contractor shall be fully responsible, for the suitability, adequacy, integrity, durability and practicality of the Drawings and Designs.

10.3.2 The Contractor warrants that the Drawings and Designs meet the Specifications and are fit for the purpose thereof. Where there is any inadequacy, insufficiency, impracticality or unsuitability in or of the Specifications of the Design Data or any part thereof, the Drawings and Designs shall take into account, address or rectify such inadequacy, insufficiency, impracticality or unsuitability at Contractor's own Cost.

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10.3.3 The Contractor warrants that the Works have been and/or shall continue to be executed in accordance with the standards specified in the Specifications and utilising proven up to date technology, systems, procedures, high quality goods, materials and equipments and high standards of workmanship and fabrication, in accordance with Good Industry Practice.

10.3.4 The Contractor warrants that the execution of the Works have taken or shall have taken full account of the effects of the transportation of material and equipment, and other logistics movement, Site constraints, traffic constraints, climatic conditions, intended construction and manufacturing methods, Temporary Works and Contractor's Equipment.

10.3.5 The Contractor shall indemnify RFCL against any damage, expense, liability, loss or claim, which RFCL might incur, sustain or be subject to, arising from any breach of the Contractor's design responsibility and/or warranty set out in this Clause 10.3.

10.3.6 No claim for additional payment or extension of the Time for Completion shall be entertained and/or the Contractor shall not be relieved from any obligation/liability under the Contract, for any delay, suspension, impediment to or adverse effect upon the progress of the Works due to any mistake, inaccuracy, discrepancy or omission in the Design Data provided by RFCL, the Drawings and Designs or any failure by the Contractor to prepare any Drawings and Designs or submit the same to the Engineer-

in-Charge in due time and the Contractor shall promptly make good any such Defect at its own Cost.

10.3.7 For each part of the Work, and except to the extent that the Parties otherwise agree:

(a) execution of such part of the Work shall not commence prior to the expiry of the Review Periods for all the Drawings and Design which are relevant to its design and execution;

(b) execution of such part of the Work shall be in accordance with the relevant Drawings and Designs, as Approved by the Engineer-in-Charge. Where any Work or part of the Work executed by the Contractor is not in conformity with the Approved Drawings and Designs, the Engineer-in-Charge shall be entitled to require the Contractor to repair, rectify, dismantle and/or reconstruct such Work or part of the Work, as the case may be and all costs and expenses for such rectification, repair, dismantling and/or reconstruction of such Work or part of the Work shall be borne by the Contractor;

(c) if the Contractor wishes to modify any Drawings and Designs which has previously been submitted for review, the Contractor shall immediately give notice to the Engineer-in-Charge. Thereafter, the Contractor shall submit the revised documents to the Engineer-in-Charge in accordance with the above procedure.

10.4 Technical Standards and Regulations

The Contractor's Documents (including Drawing and Designs) shall, in addition to complying with the Specifications, comply with the technical standards, building construction, safety and environmental regulations and other standards specified under or defined by Applicable Laws.

10.5 As-Built Drawing and Documents

10.5.1 The Contractor shall prepare, and keep up to date, a complete set of “as-built records” of the execution of the Works, showing the exact “as-built” locations, sizes and details of the Works as executed, with cross references to relevant specifications and data sheets. These records shall be kept on the Site and shall be used exclusively for the purposes of this Contract. One original copy, 6 (six) hard copies of such “as built” records, together with a soft copy of such “as built” records shall be submitted to the Engineer-in-Charge prior to the commencement of the Tests on Completion.

10.5.2 In addition, the Contractor shall prepare and submit to the Engineer-in-Charge “as-built drawings” of the Works, showing all Works as executed by the Contractor. The drawings shall be prepared as the Works proceed, and shall be submitted to the Engineer-in-Charge for his review and inspection. The Contractor shall obtain the consent of the Engineer-in-Charge as to their size, the referencing system, and other pertinent details.

10.5.3 Prior to the issue of the Completion Certificate, the Contractor shall submit to the Engineer-in-Charge one soft copy, one full-size original copy and six (6) printed copies

of the relevant "as-built drawings", and any further Contractor's Documents specified in the Specifications. The Works shall not be considered to be completed and the Completion Certificate shall not be issued under Clause 0 until the documents referred above have been submitted to the Engineer-in-Charge in accordance with this Clause 10.5.3.

10.6 Alteration in Specifications, Plans, Drawings and Designs, Extra- Works

10.6.1 The Engineer-in-Charge shall have the power, by written notice to the Contractor, at any time prior to or during the execution of the Works, to alter, amend or modify any Specification. To the extent that such alteration, amendment or modification requires any corresponding amendment to the Drawings and Designs or any other Contractor's Document, the Contractor shall make such amendments to the Drawings and Designs or, as the case may be, the relevant Contractor's Document.

10.6.2 Contractor shall be bound to carry out such altered/extra/new items of work in accordance with any instruction which may be given to it by the Engineer-In-Charge.

10.6.3 Subject to Clause 24.10.2, if any alteration, amendment or modification of the Specifications pursuant to Clause 10.6.1 shall, in the opinion of the Contractor and/or RFCL, result in an increase, reduction or change in the Works that are covered in the Price Schedule, which would render the Contract Price unreasonable, RFCL and the Contractor shall negotiate a suitable increase or, as the case may be, reduction in the Contract Price. If RFCL and the Contractor fail to agree on a revised Contract Price, the Engineer-in-Charge shall, as an interim measure, decide on an appropriate adjustment to the Contract Price and pending a final decision on the quantum of increase or, as the case may be, reduction in the Contract Price under Clause 35, the Contractor shall be bound to execute the Works on the basis of the revised Contract Price determined by the Engineer-in-Charge.

For the avoidance of doubt, it hereby clarified that if the rate(s) of any additional, altered or substituted item of Work are specified in the Price Schedule, the Contractor shall be bound to carry on the additional, altered or substituted items of Work at the same rate(s) as are specified in the Price Schedule.

10.6.4 If any alteration, amendment or modification of the Specifications pursuant to Clause 10.6.1 shall, in the opinion of the Contractor and/or RFCL, necessitate any additional, altered or substituted items of Work that are not covered in the Price Schedule, the remuneration for such additional, altered or substituted items of Work that are not covered in the Price Schedule shall be determined by the Engineer-in-Charge in the following manner:

(a) If it is possible to derive the rate(s) for such additional altered or substituted items of Work from any of the items of Work covered in the Price Schedule, the rate(s) for such additional altered or substituted items of Work shall be the rate(s) arrived at on the basis of such derivation. The opinion of the Engineer-in-Charge as to whether the rate(s) for the additional altered or substituted items of Work can be derived from the rate(s) of items already covered in the Price Schedule shall be final and binding on the Contractor.

(b) If, in the opinion of the Engineer-in-Charge, it is not possible to derive the rate(s) for the additional altered or substituted items of Work from any of the items of the Work covered in the Price Schedule, then the rate(s) for such items of Work shall be determined by taking:

(i) the issue rate(s) of materials supplied by RFCL, if applicable;

(ii) materials supplied by the Contractor and incorporated in the Permanent Works at the rate(s), if any, specified in the Price Schedule;

(iii) labour cost at rate(s) for labour, if any, specified in the Price Schedule;

(iv) if the additional altered or substituted items of Work involve the use of any material or labour not covered in the Price Schedule, for the purpose of determining the rates under sub-paragraph (ii) and/or (iii) above, the prevailing market rate(s) shall be taken into account for determining the rate(s) of such materials and/or labour and an additional 15% (fifteen percent) shall be added to the market rate(s) to cover the Contractor's, supervisions, overheads and profits.

(v) the opinion of the Engineer-in-Charge as to the quantity or quality of materials and/or labour involved in executing the additional altered or substituted items of Work or as to whether the additional altered or substituted items of Work involve the use of materials and/or labour that are not covered in the Price Schedule and if not, as to the market rate(s) that shall be applicable shall be final and binding on the Contractor.

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10.7 Operations and Maintenance Manuals

10.7.1 The Contractor shall prepare and submit to the Engineer-in-Charge, the Operation and Maintenance Manuals in accordance with the Specifications and in sufficient detail for RFCL to operate, maintain, dismantle, reassemble, adjust and repair the Facility. The Contractor shall not be entitled to receive the Completion Certificate unless the Operation and Maintenance Manuals have been submitted to the Engineer-in-Charge and received his consent.

10.7.2 The Operation and Maintenance Manuals submitted by the Contractor shall, if required, be updated by the Contractor during the Defect Liability Period and re-submitted for review by the Engineer-in-Charge in accordance with Clause 9.13.

11 TRANSFER OF TITLE AND RISK

11.1. Subject to Clause 11.5 below, the title of domestic supply of Goods and Material and Plant shall pass to RFCL in the manner set out below:

11.1.1 In the event the Contractor is the manufacturer of the domestic Goods and Material and Plant (including the mandatory spares etc), the title and risk to such domestic Goods and Material and Plant shall be transferred to RFCL upon handover of the Site

by the Contractor to RFCL upon Completion of Works or in the manner agreed between the Contractor and RFCL.

11.1.2 In the event the Contractor is not the manufacturer of the domestic Goods and Material and Plant (including the mandatory spares etc), and instead procures the same from a Subcontractor/ vendor / original manufacturer, then the title shall be transferred in the following manner:

(a) If pursuant to the above arrangement between RFCL and the Contractor and between the Contractor and its Subcontractor/ vendor, the goods move from outside the state where the Site is located to the Site, the title shall be transferred by the Contractor to RFCL during the transport of such goods from the Subcontractor/ vendor/ original manufacturer's premises, as the case may be, to the Site, by endorsement of documents of title by the Contractor in favour of RFCL.

(b) If pursuant to the above arrangement between RFCL and the Contractor and between the Contractor and its sub-contractor/ vendor, the goods move within the state where the Site is located, then the title shall be transferred to RFCL upon the dispatch of the goods by the Contractor or its Subcontractor/ vendor / original manufacturer, as the case may be, from its premises.

Notwithstanding the transfer of title of the domestic Goods and Material and Plant (including the mandatory spares etc), the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor until the issuance of Completion Certificate by RFCL. However, the risk for any defect or shortcoming in such Goods and Materials and Plant shall continue to remain with the Contractor until issuance of the Final Completion Certificate.

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11.2. Subject to Clause 11.5 and 11.6 below, the title of Goods and Material and Plant imported by the Contractor or its Subcontractor for supply to RFCL for the execution of Works shall be transferred by the Contractor in favour of RFCL by effecting appropriate sales through endorsement of the Bill of Lading or such other documents of title in relation to such imported Goods and Material and Plant before the same cross the customs frontiers of India on high sea sale basis or FOB (free on board basis) at the port of loading of the Goods and Material and Plant or CIF (Cost Insurance and Freight) basis or Arms Length Transaction basis, as may be agreed between the Parties.

The Contractor and its Subcontractor/ vendor shall accordingly execute such documents as may be necessary for effecting the transfer of title in favour of RFCL in a manner indicated herein above, such that the Contractor has proper title over the imported Goods and Material and Plant before it transfers the title over such imported Goods and Material and Plant in favour of RFCL.

Notwithstanding the passing of title as mentioned hereinabove such passing of title to RFCL shall not in any way absolve, diminish, or dilute the responsibilities and obligations of the Contractor under the Contract.

Notwithstanding the transfer of title as above, the Contractor shall continue to be

responsible for the risk to, quality and performance of such imported Goods and Material and Plant and for their compliance with the performance guarantees and the technical specifications until the issuance of the Completion Certificate by RFCL. However, the risk for any defect or shortcoming in such Goods and Materials and Plant shall continue to remain with the Contractor till issuance of the Final Completion Certificate.

The Contractor warrants that all imported Goods and Material and Plant supplied by the Contractor shall be free of any encumbrance or lien.

11.3. The title of the Contractor's equipments used by the Contractor or its Subcontractor in connection with the Contract shall remain with the Contractor or its Subcontractor, as the case may be.

11.4. Notwithstanding anything to the contrary contained in the foregoing provisions of this Clause 11, the title of all Consumables, shall only be deemed to be transferred by the Contractor to RFCL, upon Final Completion, subject to the provisions of Clause 9.12.2.

For the purposes of the foregoing, "**Consumables**" shall mean and include all raw material and consumables, comprised in the Goods and Materials and Plant, including, without limitation, such as sand, bricks, stones, tiles, cement, reinforcement steel, structural steel, and civil construction materials, subject to CENVAT credit for such items, not being available under Applicable Laws in India.

11.5. Further, the Contractor shall ensure that all Goods and Material and Plant procured by the Contractor from the Subcontractors/ vendor / original manufacturer, or otherwise supplied by the Contractor are consigned by the Subcontractor/ vendor / original manufacturer or the Contractor (as applicable) directly to the Site, unless otherwise agreed between the Parties.

11.6 Notwithstanding anything to the contrary contained in Clause 11.1 and 11.2 above, but subject to Clause 11.4:

(i) title in respect of any Goods and Materials and/ or Plant, which are consigned, in breach of the foregoing provisions of this Clause 11.5, to any location other than the Site, shall only be deemed to be transferred to RFCL, in accordance with the provisions of Clause 11.1 or 11.2 above, when the said Goods and Material and/ or Plant are duly consigned to the Site; and

(ii) notwithstanding transfer of title in accordance with Clause 11.1 above, Contractor shall retain care, custody, and control of all such Goods and Materials and/or Plant and exercise due care thereof until Completion. Further, such transfer of title shall in no way affect RFCL's rights under any other provision of this Contract.

(iii) Contractor shall, in order to protect RFCL's interest in all Goods and Materials and/or Plant to which title has passed to RFCL but which remains in the possession of the Contractor or any another party, take or cause to be taken all steps necessary under the Applicable Laws to protect RFCL's title and to

protect RFCL against claims by other parties with respect thereto. Contractor shall fully indemnify RFCL in this regard. Further, to the extent reasonably required, Contractor shall cause such Goods and Materials and/or Plant to be suitably marked with an identifying mark or symbol indicating that such Goods and Materials and/or Plant are the property of RFCL.

12 CONTRACTOR'S PERSONNEL

12.1. The Contractor shall make arrangements for the engagement of staff and labour for the execution of the Works at its own Cost. The Contractor shall, if required by the Engineer-in-Charge, deliver to the Engineer-in-Charge or his assistant, a report in detail, in such form and at such intervals as the Engineer-in-Charge may prescribe, showing the number of personnel employed in different categories by the Contractor on the Site.

12.2. The Contractor shall designate and propose suitable, adequately skilled and qualified persons as key personnel ("**Key Personnel**"), whose identities and resumes will be submitted by the Contractor to RFCL within 30 (thirty) days of the Effective Date, to supervise the execution of the Works and to liaise with RFCL, his authorized Engineer or any competent Authority, as appropriate.

Should the Contractor intend to make any change in Key Personnel appointed pursuant to this Clause 12.2, it shall immediately notify the Engineer-in-Charge of such intended change and seek Approval for replacement of such Key Personnel.

12.3. The Contractor shall ensure that the Contractor's Personnel shall be sufficient and competent in number, suitably qualified and experienced for the purpose of execution of the Works at the Site and that it shall provide such numbers of Contractor's Personnel at the Site until Completion has been achieved and that the selection of the Contractor's Personnel shall maximise productivity and prevent slow-downs, work stoppages or other disruptive concerted actions of the Contractor's Personnel.

12.4. Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the Works. Superintendence shall be given by a sufficient number of persons with adequate knowledge of the language for communications and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

12.5. If and whenever any of the Contractor's or Sub-Contractors agents, sub-agents, assigns, consultants or employees shall in the opinion of the Engineer-in-Charge (whose opinion in this behalf shall be final) or his authorized person be guilty of misconduct or be incompetent or not qualified for, or negligent in, the performance of his/their duties, or if in the opinion of the Engineer-in-Charge (which shall be final) it is undesirable for any reason (which need not be disclosed to the Contractor) for such person(s) to be employed in the Works, the Contractor, if so directed by the Engineer-in-Charge or his authorized person shall forthwith remove or cause to be removed

such person(s) from employment thereon, and any person(s) so removed shall not be re-employed in the Works except with the prior permission in writing of the Site. Should the Contractor be requested to repatriate any person removed from the Works; the Contractor shall do so forthwith at its own Cost. Any person(s) so removed from the Works shall be immediately replaced at the expense of Contractor by a qualified and competent substitute.

12.6. The Contractor shall make itself aware of all labour regulations and their impact on the cost and build up the same in the Contract Price. Subject to Clause 25, during the Contract Validity Period no extra amount in this regard shall be payable to the Contractor, for any reason whatsoever.

12.7. In the event of default being made in the payment of any money in respect of wages of any person employed by the Contractor or any of its Subcontractor of any tier in and for carrying out of the Contract and if a claim thereof is filed in the office of the labour Authorities and proof thereof is furnished to the satisfaction of the labour Authorities, RFCL may, failing payment of the said money by the Contractor or the Subcontractor, as the case may be, make payment of such claim on behalf of the Contractor, to the said labour Authorities and any sums so paid shall be recoverable by RFCL from the Contractor. If the Contractor fails to pay any amount required to be paid to RFCL as aforesaid, within 7 (seven) days of its demand, RFCL shall be entitled to recover the amount from any moneys due or accruing to the Contractor under the Contract.

12.8. The establishment of the Contractor and its sub-contractors shall be duly registered under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and the Employees' State Insurance Act, 1948 and the Contractor shall duly and timely pay and ensure payment by its subcontractors of contributions and its/their employees to the Authorities prescribed under the said Acts and any schemes framed thereunder in respect of all labour employed by it for the execution of the contract. Copies of challans/receipt of such payments along with the list showing persons employed together with emoluments paid for the purpose of provident fund deductions shall be submitted to RFCL before the end of every calendar months. In case the relevant provident fund Authority's receipt/challans referred to above are not furnished, RFCL shall deduct 5% (five percent) of the payable amount from the Running Bill and retain the deducted amount as a security for the contribution to provident fund. Such retained amounts shall be released to the Contractor only on production of challan/receipts of the relevant provident fund Authority for the period covered by the related deduction.

12.9. The Contractor and Subcontractor(s) shall obtain from the Authority(ies) designated in this regard under any Applicable Law, including but not limited to the Factories Act, 1948 and Contract Labour (Regulation & Abolition Act, 1970 (in so far as applicable) any and all such licence(s), consent(s), registration(s) and/or other authorization(s) as shall from time to time be or become necessary for or relative to the execution of the Works or any part or portion thereof or the storage or supply of any material(s) or otherwise in connection with the performance of the Contract and shall at all times observe and ensure due observance by the Subcontractors, servants and agents of all terms and conditions of the said license(s), consent(s), regulation(s) and other authorization(s) and laws, rules and regulations applicable thereto.

12.10. Without prejudice to the responsibility of the Contractor to comply with the Applicable Laws under the Contract, the Contractor shall, in relation to the execution of the Works, comply and shall ensure that the Subcontractors comply with all labour laws, including but not limited to the Factories Act, 1948, the Workmen's Compensation Act, 1923, the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Industrial Disputes Act, 1947, the Employees' State Insurance Act 1948, the Weekly Holidays Act, 1942, the Employees State Insurance Act, 1948, the Employees Provident Funds Scheme, 1952, the Employees Provident Funds and Miscellaneous Provisions Act, 1952, the Maternity Benefit Act, 1962, the Contract Labour (Regulation and Abolition) Act, 1970, the Equal Remuneration Act, 1976, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 , the Children (Pledging of Labour) Act, 1933, the Child Labour Prohibition and Regulation Act, 1951, the provisions of the Income Tax Act, 1961, Environment Protection Act, 1986, Maritime Act, 2008, Wild life (Protection) Act, 1972 and any other Applicable Law relating to the employment of workmen, employees or labour or any subsequent modification or re-enactment thereof.

12.11. Without prejudice to the generality of the scope of Clause 12.8 above, the Contractor shall comply with the provisions of the Apprentices Act, 1961 and the Rules and Orders issued there under from time to time. Any failure to comply with the Apprentices Act, 1961 shall amount to a breach of the Contract and RFCL may, at his discretion, terminate the Contract. The Contractor shall also be liable for any pecuniary liability arising on account of any violation of the Apprentices Act, 1961 by him.

12.12. (a) In order to govern welfare and working conditions of labourers engaged in construction activities, the Building and other Construction Workers' (Regulation of Employment and Conditions of Service Act, 1996, hereinafter referred to as the "**RE &CS**") came into force. The RE&CS Act is applicable in respect of building and other construction work. Wherever applicable, the Contractor shall strictly comply with the provisions pertaining to RE&CS Act. The Contractor must be registered with the concerned authorities under the RE&CS Act, or in case of non-registration the Contractor should obtain registration within one month of the award of the Contract.

(b) The Contractor shall comply with the Building and Other Construction Workers' Welfare Cess Act, 1996, the Building and other Construction Workers' Rules, 1998 and the Building and Other Construction Workers Welfare Cess Rules, 1998.

Cess as per the prevailing rate, shall be deducted at source from bills of the Contractor by the Engineer-in-Charge of the contract and remitted to the "Secretary, Building and Other Construction Workers Welfare Board" of the concerned State. The Contractor shall be responsible to submit final assessment return of the cess amount to the assessing officer after adjusting the cess deducted at source.

12.13. The Contractor shall and shall cause its Subcontractors to comply with the following:

(a) the provision and maintenance of such temporary accommodation, canteen facilities and other amenities as may be reasonably necessary for all of the Contractor's Personnel employed at the Site, including fencing, first aid, water supply (both for drinking and other purposes), electricity supply, sanitation, fire prevention and fire-fighting equipment, a creche where 10 or more women workers may keep their children below the age of 6 years, any other facility/utility as may be required under the Contract as well as under the applicable statutory provisions and other general requirements in connection with such accommodation or amenities, provided that the Contractor's Personnel shall not maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works;

(b) due regard shall be given to all recognised festivals, days of rest and religious or other customs prevalent in the location where the Site is situated, in all dealings with the Contractor's Personnel;

(c) no work shall be carried out on the Site outside the normal working hours, unless, permitted by RFCL or if the work is unavoidable or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately intimate RFCL/Engineer-in-Charge;

(d) all reasonable precautions shall at all times be taken to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel and to preserve peace at the Site and to ensure the protection of all persons (including the Contractor's Personnel) and property at or in the neighbourhood of the Site, against any such disruption. If RFCL is required to maintain special police force/security personnel in consequence of unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, all costs and damages incurred by RFCL in this regard shall be borne by the Contractor; and

(e) the Contractor shall not employ, for the purposes of Works, any Person below the age as is statutorily forbidden.

12.14. The Contractor shall keep RFCL indemnified from and against all personal and third party claims whatsoever (inclusive of all costs incurred between attorney and client) arising out of any act, omission or inter-omission on part of any Sub-Contractor or agent, sub-agent, consultant or employee of the Contractor or any Sub-Contractor, whether committed, omitted or arising within or without the scope of the Contract, Sub-Contract, agency or employment, as the case may be.

12.15. If, the Contractor directly or through petty contractors or Subcontractors supplies any labour to be used wholly or partly under the direct orders and control of the Engineer-in-Charge or RFCL, whether in connection with any work being executed by the Contractor or otherwise for the purposes of RFCL, such labour shall, for the purpose of this Clause, be deemed to be persons employed by the Contractor.

12.16. The Parties hereto agree that the employment of the personnel and/or workmen by the Contractor, Subcontractor in relation to the execution of the Works shall not constitute any RFCL-employee relationship between RFCL and such personnel and/or workmen

as employed by the Contractor and the Subcontractor in relation to the execution of the Works.

12.17. (a) The Contractor shall ensure that local labour, skilled and/or unskilled, to the extent available shall be employed in this work. In case of non - availability of suitable labour in any category out of the above persons, labour from outside may be employed.

(b) The Contractor shall not recruit personnel of any category from among those who are already employed by the other agencies working at Site.

12.18. All foreign nationals coming to India for execution of the Contract will have to apply for employment visa only and that grant of employment visa would be subject to strict adherence of following norms:

(a) Employment visa is granted only for the skilled and qualified professionals or to a person who is being engaged or appointed by a company, organization, industry or undertaking etc. in India on contract or employment basis at a senior level or at a skilled position such as technical expert, senior executive or in managerial position etc.

(b) Request for employment visa for jobs for which large number of qualified Indians are available, is not considered.

(c) Under no circumstances an employment visa is granted for routine, ordinary secretarial/ clerical jobs.

The Contractor must check the latest visa rules from Indian Embassy/ High Commission in their country in case foreign nationals are required to be deputed to India during execution of the Contract.

13 TIME FOR COMPLETION AND PRICE REDUCTION DUE TO DELAY IN COMPLETION

13.1 Time for Completion

Time is the essence of the Contract. The Parties agree and acknowledge that it is of paramount importance that the Works are executed strictly in accordance with the Works Completion Schedule, as may be revised from time to time and completed in accordance with the Specifications, within the Time for Completion.

13.2 Price Reduction due to delay in completion

13.2.1 If the Contractor fails to complete the Works within the Time for Completion, and/or if completion of any specific work(s) in respect of which a separate progress schedule has been established is not achieved by the date of completion thereof specified in the Works Completion Schedule (each of the said date(s) is hereinafter referred to as the “starting date for discount calculation) other than due to an event of Force Majeure or any reason solely attributable to RFCL, then the Contract Price shall be reduced by 1

% (one percent) per week of delay or part thereof subject to a maximum deduction of 10% (ten percent) of the Contract Price. After any adjustments made to the Contract Price pursuant to this Clause 13.2.1, if any amount is due to RFCL from the Contractor, then such amount will either be set-off against any amount due or that becomes due to the Contractor or be recovered by invoking the Contract Performance Bank Guarantee.

The decision of the Engineer-in-Charge in regard to applicability of price reduction shall be final and binding on the Contractor.

13.2.2 The reduction of Contract Price shall not relieve the Contractor from its obligations to complete the Works and the Facilities, or from any of its other duties, obligations or responsibilities under the Contract. The Contractor shall use and continue to use its best endeavor to avoid or reduce further delay to the Works, or the issue of the Completion Certificate.

13.2.3 It is specifically acknowledged that the provisions of Clause 13.2 constitute purely a provision for price adjustment and/or fixation and are not to be understood or construed as a provision for liquidated damages or penalty under Section 74 of the Indian Contract Act, 1872 or otherwise.

13.2.4 Application of price reduction under this Clause 13.2 above shall be without prejudice to any other right of RFCL, including the right of termination under Clause 32.2 and associated clauses thereunder.

14 EXTENSION OF TIME

14.1. Without prejudice to, and subject Clause 14.3 below, to the extent that any of the following events cause the Contractor to suffer a delay in the critical path progress of the Works, which in turn prevents the Contractor from completing the Works within the Time for Completion, the Contractor may apply for an extension of the Time for Completion of the Works:

(a) Occurrence of a Force Majeure event;

(b) There is delay in handing over the possession of the Site (save and except sequential handing over of Site as per provisions of Clause 8.1.2) to the Contractor not caused due to default of the Contractor;

(c) Instruction of the Engineer-in-Charge to suspend the Works and the Contractor not being in default;

(d) Any order of Court restraining the performance of the Contract in full or in any part thereof, unless such order is attributable to any default, breach or non-compliance by the Contractor;

(e) Under Clause 24.7 due to RFCL's Variation;

(f) Delay in Approval of the Contractor's Document in terms of Clause 9.13;

(g) Under Clause 9.29 due to RFCL's failure to supply the Free Issue Materials, as agreed by Engineer-in-Charge;

(h) Under Clause 25 due to Change in Law;

(i) Under Clause 17.6 due to taking of possession of the Works or any part thereof by the Engineer-in-Charge prior to Completion.

14.2. Except as specified in Clause 14.1 above, the Contractor shall not be entitled to any extension of the Time for Completion for any reason whatsoever. Provided, notwithstanding anything contained in Clause 14.1 or otherwise, the Contractor shall not be entitled to any extension of time:

(a) where the instructions or acts of Engineer-in-Charge are necessitated by or intended to cure any default of or breach of the terms of the Contract committed by the Contractor;

(b) where any delay is due to:

(i) The failure of its Subcontractor, to commence or to carry out the part of the Works in due time; or

(ii) Non-availability, or shortage of Contractor's Equipment, labour, utility services, Plant and Goods and Materials; or

(iii) Inclement weather conditions or the occurrence of an event of Force Majeure.

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14.3. The Contractor shall, as soon as reasonable practicable and in any event within 7 (seven) days, after the Contractor knew or ought reasonably to have known of its occurrence of any of the events specified in Clause 14.1, provide to RFCL, in writing, the full particulars of such event and the probable material adverse effect that such event is likely to have on the performance of its obligations under the Contract.

14.4. Any notice issued pursuant to Clause 14.3 shall include full particulars of:

(a) The nature and extent of each such event which is the subject of any claim for relief under Clause 14.3 with evidence in support thereof;

(b) The estimated duration and the effect or probable effect which such event is having or shall have on the Contractor's performance of its obligations under the Contract;

(c) The measures which the Contractor is taking or proposes to take, to alleviate the impact of such event; and

(d) Any other information relevant to the Contractor's claim.

The Engineer-in-Charge shall not consider any claim for relief from the Contractor, if the Contractor fails to comply with the provisions of Clause 14.3 and this Clause 14.4.

14.5. The Parties agree and acknowledge that:

(a) the Contractor shall constantly use its reasonable endeavours to prevent and/or minimise delay in the progress of the Works, howsoever caused, and to prevent delay in the performance of Works beyond the Works Completion Schedule and the Contractor shall not be entitled to an extension of the Works Completion Schedule in respect of any cause of delay nor for any period of delay which by the exercise of reasonable endeavours could be avoided or reduced (to the extent that such delay could have been reduced). The onus of proving that the Contractor has exercised all reasonable endeavours, and that despite such endeavours, the delay could not be avoided or reduced, shall in all cases rest with the Contractor;

(b) the Contractor shall not under any circumstances be entitled to an extension of the Works Completion Schedule where the delay or likely delay is, or would be, attributable to the default, breach, negligence, improper conduct or lack of endeavour of the Contractor or any persons for whom it is contractually or otherwise responsible for and further the Contractor shall not be entitled to an extension of the Time for Completion where delay arises as a consequence of the termination of a Sub-contractor's employment by the Contractor;

(c) if there are two or more concurrent causes of delay and only one of those concurrent causes is a delay which would entitle the Contractor to an extension of the Works Completion Schedule, the Contractor would not be entitled to an extension of the Works Completion Schedule for the period of that concurrence;

(d) it is a further condition precedent to the Contractor's entitlement to an extension of the Works Completion Schedule that the critical path progress of the Works is affected in a manner which might reasonably be expected to result in a delay to the Contractor in the performance of the Works as per the Works Completion Schedule; and

(e) no relief shall be granted to the Contractor to the extent that any failure or delay in the performance of the Works by the Contractor, would nevertheless have been experienced by the Contractor, had an event of Force Majeure or other relevant event(s) specified in Clause 14.1 entitling the Contractor to otherwise claim an extension of time, not occurred.

14.6. If the delay in the completion of the Works or a portion thereof, for which an earlier completion period is stipulated, is due to the Contractor's failure or fault, and the Engineer-in-Charge is of the view that the remaining Works can be completed by the Contractor in a reasonable and acceptable short time, then RFCL may allow the Contractor an extension of the Time for Completion at its discretion with or without a reduction in the Contract Price, as it may decide.

14.7. The extension of time shall be the sole remedy of the Contractor for any cause or

event of delay mentioned in Clause 14.1 or elsewhere in the Contract and other than as provided in the Contract, the Contractor shall not be entitled to claim any damages or compensation in addition to or in lieu of such extension of time.

14.8. Notwithstanding anything to the contrary contained in the Contract, to the extent that this Contract is entered into by RFCL pursuant to a contract awarded to RFCL for the development of the Facility (the "**Main Contract**"), the extension of time and/or Cost awarded to the Contractor under this Contract shall be proportionate to the extension of time and/or cost awarded to RFCL under the Main Contract and in no event shall such the extension of time and/or Cost awarded under this Contract exceed the extension of time and/or cost awarded to RFCL under the Main Contract.

15 MECHANICAL COMPLETION AND PRE-COMMISSIONING

15.1. For the purposes of this Contract, "**Mechanical Completion**" shall mean the completion of the following activities in relation to the Facility:

(ii) the construction of the Facility has been completed, checklist generated & punched with minor exceptions, Flushing, chemical cleaning including all other Pre-commissioning activities, MRT (Mechanical Run Test for Machine) & final box-up excluding system dry out and catalyst loading;
(iii) all Plant, equipment and machinery are installed and aligned;
(iv) all piping and instrumentation work and loop testing is complete;
(v) all electrical work is complete, electrical systems are energized and motor no load runs are complete;
(vi) all hydrostatic/pneumatic testing is completed;
(vii) safety valves and pressure relief valves are set and checked;
(viii) speed and direction of rotation of all prime movers are checked; and
(ix) any PLC system (if applicable) is complete
(x) DCS system (if applicable) is complete.

15.2. As soon as the conditions mentioned in Clause 15.1 have been satisfied in the opinion of the Contractor, the Contractor shall notify RFCL in writing that the Facility is mechanically complete.

15.3. The Contractor shall divide the Facility into systems/subsystems as per the process/pre-commissioning requirement mentioned in the Specifications.

15.4. The Contractor shall issue a certificate in the format set out at Appendix V ("**Format-I**") for each system for inspection and verification by the Engineer-in-Charge that construction has been completed in accordance with the Specifications.

15.5. Except for any deviation or modification agreed between RFCL, the Engineer-in-Charge and the Contractor, if the Engineer-in-Charge is not satisfied that the relevant system/subsystem has achieved Mechanical Completion, it may endorse Format-I accordingly, stating in what way the system/subsystem has not achieved Mechanical Completion in accordance with the Contract. The Contractor shall then expeditiously complete or rectify the list of outstanding items in accordance with the Engineer-in-

Charge's suggestions and issue a certificate in the format set out at Appendix VI ("**Format-III**"), with agreed Punch-list Items to be attended to later.

15.6. The Contractor shall prepare and submit to the Engineer-in-Charge along with each Format-III, a preliminary, but as definitive as possible a list containing all the outstanding Punch-list Items and procedures that require completion or rectification before the taking over of the Facility by RFCL (the "**Punch List**").

15.7. Upon the submission of the Punch List by the Contractor pursuant to Clause 15.6, the Engineer-in-Charge shall either approve such list or require such additions to and/or amendments of such list as it may reasonably consider necessary.

15.8. When Format-IV for all systems/sub-systems comprising the Facility is issued, the Facility will be deemed to have achieved Mechanical Completion.

15.9. The Contractor shall thereafter be responsible for ensuring that:

(a) the Punch-list Items are completed before the Facility is taken over by RFCL unless otherwise agreed between the Parties; and

(b) any pre-commissioning and commissioning procedures needed before the Facility is put into use are safely carried out.

15.10 Pre-Commissioning

15.10.1 For the purposes of this Contract, "**Pre-Commissioning**" shall mean performance of those activities, which are required to be performed after acceptance of system on liquidation of all the punch point to make the Facility ready for commissioning and includes the completion of the following activities in relation to the Facility:

(a) system checking as per Specifications;
(b) Site modifications, if necessary;
(c) internal inspection of Plant and equipment;
(d) flushing/steam blowing;
(e) air blowing of pipelines including gasket blowing;
(f) purging of systems using inert gas;
(g) leak test both for low/high pressure systems;
(h) calibration of instruments;
(i) checking of the electrical equipment for proper earthing;
(j) conducting operability test on individual equipment/system;
(k) charging of lubes and other chemicals;
(l) Integration of all control systems of the unit with the control system of the Plant
(m) Chemical Cleaning/De greasing where ever applicable
(n) any other pre-commissioning activities mentioned in the Specifications.

15.10.2 Contractor will start Pre-Commissioning activities after acceptance of Format -III for all systems/subsystems comprising the Facility by RFCL/Engineer-in-Charge. The Contractor shall also be responsible for any fabrication and supply of temporary facilities such as temporary bypasses, spools, blinds, jump-overs, vents, strainers,

screens etc. which will be required to carry out Pre-Commissioning activities.

15.10.3 The Contractor shall issue a 'ready for commissioning' certificate for the Facility to the Engineer-in-Charge for its Approval, in the format set out at Appendix VII ("**Format-IV**"). If the Engineer-in-Charge is not satisfied that the Facility is ready for commissioning, it may endorse Format-IV accordingly, stating in what way the Facility is not ready for commissioning in accordance with the Specifications. The Contractor shall then expeditiously complete or rectify the list of outstanding items in accordance with the Engineer-in-Charge's suggestions and once all such outstanding items are completed to the satisfaction of the Engineer-in-Charge, the Engineer-in-Charge shall declare the Facility to be ready for commissioning.

16 TESTS ON COMPLETION

16.1 Commissioning, Trial Operation and Performance Guarantee Test Run

For the purpose of this Contract, '**Commissioning**' shall mean the successfully putting in to service the Plant, equipment, vessels, tanks, pipelines, machines, systems, sub systems, controls, monitoring, shutdown comprising the Facility in accordance with the procedures set out in the relevant operating manuals and/or as per the requirement of the process licensor and /or detailed engineering contractor/RFCL and relevant statutory agencies after successful testing, pre commissioning and the trial runs and the documentation as per RFCL format system.

16.1.1 As soon as:

(a) all parts of the Facility has been demonstrated to have achieved Mechanical Completion pursuant to Clause 15 and the Contractor has issued Format-III relating to all systems/subsystems comprising the Facility in accordance with the provisions of Clause 15.5;

(b) the Contractor has completed all Pre-Commissioning activities and has issued Format-IV;

(c) Facility is ready for the conduct of the Trial Operation and Performance Tests in relation thereto; and

(d) all the services and facilities which are necessary for the conduct of the Trial Operation and/or Performance Tests are available,

the Contractor shall notify RFCL and the Engineer-in-Charge that it is ready to commence Trial Operation. Such notification must be sent by the Contractor to RFCL and the Engineer-in-Charge within 7 (seven) days of the issuance of Format-IV under Clause 15.10.3. Unless otherwise agreed the Trial Operation shall commence on such day as the Contractor shall notify to RFCL and the Engineer-in-Charge (which shall not be more than 10 (ten) days after RFCL's/Engineer-in-Charge's receipt of the above-mentioned notice from the Contractor) and shall be conducted in accordance with the Contractor's Documents relating to the same as Approved by the Engineer-in-Charge pursuant to Clause 9.13.

16.1.2 The Trial Operation of the Facility shall be carried out for 14 (fourteen) days in accordance with the Contractor's Documents. During the Trial Operation the Parties shall arrange for the conduct of Performance Guarantee Test Run (PGTR). The PGTR shall be conducted only after the Facility has been on stable operation, with all controls and safety systems in normal operation, for a period of not less than 72 hours. The load at which the Facility is operated during the PGTR shall be full load. Deviation to PGTR load requirement shall not be permissible.

16.1.3 Upon successful completion of the PGTR, to the satisfaction of the Engineer-in-Charge, the Engineer-in-Charge shall direct RFCL to issue a certificate to the Contractor in the format set out at Appendix VIII ("**Format-V**").

16.1.4 The Contractor shall at its own Cost arrange for all tools, equipments, gadgets, facilities or other things as may be deemed necessary by the Engineer-in-Charge for carrying out the Tests on Completion.

16.2 Performance Tests

16.2.1 The Performance Tests shall be conducted within 30 (thirty) days (or as directed by Engineer-in-Charge) of the successful completion of the Trial Operation of the Facility or before the expiry of such other period as may be agreed between RFCL and the Contractor, to ascertain whether the Facility is capable of meeting the Guaranteed Performance Levels and is ready for continuous, safe and stable commercial operation. The Contractor will give RFCL and the Engineer-in-Charge at least 7 (seven) days advance written notice of the expected date of such Performance Tests. In the event that there is a delay in carrying out the Performance Tests, the Contractor shall notify RFCL and the Engineer-in-Charge of such delay. If the Engineer-in-Charge fails to attend at any time or place duly appointed for conducting any Performance Tests, the Contractor shall be entitled to proceed in its absence and the relevant Performance Tests shall be deemed to have been made in the presence of the Engineer-in-Charge. The Contractor shall forward to RFCL and the Engineer-in-Charge duly certified copies of the results of each Performance Test.

16.2.2 After the Performance Tests have been conducted in respect of the Facility, the Contractor shall furnish the test reports to the Engineer-in-Charge for evaluation. Within 7 (seven) Working Days of receipt of the test reports, the Engineer-in-Charge shall, after evaluating the test reports, decide whether the Facility complies with the Guaranteed Performance Levels.

16.2.3 Upon such evaluation, if the Engineer-in-Charge is of the opinion that the Facility has not achieved 100% (hundred percent) of the Guaranteed Performance Levels, then:

(a) the Contractor shall at its own risk, Cost and expense be responsible for the repair or replacement of the Works for the Facility if required by RFCL/Engineer-in-Charge in accordance with the provisions of this Contract, within 3 (three) months of the conduct of such Performance Tests; and

(b) the Contractor shall be required to re-conduct the Performance Tests within

such reasonable period of time as may be required by Engineer-in-Charge.

The period for repairing or replacing the Works or for re-conducting the Performance Tests shall not amount to an extension of the Works Completion Schedule or be deemed to entitle the Contractor to an increase in the Contract Price. The re-conduct of the Performance Tests shall not prejudice any rights or remedies of RFCL in respect of defective Works under the Contract and shall not be construed as a waiver thereof.

16.2.4 If, despite the repetition of the Performance Tests in accordance with Clause 16.2.3 above, the results of the Performance Tests indicate that 100% (hundred percent) of the Guaranteed Performance Levels have not been satisfied, then the following consequences shall follow:

(a) Where the Facility and the Works achieves more than 95% (ninety five percent) of the Guaranteed Performance Levels, RFCL shall be entitled to levy the Performance Compensation in accordance with Clause 20 and RFCL may further require the Contractor to make additional repairs or remedy the Works within 3 (three) months of the completion of the repeated Performance Tests, at the Contractor's Cost; or

(b) Where the Facility achieves less than or equal to 95% (ninety five percent) of the Guaranteed Performance Levels, RFCL shall have the right (but not an obligation) to reject the Works by giving notice thereof within 15 (fifteen) Working Days of the receipt of the results of the Performance Tests.

In the event that RFCL does not exercise its right to reject the Works in accordance with paragraph (b) above, then the consequences at paragraph (a) above shall also apply to such defective Works. RFCL shall be entitled to enforce the Performance Guarantee for recovering the sums due from the Contractor under Clause 16.2.4 (a).

16.2.5 Upon the issuance of a notice by RFCL under Clause 16.2.4(b), a Contractor Event of Default shall be deemed to have occurred and this Contract shall stand terminated forthwith. The provisions of Clause 32 shall apply upon such termination.

16.2.6 The acceptance and use by RFCL of the Works, or any part thereof, for Trial Operation shall not absolve the Contractor from the fulfilment of other obligations under the Contact.

17 COMPLETION

17.1 Where the Contract is a lump-sum turnkey contract

When the Contractor has:

(a) successfully completed Trial Operation and PGTR, as demonstrated by issuance of Format-V by RFCL;

(b) successfully completed the Performance Tests;

(c) completed all Punch-list Items;

(d) submitted the Contract Performance Bank Guarantee in accordance with Clause 9.4.2;

(e) provided to RFCL such certification by the Contractor or other written evidence, as RFCL may reasonably require, to demonstrate that the Contractor has complied with all relevant Applicable Laws and has obtained all relevant clearances in connection with the Works which it is the Contractor's responsibility to comply with or to obtain; and

(f) provided to RFCL all such documentation and information such as manuals, systems descriptions, computer programs, access codes etc. that are necessary to enable RFCL to properly test and use any part of the Works in accordance with Good Industry Practice and in compliance with the laws and regulations relating to environment, safety etc. and in order to attain the Guaranteed Performance Levels by RFCL,

the Contractor shall so notify RFCL in writing.

17.2 Where the Contract is an item rate contract

When the Contractor has successfully completed the total Works as per the scope of Works defined in the Contract and the Specifications and the Facility is ready for commercial operations, the Contractor shall so notify RFCL in writing.

17.3 RFCL shall, subject to provisions of Clause 17.1, Clause 17.2 and Clause 17.4, within 30 (thirty) Working Days of receipt of a notification from the Contractor pursuant to Clause 17 or, as the case may be Clause 17.2, along with all the documents mentioned in Clause 17.4 (b) below:

(a) inspect the Works and if it is satisfied that the Works are complete in all respects in accordance with the Specifications and free of all Defects, issue a completion certificate to the Contractor ("**Completion Certificate**") and the Works shall be taken over by RFCL on the date of issue of the Completion Certificate; or

(b) if the Engineer-in-Charge is not satisfied that the Works are complete in all respects in accordance with the Specifications or discovers any Defects in the Works, notify the Contractor of the reasons why it considers that the notice given pursuant to Clause 17 or Clause 17.2 was improperly or prematurely issued and notify the Contractor of:

(i) any items of work which are in RFCL's or the Engineer-in-Charge's reasonable opinion required to render the Facility ready for being taken over; or

(ii) any Defects in the Facility which are required to be rectified and following completion such items or, as the case may be, rectification of such Defects, the Contractor shall submit a fresh notice to RFCL to which the provisions of

this Clause 0 shall apply mutatis mutandis.

17.4 Notwithstanding anything contained in Clause 17.3, RFCL shall not issue the Completion Certificate until:

(a) the Contractor has cleared the Site of all scaffolding, wiring, pipes, surplus materials, Contractor's labour, equipment and machinery, demolished, dismantled and removed all the Contractor's Site offices and quarters and other Temporary Works, structures and constructions and other items and things whatsoever brought upon or erected at the Site and not incorporated in the Permanent Works, removed all rubbish from the Site, cleared and leveled the Site to the satisfaction of the Engineer-in-Charge and put RFCL in undisputed custody and possession of the Site, free & clear of all encumbrances and encroachments; and

(b) the Contractor has submitted the following documents to RFCL:

(i) the technical documents according to which the Work was carried out;
(ii) complete set of "as-built" drawings showing therein corrections and modifications (if any) made during the course of execution of the Works, signed by the Engineer-in-Charge;
(iii) Statement of final levels as set for various works, signed by the Engineer-in-Charge;
(iv) Records of the final test as maintained jointly and signed by the representative of the Contractor and the Engineer-in-Charge or Format-III (if Commissioning is not within the Contractor's scope of Work) and Format -V (if Performance Tests are not within the Contractor's scope of Work) and Performance Test certificate issued by the Engineer-in-Charge upon successful completion of the Performance Tests (if Performance Tests are within the Contractor's scope of Work).;
(v) Item-wise list of surplus materials including the quantity & estimated value of each surplus item (out of the Free Issue Materials or materials brought on the Site by the Contractor) returned to RFCL's or otherwise disposed of, duly signed by the Engineer-in-Charge;
(vi) Materials-at-site accounting for the Free Issue Materials supplied to the Contractor under the Contract, signed by the Engineer-in-Charge;
(vii) Discharge in respect of RFCL supplied equipment and machinery, signed by the Engineer-in-Charge; and
(viii) Declaration by the Contractor that it has duly cleared any and all of the dues payable by it to its labourers, employees, piece rate workers (PRWs), and other personnel, Subcontractors, suppliers, vendors, income Tax, sales tax, octroi, entry tax, service tax, excise, customs duty, provident fund, employees state insurance (ESI) and royalties, or other amounts payable under any Applicable Law (if any).

17.5 Upon the issuance of the Completion Certificate, RFCL shall take over the possession, care, custody and control thereof from the Contractor.

17.6 Notwithstanding anything to the contrary contained in the Contract, the Engineer-in-

Charge shall have the right to take possession of or use any completed or partially completed Work or part of the Works. Such possession or use shall not be deemed to be an acceptance of any Works. If such prior possession or use by the Engineer-in-Charge delays the progress of Work, equitable adjustment in the Time for Completion shall be made in accordance with Clause 14.

18 DEFECT LIABILITY PERIOD

18.1. The Defect Liability Period shall be a period of 12 (twelve) months from the date of Completion mentioned in the Completion Certificate.

18.2. The Contractor warrants that during the duration of the Defect Liability Period, the Works shall be free of all Defects.

18.3. If, during the Defect Liability Period, any Defects are discovered in the Works or any part thereof; or the Works or any part thereof fails to meet the Guaranteed Performance Levels, RFCL will notify the Contractor of such Defects or failure. Upon receipt of such notice, the Contractor shall promptly repair or replace such Work (including any necessary uncovering, covering and recovering) in accordance with the Contract, Good Industry Practices and Applicable Laws. At RFCL's option and Contractor's expense, RFCL shall have the right to provide labour in connection with such repair or replacement to the extent that such labor can be provided by RFCL's then-current permanent employees working at during normal working hours. The Contractor shall provide for all additional labor required for such repair or replacement and shall bear all Costs and expenses associated with repairing or replacing any Work, including costs incurred by RFCL in relation to providing labor, employees and personnel for any such repairs or replacement. Upon completion of any repair or replacement work, the Contractor shall, at its own expense, and with RFCL's coordination and Approval, perform such tests as necessary to demonstrate that pursuant to cure of Defects under this Clause 18.3, the Works meet the Guaranteed Performance Levels.

18.4. If the Contractor fails to rectify any Defects in the Work during the Defect Liability Period, RFCL (at its sole discretion) may:

(a) Carry out the work itself or by others, in a reasonable manner at the risk and Cost of the Contractor; In addition to the costs, RFCL shall be entitled to claim 10% (ten percent) of such costs towards the genuine pre-estimated damages suffered by RFCL; or

(b) If the Defect or damage is such that RFCL has been deprived of substantially the whole of the benefit of the Works or part of the Works, terminate the Contract in respect of such parts of the Works as cannot be put to the intended use. Without prejudice to any other rights, under the Contract or otherwise, RFCL shall then be entitled to recover all sums paid for such parts of the Works together with the cost of dismantling the same, clearing the Site and returning Goods and Materials to the Contractor and the provisions of Clause 32 shall not apply.

18.5. If the Defect or damage is such that it cannot be remedied expeditiously on the Site

and if RFCL gives consent, the Contractor may, remove from the Site for the purpose of repair any part of the Works, which is defective or damaged. The consent may require the Contractor to increase the amount of Contract Performance Bank Guarantee by the full replacement cost of items which are to be replaced or to provide other appropriate security acceptable to RFCL.

18.6. If the repair or remedy of any Defect or damage is such that it may affect the performance of the Works, RFCL may, within 30 (thirty) Working Days after such repair or remedy, require that certain tests be repeated as may be necessary to demonstrate compliance with the Guaranteed Performance Levels.

18.7. If any part of the Works has been replaced, renewed or repaired during the Defect Liability Period, the Defect Liability Period in respect of such part shall start again for a period of 12 (twelve) months from the date on which such replacement, renewal or repair has been completed to the satisfaction of the Engineer-in-Charge (**"Extended Defect Liability Period**").

19 FINAL COMPLETION CERTIFICATE

Upon the expiry of the Defect Liability Period (or Extended Defect Liability Period, as applicable), but subject to there being no outstanding obligation of the Contractor to rectify the defects notified during such period, RFCL shall issue the Final Completion Certificate to the Contractor ("**Final Completion Certificate**"). The Contract shall not be considered to have been completed until the Final Completion Certificate has been signed by RFCL and delivered to the Contractor, stating the date on which the Contractor has completed its obligations under the Contract. Only the Final Completion Certificate shall be deemed to constitute Approval of the Works by RFCL.

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21 CONTRACT PRICE

21.1. In consideration of the full and complete discharge of the Contractor's obligations under the Contract, RFCL shall pay to the Contractor the Contract Price at the time and in the manner set forth in the Payment Schedule, subject to such deductions and adjustments as may be permissible under the Contract.

21.2 For Lump-Sum Contract

The Contract Price is a fixed lump-sum price inclusive of all Taxes and shall not be subject to any escalation, variation or alteration whatsoever throughout the Contract Validity Period, except as provided in the Contract or the Bidding Document; and includes any and all direct, indirect and ancillary costs, including profits, license, royalty and other fees, cost of all Goods and Materials, Plant and Contractor's Equipment and all other charges arising out of or in connection with the execution of the Works. The Contractor acknowledges and agrees that the lump-sum price and the rates set out in the Price Schedule and the Contract Price shall hold good till the completion of the Works and shall not be adjusted for any fluctuation in the market costs of labour or

materials.

21.3 For Item Rate Contract

21.3.1 The Contract Price shall be deemed to include and cover the following:

(a) all costs, expenses, outgoings and liabilities of every nature and description and all risks whatsoever to be taken or which may occur in relation to the acquisition, loading, unloading, transporting, storing, fabricating any Plant, equipment or system or the execution, completion, testing, commissioning and/or handing over of the Facility to RFCL;

(b) cost of all construction, Plant, Goods and Materials and all other items, materials and things required for incorporation in the Permanent Works or otherwise in execution of the Works, including cost of procuring Contractor's Equipment, supply of water and power, construction of Temporary Works/ Facilities, temporary roads, cost of labour, spares, fuel, stores and supplies to be provided or arranged in connection with the execution of the Works;

(c) cost of all Drawings and Designs, Contractor's Documents, plans, models, studies and other documents required to be prepared and furnished by the Contractor under the Contract;

(d) cost of mobilisation including, mobilisation of vehicles, machinery, equipment, tools, consumables and other items, goods and personnel necessary to commence the execution of the Works;

(e) cost of all Taxes, other than to the extent provided in Clause 22.0 below;

(f) cost of all rents, royalties, licenses, permits, permissions and other fees, duties, penalties, levies and damages payable on the performance of the Works including, the excavation, removal or transportation of any material or acquisition or use of any right of way or other rights, permits or privileges in connection with the performance of the Works;

(g) cost of all insurance(s) (including insurance premium) required to be obtained and maintained by the Contractor in terms of the Contract;

(h) cost of all inspections, tests and cost of items, instruments and/or tools required to conduct such inspections or tests;

(i) cost of all escalations including, Taxes, labour costs, cost of materials and other inputs;

(j) cost of supervision, establishment overheads and financing;

(k) cost of all Contractor's indemnities under the Contract; and

(l) cost of all deductions, discounts, adjustments and withholdings whatsoever

under or in connection with the Contract.

22 TAXES AND DUTIES

22.1. All the Taxes and levies payable in India whether under Central, State or Local laws applicable in India as well as those leviable outside India, shall form part of the Contract Price. The Contractor shall bear all the Taxes, duties, levies on the supply of Goods and Material and Plant (including customs duties payable on imported Goods and Materials and Plant) and on performance of the services, under Central, State or Local laws applicable in India as well as those leviable outside India.

22.2. In respect of Goods and Material and Plant to be supplied by the Contractor from within India the Ex-factory value of such Goods and Material and Plant and all the indirect Taxes leviable on the transaction between 'RFCL and Contractor' shall be separately indicated in the Price Schedules (as indicated in the Price Schedule) along with the rate of Tax so applied in computing such indirect Taxes.

22.3. The Contract Price comprises the base price of the Goods and Material, Plant and services and the Taxes thereon and therefore the Contractor is mandatorily required to indicate the Taxes in the format prescribed under Price Schedules.

22.4. The customs duty shall be to the account of the Contractor and the Contractor shall be responsible for the timely payment of the custom duties to the relevant Government Authorities. RFCL shall assist in provision of all necessary documents required by the Contractor to clear the Goods and Material and Plant on availing the benefit of any concessional rate of customs duty available.

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The Contractor shall be responsible for, and shall exercise due diligence in properly classifying the Goods and Material and Plant, undertaking the payment of customs duties, and/ or otherwise complying with all Applicable Laws with respect to any import of the Goods and Material and Plant. In case RFCL is exposed to any penal action (interest and/ or penalties) by the customs Authorities for incorrect declaration and/ or valuation of the Goods and Material and Plant by the Contractor, or otherwise on account of any breach of Applicable Laws in the course of the import of the Goods and Material and Plant, the Contractor shall indemnify and hold harmless, RFCL for any and all costs, expenses or losses suffered or incurred by RFCL in this regard.

22.5. RFCL shall issue in accordance with relevant legislation, the requisite sales tax declaration forms (including but not limited to Form C for materials other than raw materials/consumables as defined elsewhere in the contract) to the Contractor in order to get the benefit of any concession in the rate of VAT/ CST, as the case may be. The Contractor shall provide relevant statutory declaration forms to RFCL in accordance with relevant legislation, within the period specified under the relevant sales tax legislation.

22.6. Unless otherwise provided for in the Contract, the Contractor shall be solely liable for payment of the following amounts:

(a) all Taxes imposed and assessments made in relation to the Contractor's Equipment and the Works (including any Taxes applicable to the Works performed by the Subcontractors) which are payable in India;

(b) all contributions payable under Applicable Laws, awards or pursuant to any contract with an industrial or trade union or other association of employees; or otherwise with respect to or ascertained by reference to the wages, salaries or other compensation paid to the employees of the Contractor or any Subcontractor in respect of the Works, including Taxes or contributions for workers' compensation, unemployment or sickness benefit, old age benefit, welfare funds, pensions and disability insurance;

(c) all harbour dues, pilotage fees, port fees, wharf fees, unloading costs incurred in India in respect of any imported Contractor's Equipment;

(d) all direct Taxes, including income tax, profession tax and wealth tax for which the Contractor is the responsible party.

22.7. The Contractor and its Subcontractor/ vendor/ original manufacturer shall issue proper invoice, as stipulated under the customs, excise, VAT/CST, service tax and other Applicable Laws, and other necessary documents as may be relevant from time to time to enable RFCL or any person designated by RFCL to avail the credit of such Taxes, wherever applicable, paid by the Contractor or any Subcontractor/ vendor/ original manufacturer within the time period specified under the applicable legislation in this regard.

If RFCL is not able to avail the credit (as indicated in the Price Schedule, unless otherwise mentioned in this Contract), partially or entirely because the Contractor or any Subcontractor/ vendor/ original manufacturer issued a defective invoice or failed to produce the requisite documents, then the Contractor shall immediately indemnify RFCL for such loss of Tax credit which would be otherwise available to RFCL. RFCL, in such case, may, in its sole discretion, decide to recover such loss by way of deduction from payment due to the Contractor or invoking the Contract Performance Bank Guarantee.

22.8. The benefit of any Tax exemption, concessions, rebate or any other incentives available when the Contractor or its Subcontractors/ vendor are performing their obligations under the Contract, shall be passed on to RFCL.

22.9. Contractor agrees for withholding from wages and salaries of its agents, servants or employees all sums, required to be withheld by the laws of the Republic of India or any other agency having jurisdiction over the area where Contractor is conducting operations, and to pay the same promptly and directly when due to the proper authority. Contractor further agrees to comply with all accounting and reporting requirements of any Nation having jurisdiction over the subject matter hereof and to confirm to such laws and regulations and to pay the cost of such compliance. If requested by RFCL/PMC, Contractor will furnish RFCL/PMC the evidence of payment of applicable Taxes, in the country (ies) of the Contractor's and his sub-Contractor(s) and expatriate employees.

RFCL shall issue a Tax deduction or withholding certificate to the Contractor evidencing the Tax deducted or withheld and deposited by RFCL on payments made to the Contractor to enable the Contractor to claim the credit of the Tax deducted or withheld by RFCL.

22.10. The Contractor shall be solely responsible for all procedural compliances related to the payment of Taxes under the Contract and it shall protect, indemnify and hold harmless RFCL, from any and all cost, penalty, claims or liability:

(a) to pay any Taxes assessed or levied by any competent Authority on the Contractor or its Subcontractors/ vendor / original manufacturer or on RFCL for or on account of any act or omission on the part of the Contractor or its Subcontractors/ vendor/ original manufacturer; or

(b) on account of the Contractor's or its Sub-contractor's/ vendor's failure to file Tax returns as required by Applicable Laws or comply with reporting or filing requirements under Applicable Laws relating to Taxes; or

(c) arising directly or indirectly from or incurred by reason of any misrepresentation by or on behalf of the Contractor or its Subcontractors to any competent Authority in respect of Taxes; or

(d) arising from any proceedings initiated against RFCL by any competent Authority in respect of any non-compliance, non-payment, short-payment of Taxes.

22.11. In case the Contractor is a foreign entity, it is mandatory to furnish the Contractor's Permanent Account Number (PAN), as per the Indian Income Tax requirements, failing which the Contractor shall be responsible for any additional Tax deduction at source as per the provisions of the Indian Income Tax Act/Rules. The PAN shall be furnished before release of any payment or within one month of award of work, whichever is earlier.

22.12. In case the Contractor is a foreign entity & deploying their manpower for the contract execution for period more than 180 days PE (Permanent Establishment) certification is mandatory to furnish, as per the Government of India Taxation requirements, failing which the Contractor shall be responsible for any additional Tax deduction at source as per the provisions of the Government of India's Acts/Rules. The PE shall be furnished before release of any payment.

22.12 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 and as are payable by Contractor, his agents, Sub-Contractors and its/their respective employees for or in relation to this performance of this contract. The Contractor shall be deemed to have

been fully informed with respect to all such liabilities and considered and included the same in its bid and the quoted price shall not be varied in any way on this account.

23 TERMS OF PAYMENT

23.1 Mobilization Advance

23.1.1 Contractor may ((if specified by it in its Bid and accepted by RFCL) be provided a recoverable interest bearing Mobilization Advance up to a maximum of 10% (ten percent) of the awarded Contract Price towards Mobilisation and execution of the Works. Mobilization advance shall carry an interest rate as defined in the Contract.

23.1.2 Mobilisation Advance shall be paid to the Contractor in two instalments subject to the fulfilment of the following conditions:

(a) First Instalment

5% (five percent) of awarded Contract Price shall be payable as the first instalment of Mobilization Advance, within 15 (fifteen) Business Days, after fulfilling the following formalities by the Contractor:

(i) Signing of the Contract Agreement by the Contractor;
(ii) Submission of the Contract Performance Bank Guarantee in accordance with Clause 9.4.2; and
(iii) Submission of the Mobilization Advance Guarantee in accordance with Clause 9.4.1. The Contractor may submit 2 (two) separate Mobilization Advance Guarantees, one against each instalment of the Mobilisation Advance (5% each instalment).

(b) Second Instalment

Balance 5% (five percent) Mobilisation Advance shall be payable to the Contractor after the Contractor has constructed a site office, storage shed, fabrication yard (as applicable) etc. and has physically mobilised construction equipments and is ready to start the Works to the entire satisfaction of the Engineer-in-Charge and commencement of work at Site. Where the Contractor elects to submit 2 (two) separate Mobilization Advance Guarantees, one against each instalment of the Mobilization Advance, the second instalment of the Mobilization Advance will be released by RFCL only upon receipt of the second Mobilization Advance Guarantee.

23.1.3 Recovery of Mobilisation Advance

The Mobilisation Advance together with the interest accrued, thereon, shall be recovered from each Running Bill @ 12% (twelve percent) of gross amount of each Running Bill in such a manner that the total Mobilization Advance and interest accrued thereon is recovered by the time approximately 85% (eighty five percent) of the Contract Price is paid to the Contractor. Balance amount, if any, shall be deducted in full from the pre-final Bill. Mobilization advance Bank Guarantee will be reduced accordingly on quarterly basis against the request of the Contractor.

23.1.4 If the Mobilization Advance has not been fully adjusted against the Running Bills within 30 (thirty) days of the expiration of the Time for Completion or pre-final bill whichever is earlier or immediately prior to termination under Clause 32, the whole of the balance of the Mobilization Advance then outstanding shall immediately become due and payable by the Contractor to RFCL and RFCL shall be entitled to call upon the Mobilization Advance Guarantee.

23.2 Secured Advance

23.2.1 RFCL may provide a Secured Advance to the Contractor for non-perishable, non-fragile and non-combustible Goods and Materials brought on the Site for execution of the Works, in the following manner:

(a) in the case of steel, 75% of the value of the Goods and Materials on receipt of the Goods and Materials at the Site or 75% of the quoted value of corresponding SOR item in which the Goods and Materials are to be incorporated, whichever is lower, and Approval of the Goods and Materials by RFCL/Engineer-in-Charge. **For cement, the Secured Advance will be released only when the Contractor has established proper storage and handling facility at the Site**;

(b) in the case of non-perishable Goods and Materials other than steel, 75% of the landed cost on receipt of the Goods and Materials at the Site or 75% of the quoted value of corresponding SOR item in which the Goods and Materials are to be incorporated, whichever is lower, and Approval of the Goods and Materials by RFCL/Engineer-in-Charge (as per the list for Category B Items provided in SCC in the Bidding Document);

against submission of the following documents:

(a) vendor's/manufacturer's invoice with proof of full payment, indicating quantity, unit rate and amount of the procured Goods and Materials, with the lot/batch numbers, as applicable;

(b) in the case of imported Goods and Materials, copy of bill of lading, proof of payment of customs duty;

(c) original factory test and inspection certificate with the lot/batch numbers, wherever applicable;

(d) inspection release note signed by RFCL/Engineer-in-Charge;

(e) an indemnity bond in the format set out at Appendix IV;

(f) copy of IMIR (Incoming Material Inspection Report) document duly authenticated;

(g) copy of insurance policy for full value of the Goods and Materials for which the Secured Advance is being provided (in respect of specific goods and materials mentioned elsewhere in the contract), including landed cost at the Site, during storage and erection against all risk insurance, obtained in the joint names of RFCL and the Contractor with RFCL as the first beneficiary.

23.2.2 The Secured Advance shall not be payable for items not mentioned in the Specifications or Contract or for such items payment on the supply of which is covered in the payment schedule.

23.2.3 The Secured Advance will be recovered from the Running Bills proportionate to the extent that the Goods and Materials in respect of which the Secured Advance was provided are incorporated in the Permanent Work. The balance amount if any will be recovered completely on the earlier of:

(a) 90% of the Contract Price being paid to the Contractor; and

(b) Submission of the Final Bill.

23.2.4 No interest shall be levied on the Secured Advance, provided that the Goods and Materials for which the Secured Advance is provided are incorporated in the Permanent Work within the agreed Works Completion Schedule. If there is any inordinate and inexcusable delay in incorporation of the Goods and Materials for which the Secured Advance is provided in the Permanent Work, RFCL may levy interest at the rate as defined in the contract on the value of the unutilised Goods and Materials from the date on which such Goods and Materials were scheduled to be incorporated in the Permanent Work as per the Works Completion Schedule till the date on which the Goods and Materials are incorporated in the Permanent Work.

23.3 Progressive Payments/On Account Payment

23.3.1 (a) Where the Contract is a lump-sum Contract,

The Contractor shall submit to RFCL, within 30 (thirty) days of the Effective Date, the Billing Schedule, which shall be taken into account by RFCL when releasing payment of Running Bills.

Within 30 (thirty) Working Days of the receipt of such Billing Schedule, the Parties shall mutually agree upon the same. In the event that the Parties are not able to reach an agreement, RFCL's decision regarding the Billing Schedule shall be final and binding on the Parties. Such Billing Schedule shall be deemed to be a Contractor's Document and shall form the basis of progressive payments of the Contract Price as stated in the payment terms, in accordance with this Clause 23.3.

(b) Where the Contract is an item rate contract:

(i) The Contractor may raise max. one Running Bills in a month , as specified below, every month and if an ad hoc payment is made by RFCL in respect of the intervening month, for the amount certified by the Engineer-in-Charge on the basis of a summary assessment made by the Engineer-in-Charge of the value of the Works performed by the Contractor during the intervening month, such ad hoc payment(s) shall be deducted from the amount(s) certified by the Engineer-in-Charge as payable on the next Running Bill raised by the Contractor.

(ii) Where a lump sum rate is stipulated in the Schedule of Rate(s) or otherwise in respect of any particular Work or part thereof and the Works are not, at any intervening stage, capable of measurement, the Running Bill to be prepared by the Contractor shall be prepared on the basis of a value assessment of the percentage of the particular Work or part thereof completed by the Contractor for which the lump-sum rate is stipulated in the Schedule of Rates, as certified by the Engineer-in-Charge.

23.3.2(a) Within 7 (seven) days after completion of a Payment Milestone (in case of a lump-sum contract)/ individual item of Work (in case of an item rate contract), the Contractor must submit to RFCL's Representative a Running Bill. Each Running Bill must set out:

(i) the estimated value of the Works executed by the Contractor and the Contractor's Documents produced until the date of the Running Bill (including Variations);

(ii) any amounts to be deducted on a pro rata basis towards the adjustment of the Mobilization Advance in accordance with Clause 23.1 above;

(iii) any interim ad-hoc payments made by RFCL in accordance with Clause 23.3.1(b)(i) above;

(iv) any other additions or deductions which may have become due under the Contract or otherwise, including those under Dispute; and

(v) the deduction of amounts certified in all previous Running Bills and paid by RFCL to the Contractor in accordance with Clause 23.

(b) Each Running Bill must contain the Contractor's certification with supporting documentation:

(i) that each obligation, item of cost or expense mentioned in that Running Bill has been properly incurred and is a proper charge and that all physical progress is as represented;

(ii) that it has reviewed all financial and budget data contained in the Running Bill and the same is true and complete;

(iii) that the quality of all completed Works is in accordance with the Specifications;

(iv) that each obligation, item of cost or expense has not been the basis of any previous payment (unless the amount of the payment was subsequently reimbursed to RFCL); and

(v) that all the requisite original statutory declarations or forms or

documents, challans, required for availing of any Tax concessions or rebate or refund or credits or set-off or discounts as prescribed under any of the Applicable Laws for the time being in force in India have been submitted.

(c) Within 30 (thirty) Business Days after receipt of a Running Bill submitted in full compliance with Clause 23.3.2 and not more than once a month, RFCL shall endeavour to pay the amount requested or pay a lesser amount as it or the Engineer-in-Charge determines is properly due, in each case less any amounts retained, withheld or set off in accordance with the terms of the Contract subject to RFCL's right under Clause 23.7 to set off against amounts due from the Contractor. If less than the full amount of the Running Bill is paid, RFCL shall state in writing the reasons for paying the lesser amount. Notwithstanding anything contained in this Clause 23.3.2 (c), RFCL may, at its sole discretion, release 75% of the amount of a Running Bill, as certified by the Engineer-in-Charge, within 7 (seven) Business Days from the receipt of the Running Bill.

23.4 Payments Withheld

RFCL may withhold from any payment due to the Contractor amounts RFCL deems reasonably necessary or appropriate because of any one or more of the following reasons:

(a) Defects and deficiencies in any Works, whether or not payment has been made in relation to that part of the Works;

(b) failure by the Contractor to provide certificates of insurance or insurance policies in accordance with the terms of the Contract;

(c) reasonable evidence that completion of the Works will not occur within the Time for Completion;

(d) failure, in any material respect, to perform the Works or any of the Contractor's other obligations under the Contract;

(e) any overpayments made by RFCL in a previous payment;

(f) any payment required to be withheld under any Applicable Laws;

(g) a dispute exists as to the accuracy or completeness of any Running Bill (but only with respect to the amount then in dispute);

(h) amount of Taxes which RFCL may have to pay if conditions of Clause 22 are not fulfilled; and

(i) any amount expected to be paid by RFCL to any person, on behalf of the Contractor or its affiliates under any agreement or any Applicable Laws for the time being in force or any court order or any other reason or purpose.

(j) Any amount otherwise specified under the Contract, as being deductible from the payments to be made by RFCL to the Contractor.

23.5 Final Payments

23.5.1 Within 15 (fifteen) days after receipt of the Completion Certificate, the Contractor must submit a payment claim and endorse it as the "**Final Bill**". The Contractor must include in that claim:

(a) statements for the Contract Price, summarising and reconciling all previous payments made by RFCL and adjustments in the Contract Price; and

(b) any further sums which the Contractor considers to be due to it under the Contract.

23.5.2 Except as provided in Clause 23.5.4, within 90 (ninety) Business Days after the receipt of the Final Bill complete in all respects in accordance with the Contract, RFCL must pay to the Contractor the amount mentioned in the Final Bill and certified by the Engineer-in-Charge, less any disputed amounts, subject to RFCL's right under Clause 23.7 to set off against amounts due from the Contractor. If the amount that the Contractor owes to RFCL under Clause 23.7 is greater than the amount mentioned in the Final Bill and certified by the Engineer-in-Charge, then the Contractor must pay the excess amount which is a debt due and payable to RFCL within 90 (ninety) days after RFCL's receipt of the Final Bill.

23.5.3 After the expiry of the 15 (fifteen) days period referred to in Clause 23.5.1, a claim which the Contractor was entitled to make, but has not made in the Final Bill, is barred and the Contractor waives any right to bring such a claim.

23.5.4 The amount certified in the Final Bill will not become due under Clause 23.5.2 until the Contractor submits to RFCL:

(a) a certificate of release certifying that the Contractor waives all rights to bring any claims which the Contractor is entitled to make, but which are not included in the Final Bill;

(b) if requested by RFCL, other data establishing payment or satisfaction, including receipts, releases, and waivers as may be required by RFCL;

(c) a confirmation from the Contractor that there has been no Change of Law that it has not notified RFCL which may result in a reduction in the Contract Price; and

(d) any and all outstanding documentation required to be given to RFCL by the Contractor.

23.6. No interim payment by RFCL constitutes acceptance by RFCL of the Works or any part thereof, or releases the Contractor from any of its obligations or liabilities under

the Contract.

23.7. Payment of the amount mentioned in the Final Bill by RFCL shall not mean release of the Contractor from all of its liabilities under the Contract. The Contractor shall be liable to fulfill and discharge all his liabilities and responsibilities under the Contract until the end of the Contract Validity Period and release of the Contract Performance Bank Guarantee.

23.8. Without limiting Clause 23.4 and 23.5, RFCL may at any time deduct from any moneys which are or may be payable to the Contractor (including security), any sums which may be or are payable by RFCL pursuant to the Contract. Nothing in this Clause 23.8 affects the right of RFCL to recover from the Contractor, the whole of the debt or any balance that remains owing after any deduction.

23.9. If the Contractor fails to pay a Subcontractor on time such sum as is properly due under the agreement between the Contractor and such Subcontractor, then RFCL may, on behalf of the Contractor, make the payment direct to the Subcontractor and the amount so paid will be a debt due and payable from the Contractor to RFCL.

23.10 Mode of Payment

All payments required to be made by RFCL to the Contractor shall be made by wire transfer to an account or accounts to be designated by the Contractor, which is maintained by the Contractor: (a) for payments in Indian currency, with a bank or banks in India; and (b) for payments in foreign currency, with a bank or banks in the country in which the payment is to be received. RFCL's liability to make payment shall be deemed to have been discharged when the amount due is deposited in the accounts or accounts designated by the Contractor for this purpose and subject to all acts necessary to initiate the relevant wire transfer being completed within the time stipulated for making payment of the amount due, any delay within the international or domestic banking system in the transfer of such amount to the Contractor's account or accounts shall not give rise to a claim that RFCL is in breach of its payment obligations under the Contract.

23.11 Measurement

23.11.1 All measurements under this Contract shall be in the metric system and except where expressly indicated to the contrary in the Contract, all measurements shall be taken in accordance with the procedure set out in the Contract notwithstanding any provision(s) in the relative standard method of measurement or any other general or local custom to the contrary.

23.11.2 All measurements shall be taken jointly by the Engineer-in-Charge or his representative on the one hand and the Contractor or the Contractor's Representative on the other hand and the Contractor shall be bound to present the Contractor's Representative for measurement(s) whenever so required by the Engineer-in-Charge and the Contractor's Representative shall remain present throughout the time required for joint measurements.

23.11.3 If the Contractor absents itself for any reason whatsoever on the date appointed for joint measurements, the measurements shall be taken by the Engineer-in-Charge or its representative in the absence of the Contractor and such measurements signed by the Engineer-in-Charge or its representative shall be final and binding upon the Contractor.

23.11.4 Measurements shall be signed and dated on each page by the Contractor or the Contractor's Representative and the Engineer-in-Charge 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 signed by the Contractor's Representative and the Engineer-in-Charge or its representative. In the absence of any noted objections, the Contractor shall be deemed to have accepted the relative measurements as entered in the measurement book and shall be barred from making or recording any objection in respect of the measurements recorded in the measurement book.

23.11.5 All measurement(s) relative to which any objection(s) have been noted in the measurement book shall be submitted to the Engineer-in-Charge for its decision and the decision of the Engineer-in-Charge shall be final and binding on the Contractor.

23.11.6 In case of discrepancy between measurement of work specified in the special conditions of contract , Standard Specification/ Job Specification, Schedule of Rates etc., precedence shall be given in following order:

a) Measurement of works as specified in Special Conditions of Contract.
b) Measurement of works as mentioned in Standard Specification/ Job Specification.
c) Measurement of works in accordance with item description of relevant item mentioned in Schedule of Rates.

In case the clarity is not available through (a), (b) & (c) above, then it shall be as prescribed by the Bureau of Indian Standards ("**BIS**") and if it does not so prescribed by BIS, then measurement of works shall be as decided by Engineer-in-Charge, which shall final and binding upon the Contractor.

23.11.7 Wherever the unit of items has been indicated as lumpsum, the payment shall be made on lumpsum basis on completion & no mode of measurement shall be applicable.

24 VARIATION

24.1. RFCL may at any time during the performance of the Works instruct the Contractor, by issuing a written notice, to carry out a Variation ("**Variation Order**"); and the Contractor must perform and be bound by a Variation. RFCL shall not propose a Variation which:

(a) will have a material adverse effect upon the Contractor's ability to cause the

Works to meet the Guaranteed Performance Levels upon completion of the Facility;

(b) is not technically feasible, such feasibility being determined in accordance with Good Industry Practice.

24.2. The Contractor may propose to RFCL any Variation which the Contractor considers necessary or desirable to improve the quality, efficiency, reliability, operability, maintainability or safety of the Facility. RFCL may, in its absolute discretion, Approve or reject any Variation proposed by the Contractor. Any Approval must be notified to the Contractor.

24.3. Notwithstanding anything contained in Clauses 24.1 and 24.2, a Variation made necessary due to any act, omission or default of the Contractor in the performance of its obligations under the Contract will not result in any payment to the Contractor or an increase in the Contract Price.

24.4. No Variation shall invalidate the Contract. The Contractor agrees that a Variation may involve the omission of any part or parts of the Works and the Contractor agrees that RFCL may engage others to perform that part or parts of the Works which have been omitted. The Contractor further acknowledges that any omission or omissions will not constitute a basis to allege that RFCL has repudiated the Contract no matter the extent or timing of the omission or omissions.

24.5. Within 15 (fifteen) days of receipt of the direction referred to in Clause 24.1, the Contractor must prepare and submit to the Engineer-in-Charge a statement setting out:

(a) detailed particulars of the Variation;
(b) the work required or no longer required;
(c) an estimate of the increase or decrease in the Contract Price;
(d) any requisite adjustment to Works Completion Schedule; and
(e) any proposed modifications to the Contract and/or any effect such Variation would have on the Works and/or on any other provisions of the Contract.

24.6. RFCL may accept the offer given under Clause 24.5 or request the Contractor to submit revised estimates. If RFCL accepts any offer it shall issue an instruction identifying the offer that is being accepted and requesting the Contractor to proceed with the Variation.

24.7. If agreement of an estimate is not reached under Clause 24.6, RFCL may issue an instruction to the Contractor to proceed with the Variation and:
(a) the Variation will be valued under Clause 24.8(b);
(b) the Contractor's right to an extension of the Time for Completion will be determined under Clause 14.

24.8. The valuation of the Variation shall be calculated as follows:
(a) by agreement by making reference to the cost of similar or analogous work being executed by the Contractor under the Contract; or

(b) failing agreement under Clause 24.8(a), the Engineer-in-Charge will determine the valuation.

Clause 35 shall apply to this Clause 24.8.

24.9. If a Variation results in a reduction of the time required to complete the Works, the Engineer-in-Charge may determine a reasonable reduction and notify the Contractor of the revised Time for Completion and other dates as set out in the Works Completion Schedule.

24.10 Quantity of Works

24.10.1 The quantities set out in the Price Schedule are estimated quantities for the execution of the Works and such quantities shall not be taken as the actual and correct quantities required for the execution of the Works. The Contractor shall be paid only for the actual quantities of Works executed by it on the basis of the rates set out in the Price Schedule and in accordance with the Payment Schedule and other relevant provisions of the Contract.[1]

24.10.2 Notwithstanding anything to the contrary in Clause 21 and this Clause 24.10, variations in the quantities of the items set out in the Price Schedule shall be paid for by RFCL in the following manner:[2]

(a) There shall be no upward variation in the rates of the items specified in the Price Schedule as a result of any increase in the total Contract Price up to 25% (twenty five percent);

(b) If the increase in the total Contract Price is likely to be more than the limit specified in Clause 24.10.2 (a) above, the rates for the additional quantities shall be mutually agreed between RFCL and the Contractor, duly accounting for savings, if any, that may be available to the Contractor in case of increased quantities.

24.10.3 The Contractor shall be bound to notify the Engineer-in-Charge at least 15 (fifteen) Working Days before the necessity arises for the variation in the quantities of item(s) set out in the Price Schedule, in excess of the limits of variation specified above. If the Engineer-in-Charge and the Contractor are unable to agree on the revised rates on account of variation in quantities of item(s) in excess of the limits mentioned above, the revised rates of such varied quantities of item(s) shall be determined in accordance with Clause 35, pending which the Contractor shall be bound to perform the Works in relation to such varied quantities in accordance with the Contract.

24.10.4 There shall be no variation in the rates of the items specified in the Price Schedule, unless specifically, mentioned else where in the Bidding Document as a result of any decrease in the total Contract Price and the Contractor shall not be entitled for any compensation in this regard.

[1] This Clause is not applicable if the Contract is a lump-sum price contract
[2] This Clause is not applicable if the Contract is a lump-sum price contract

24.10.5 Except as provided in Clause 24.10.2 above, the quantities of the Works stated in the Price Schedule are indicative and as such (in case of item rate tender) do not form part of the Contract and RFCL shall neither be liable for any increase or decrease in the actual quantities of the Works performed, nor shall such increase or decrease in the actual quantities of the Works performed form the basis of any alteration of the rates quoted in the Price Schedule or for any claim for additional compensation, damages or loss of profits. Notwithstanding the quantities mentioned in the Price Schedule and the Contract Price mentioned in the Letter of Award, the Contractor shall only be entitled to payment in respect of actual quantities of the Works performed by it.

24.10.6 The quantities of the Works and the gross value of the Works actually performed by the Contractor as valued on finalisation of all dues to the Contractor is the sole liability of RFCL towards the Contractor and the Contractor shall not be entitled to any compensation in addition to such amounts.

25 CHANGE IN LAW

25.1. In the event that the Contractor reasonably considers that there is a Change in law as a result of which the Contractor suffers an increase in Cost or reduction in net financial burden payable with respect to execution of the Works, the Contractor shall give notice to the Engineer-in-Charge as soon as is reasonably practicable with:

(a) details of the Change in Law;
(b) any other information which the Engineer-in-Charge reasonably requires (including the Contractor's estimate of any increase or decrease in the Contract Price incurred by it as a consequence of a Change of Law, any Variation for making the Works compliant with the Change in Law and/or changes to the Works Programme that will be incurred in complying with that Change of Law).

25.2. If the Change of Law requires a Variation or the Contractor is beneficially affected by a Change of Law, the Engineer-in-Charge must within 14 (fourteen) Working Days of receiving the Contractor's notification under Clause 25.1 provide a direction to either:

(a) proceed with the Variation as proposed by the Contractor or as deemed appropriate by RFCL; or
(b) vary the Works on a different basis as directed by RFCL; or
(c) not proceed with the Works in which event the Contractor will be relieved of its obligations to comply with the subject of the Change in Law.

25.3. If the Engineer-in-Charge provides a direction under Clauses 25.2(a) and 25.2(b), such direction will be treated as a Variation to which the provisions of Clause 24 will apply.

25.4. To the extent that a Change of Law causes the Contractor to incur more Cost or less Cost than it would otherwise have incurred, the difference shall be compensated by RFCL or the benefit of lower Costs shall be passed on to RFCL by the Contractor, as the case maybe. The Contractor shall produce sufficient proof and estimate of increase in Costs for RFCL's consideration.

26 SUSPENSION

26.1. The Engineer-in-Charge may at any time by issuing a written order ("**Suspension Order**") to the Contractor (with a copy to RFCL) suspend the execution of part or all of the Works including: (a) delivery of Contractor's Equipment which is ready for delivery to the Site; or (b) the erection of the Plant or part thereof which has been delivered to the Site; or (c) testing and commissioning of the Works.

26.2. The Suspension Order may be issued by the Engineer-in-Charge under the following circumstances:

(a) Due to Contractor's default under the following circumstances:

(i) any act, default, omission or breach by the Contractor or for some default or breach by the Contractor reasonably anticipated by the Engineer-in-Charge; or

(ii) for the proper execution of the Works; or

(iii) existence of any emergency on the Site or at any place where the Works (or any part thereof) are being executed leading to unsafe conditions; or

(iv) as a consequence of any action by a statutory authority; or

(v) failure to furnish Contract Performance Bank Guarantee or Mobilization Advance Guarantee or renewal of such guarantees.

(b) For any other reason which the Engineer-in-Charge thinks reasonable.

26.3. Upon issuance of any Suspension Order under Clause 26.1, the Contractor shall protect, store and secure such part or whole of the Works or any Plant or Contractor's Equipment to which the Suspension Order relates to, against any deterioration, loss or damage and shall not remove any goods or equipment (including any Goods and Materials and Plant) from the Site without the prior written consent of the Engineer-in-Charge, during the entire suspension period. The Contractor shall take all steps to minimize cost and losses to RFCL due to suspension and shall meet the Engineer-in-Charge on a regular basis.

26.4. On issuance of the Suspension Order due to events specified in Clause 26.2(a), the Contractor shall within 10 (ten) days undertake all necessary steps (including such steps as instructed by the Engineer-in-Charge) to remedy the circumstances leading to Suspension Order and immediately inform the Engineer-in-Charge on completion of such actions. Within 7 (seven) Working Days of receipt of such intimation from the Contractor, if the Engineer-in-Charge is satisfied that his instructions above have been fulfilled and complied with, issue a letter instructing the Contractor to resume the Works or such part of the Works that are subject of a Suspension Order. If the Engineer-in-Charge is of the view that such instructions have not been complied, the

Engineer-in-Charge shall identify by means of further written notice the additional action required to be taken by the Contractor before any instruction to resume can be given.

26.5. The Engineer-in-Charge may at any time instruct the Contractor to resume the Works or such part of the Works that are subject of a Suspension Order, in which case the Contractor shall do so as soon as is reasonably practicable and in any event within 5 (five) days of receiving such instructions. The Contractor shall, after notice to the Engineer-in-Charge, and together with the Engineer-in-Charge, examine the Works, Plant, Goods and Materials affected by the Suspension Order. The Contractor shall make good any deterioration or Defect in or loss of/ to the Works, Plant, Goods and Materials, which has occurred during the suspension.

26.6. The Contractor shall under no circumstances be entitled to any extension of the Time for Completion or claim for any monetary compensation where Suspension Order has been issued by the Engineer-in-Charge under Clause 26.2(a).

26.7. In case suspension order issued due to reason pertaining to RFCL then beyond 5 days of continuous suspension or beyond 30 days of cumulative suspension, Contractor shall be entitled for an extension of the time equal to the period of suspension plus 25%.

26.8. In case continuous suspension exceeds 30 days due to reason pertaining to RFCL, the contractor shall be entitle for both time and cost compensation. The cost compensation shall be worked out based on mutual discussion and acceptance.

26.9. Notwithstanding anything contained in the Contract, the Contractor shall not be entitled to any Costs for preserving the Works during the period of suspension caused due to any Force Majeure event.

27 FORCE MAJEURE

27.1. Neither Party is responsible for any failure to perform its obligations under the Contract, if it is prevented or delayed in performing those obligations by an event of Force Majeure.

27.2. An event of Force Majeure is an event or circumstance which is beyond the control and without the fault or negligence of the party affected ("**Affected Party**") and which by the exercise of reasonable diligence the Affected Party was unable to prevent and which is not caused or contributed by the Affected Party, provided that event or circumstance is limited to the following:

(a) act of terrorism;
Duration of such activity if more than 7 (seven) days, and which affect an essential portion of the Works, only then considered as force majeure.

(b) riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, insurrection of military or usurped power;
Duration of such activity if more than 7 (seven) days, and which affect an essential portion of the Works, only then considered as force majeure.

(c) ionising radiation or contamination, radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive assembly or nuclear component;

(d) epidemics, earthquakes, flood, fire, hurricanes, typhoons or other physical natural disaster, but excluding weather conditions regardless of severity; and freight embargoes, strikes at national or state-wide level or industrial disputes at a national or state-wide level in any country where Works are performed; Duration of such activity if more than 7 (seven) days, and which affect an essential portion of the Works but excluding any industrial dispute which is specific to the performance of the Works or the Contract.

For the avoidance of doubt, inclement weather, third party breach, delay in supply of materials (other than due to a nationwide transporters' strike) or commercial hardship shall not constitute a Force Majeure event.

27.3. Where there is an event of Force Majeure, the Affected Party must notify the other Party in writing along with Authenticated Documents (issued by Local Chamber of Commerce (LCC) or Embassy or any authorized Govt. Body of aggrieved country) as soon as possible and in any event within [10(ten)] days of becoming aware of or the date it ought to have become aware of the occurrence of an event of Force Majeure giving full particulars of the event of Force Majeure and the reasons for the event of Force Majeure preventing the Affected Party from, or delaying the Affected Party in performing its obligations under the Contract. The Affected Party must use its reasonable efforts to mitigate the effect of the event of Force Majeure upon its performance of its obligations under the Contract and notify the other party of the measures being taken to mitigate the effect(s) of the event of Force Majeure.

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27.4. Upon completion of the event of Force Majeure the Affected Party must as soon as reasonably practicable recommends the performance of its obligations under the Contract. Where the Affected Party is the Contractor, the Contractor must provide an amended Works Programme rescheduling the Works to minimise the effects of the prevention or delay caused by the event of Force Majeure.

27.5. An event of Force Majeure does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

27.6. The Contractor has no entitlement and RFCL has no liability for:

(a) any costs, losses, expenses, damages or the payment of any part of the Contract Price during an event of Force Majeure; and

(b) any delay costs in any way incurred by the Contractor due to an event of Force Majeure.

27.7. If an event of Force Majeure occurs and its effect continues for a period of 180 (one hundred eighty days or more in a continuous period of 365 (three hundred sixty five) days after notice has been given under this Clause 27, either Party may terminate the

Contract by issuing a written notice of 30 (thirty) days to the other Party.

27.8. In the event that the Parties are unable to agree in good faith about the existence or occurrence of a Force Majeure event, such dispute shall be finally settled in accordance with the dispute resolution mechanism provided herein; provided however that the burden of proof as to the occurrence or existence of such Force Majeure event shall be upon the Party claiming relief on account of such Force Majeure event.

28 INTELLECTUAL PROPERTY

28.1. The Contractor (with full title guarantee) hereby grants to RFCL a royalty-free, irrevocable, non-exclusive licence to use, modify and reproduce the Contractor's Documents and any Intellectual Property contained in the Facility, the Works and the Contractor's Documents for any purpose whatsoever connected with the Facility; and the licence hereby granted shall carry the right to grant sub-licences and shall be transferable to third parties. This licence does not include a licence to reproduce the Intellectual Property contained in the Works and the Contractor's Documents for any other project undertaken by RFCL or any third person.

28.2. RFCL shall grant or shall grant to the Contractor a royalty-free, exclusive licence to use the Background Information and any Intellectual Property contained in the Background Information for the sole purpose of the performance of the Contractor's obligations under this Contract. The Contractor shall have no right to create any copies of, reproduce or to disclose the Background Information to any third Persons without the prior written consent of RFCL, except in favour of the Contractor's Personnel and its Subcontractors (provided that the Contractor's Personnel and its Subcontractors shall be bound by the terms of the license granted under this Clause 28.2).

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28.3. The Contractor warrants and represents that:

(a) it has all rights and licences necessary to grant, assign and transfer to RFCL licences to the Contractor's Documents and any Intellectual Property contained in the Works and the Contractor's Documents in accordance with this Contract;
(b) it has no title or ownership to the Background Information and shall make no claim against or create any encumbrance over the Background Information or any Intellectual Property therein;
(c) no infringement of any Intellectual Property of any kind of any third Person will result from the performance of this Contract; and
(d) it has paid all royalty on any and all Intellectual Property licensed by it

28.4. The Contractor acknowledges that the Contractor is the author of the Contractor's Documents referred to in Clause 28.1 and the Contractor waives any moral rights which the Contractor might otherwise possess and the Contractor shall obtain a waiver of all rights that any of its employees, agents or Subcontractors may have pursuant to Applicable Laws in relation to the Contractor's Documents.

28.5. The Contractor shall, if so requested by RFCL, at any time, execute such documents and perform such acts as may be required fully and effectively to assure to RFCL the rights referred to in this Clause 28.

28.6. If, consequent to an infringement of Intellectual Property, the Contractor is prevented from performing the Works, or RFCL is prevented from using the Works or the Contractor's Documents, the Contractor shall at its own expense and at its option:

(a) procure for RFCL the right to continue using the Works and the Contractor's Documents or any portion thereof;

(b) re-perform the Works or part thereof, or replace the Contractor's Documents or part thereof with a non-infringing plant and equipment or part thereof; or

(c) modify the Contractor's Documents or part thereof so it becomes non-infringing.

28.7. The Contractor shall indemnify RFCL, the Engineer-in-Charge and their officers, employees, agents from and against all claims, liability, loss, damage costs and expenses (including but not limited to legal costs) arising out of any claim that any Intellectual Property contained in the Works or the Contractor's Documents or any use of such Intellectual Property by or on behalf of RFCL infringes the Intellectual Property of a third party.

28.8. The Contractor shall pay all royalties and license fees, if any, for materials, apparatus, methods, processes, systems, software or other Intellectual Property rights purchased or used by Contractor or any Subcontractor for execution of the Works. The Contractor represents and warrants that except for amounts included in the Contract Price, no royalties or other payments are due or payable by RFCL or any other Person in respect of the Intellectual Property used by the Contractor or any Subcontractor in relation to the Works.

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29 REPRESENTATIONS AND WARRANTIES

29.1 General Representations and Warranties

The Contractor makes the following representations and warranties to RFCL each of which is true and correct during the term of the Contract:

(a) it has been duly established under the laws of India and is validly existing under those laws;

(b) it has power to enter into the Contract and comply with its obligations under it;

(c) the Contract and the transactions under it do not contravene its constituent documents or any Applicable Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation of powers or the powers or its directors to be exceeded;

(d) it has in full force and effect the authorisations necessary for it to enter into the Contract and the transactions under it;

(e) its obligations under the Contract are valid and binding and are enforceable against it in accordance with the terms of the Contract;

(f) it is not in breach of any Applicable Law or obligation affecting it or its assets in a way which may result in a material adverse effect on the business or financial condition of the Contractor;

(g) there is no pending or threatened proceeding affecting the Contractor or any of its assets that would affect the validity or enforceability of the Contract, the ability of the Contractor to fulfil its commitments under the Contract in any material respect, or that could result in any material adverse change in the business or financial condition of the Contractor;

(h) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;

(i) it has the necessary skills and experience to perform the Works in accordance with the Contract;

(j) it owns or has the right to use or provide to RFCL all Intellectual Property necessary to perform its obligations under the Contract; and

(k) it will perform its obligations under the Contract and conduct its business with a high level of integrity which is reasonably expected of an international contractor of similar size and profile, conducting a similar line of business, and will not engage in any corrupt or fraudulent practices.

29.2 Warranties related to Works

Without prejudice to any other warranties expressed elsewhere in the Contract, and despite any inclusion of RFCL's documents in the Contract (including in the Specifications) or any Approval given or withheld by RFCL under the Contract, the Contractor warrants:

(a) the Works will be performed with all the skill and care to be expected of appropriately qualified and experienced contractors with experience in performing works and services of a similar size, type, nature and complexity to the Works and in accordance with Good Industry Practice;

(b) the Works will be performed in accordance with, all the requirements in the Contract and the Specifications, by properly qualified and accredited personnel, for the Contract Price and by the Time for Completion;

(c) the Works will be performed with the highest regard for safety and protection of the environment and so that the Facility is capable of being operated and utilised in accordance with all Applicable Laws and the Contract;

(d) the Works will be fit for their intended purpose as described in, or reasonably inferable from, the Contract;

(e) the Works utilise proven technology, being a technology that has operated commercially at other coal fired power stations of similar net output capacity and which, as of the date of the Contract, is capable of being insured on a reasonable commercial basis; and

(f) the Works will comply with all Applicable Laws.

30 INDEMNITY

30.1. The Contractor shall indemnify and hold harmless RFCL, the Engineer-in-Charge, their advisors, representatives and employees from and against all actions, suits, proceedings, claims, damages, losses, expenses and demands of every nature and description, by reasons of any breach of the provisions of the Contract by the Contractor or any act or omissions of the Contractor, its representative or its employees, agents, and sub-contractors in the execution of the Works, including any professional services provided by the Contractor.

30.2. These indemnification obligations shall include but not be limited to claims, damages, losses, damage proceedings, charges and expenses which are attributable to:

(a) Sickness, disease or death of, or injury to any person;

(b) Loss of, or damage to, or destruction of any property;

(c) Loss, damage or costs arising from the carriage of Goods and Materials and/or ownership or chartering of marine vessels by the Contractor, or Subcontractor of any tier.

The Contractor shall also indemnify and hold harmless RFCL from and against all claims and proceedings on account of infringements of patents rights, design, trademark, etc., as detailed out in Clause 28.

30.3. All sums payable by way of compensation under these conditions shall be considered reasonable compensation payable to RFCL with reference to the actual loss or damage sustained by RFCL. The decision of the Engineer-in-Charge as to compensation claimed shall be final and binding.

30.4. Notwithstanding anything in the Contract to the contrary, no liabilities owed by the Contractor to RFCL that is covered by insurance obtained by the Contractor or RFCL pursuant to Clause 33 is included in the Contractor's aggregate liability for the purpose of determining the limit of the Contractor's liability under the Contract.

30.5. Neither Party shall be liable to the other Party for any kind of indirect or consequential loss or damage including, loss of use, loss of profit, loss of production or business interruption which is connected with any claim arising under the Contract.

30.6 Contractor's Care of the Works

The Contractor shall take full risk and responsibility for the care of the Works, or any part thereof, including full risk and responsibility for the care of the Works being constructed/ installed, or stored off-Site for inclusion in the Works, until the date of issue of the Completion Certificate, when risk and responsibility shall pass to RFCL.

31 LIMITATION OF LIABILITY

31.1 The aggregate total liability of the Contractor to RFCL under the Contract shall not exceed the total Contract Price, except that this Clause 31 shall not limit the liability of the Contractor for following:

(a) In the event of breach of any Applicable Law;

(b) In the event of fraud, willful misconduct or illegal or unlawful acts, or gross negligence of the Contractor or any person acting on behalf of the Contractor; or

(c) In the event of acts or omissions of the Contractor which are contrary to the most elementary rules of diligence which a conscientious Contractor would have followed in similar circumstances; or

(d) In the event of any claim or loss or damage arising out of infringement of Intellectual Property; or

(e) For any damage to any third party, including death or injury of any third party caused by the Contractor or any person or firm acting on behalf of the Contractor in executing the Works.

31.2 Neither Party shall be liable to the other Party for any kind of indirect or consequential loss or damage including, loss of use, loss of profit, loss of production or business interruption which is connected with any claim arising under the Contract.

31.3 Notwithstanding anything in the contract to the contrary, no liabilities owed by the Contractor to RFCL that are covered by insurance obtained by the Contractor or RFCL shall be deemed to be include in the Contractor's aggregate liability for the purpose of determining the limit of the Contractor's liability under the contract.

32 TERMINATION

32.1 Termination for Convenience

RFCL shall, in addition to any other right enabling it to terminate the Contract, have the right to terminate the Contract at any time by giving prior written notice of at least 14 (fourteen) days to the Contractor. Such termination shall be without prejudice to the rights of the Parties that have accrued on or before the date of termination of the Contract.

32.2 Termination Due to Contractor's Default

The Contract may be terminated by RFCL, at its sole and absolute discretion, upon the occurrence of any of the following events/acts committed by the Contractor (each a "**Contractor's Event of Default**") by issuing a notice to the Contractor, stating the intention of RFCL to terminate the Contract:

(a) fails to complete Mobilisation within the Time for Mobilisation under Clause 9.3;

(b) commits a material breach of its obligations under the Contract;

(c) abandons or repudiates the Contract or suspends the execution of the Works during the subsistence of any Dispute under the Contract;

(d) fails to adhere to the Specifications and/or Variations in terms of the Contract;

(e) the Contract Price is reduced to the maximum extent specified in Clause 13.2, yet the delay in respect of which the reduction was made continues to subsist;

(f) a petition for the winding up of the Contractor has been admitted and a liquidator or provisional liquidator has been appointed or an order of bankruptcy or an order for the winding up or dissolution of the Contractor has been made by a Court of competent jurisdiction, except voluntary change in partnership/ constitution of Contractor's organisation (if a partnership/ Company) or liquidation for the purpose of amalgamation or reconstruction subject to RFCL's acceptance to continue the Contract with the re-constituted firm/ company.

(g) Contractor fails to replace or remedy Defective Work pursuant to Clause 9.1.18;

(h) Contractor's liability for compensation under Clause 20 reaches 5% (Five percent) of the Contract Price and the Defect for which the compensation are/were charged continues to exist;

(i) gives any warranty or makes any representation under the Contract which is found to be false or misleading;

(j) fails to furnish or renew the Contract Performance Bank Guarantee;

(k) fails to obtain and maintain insurance in accordance with its obligations under the Contract; or

(l) commits any default under any Applicable Law.

32.3. If the Contractor fails to remedy or rectify the default stated in the notice issued by RFCL under Clause 32.2 within 30 (thirty) days of receipt of such notice, RFCL shall be entitled to terminate the Contract by issuing a termination notice and expel the Contractor from the Site (but without thereby releasing the Contractor from any of its obligations or liabilities under the Contract, or affecting the rights and powers conferred

on RFCL under the Contract up to the date of termination). However, in case of events specified in Clause 32.2 (c) and (f), RFCL shall be entitled to immediately terminate the Contract without giving any notice to the Contractor.

32.4 Procedure on Termination

32.4.1 Upon termination of the Contract under Clause 32.3:

(a) RFCL may complete the Works and/or arrange for other entities to do so at the risk and Cost of the Contractor. RFCL and its entities may then use the access roads, the Contractor's Documents and all other facilities made by or on behalf of the Contractor;

(b) Call upon the whole or such portion of the Contract Performance Bank Guarantee amount as RFCL may consider fit;

(c) Recover from the Contractor the cost of carrying out the balance Works in excess of the sum which the Contractor would have been paid according to the Final Bill, if the Works had been carried out and completed by the Contractor under the terms of the Contract. The amount to be recovered may be deducted by RFCL from any amount due to the Contractor under the Contract. Any amount outstanding to RFCL under this Clause 32.4.1(c) shall be recovered from the Contractor as a debt due;

(d) Enter upon the Site and expel the Contractor, RFCL may, to the exclusion of any right of the Contractor, take over and use, without payment to the Contractor, any Contractor's Equipment, materials, goods, machinery or other items which are on the Site in connection with the Works for any reasonable period as RFCL considers necessary for the performance and completion of the Works.

32.4.2 Upon termination of the Contract under Clause 32.3, the Contractor must either immediately or upon any date as is specified in the notice of termination:

(a) cease all further work, except for any work RFCL may specify in the notice of termination;

(b) terminate all Subcontracts, except those to be assigned or novated to RFCL in accordance with paragraph (d) below;

(c) deliver to RFCL the parts of the Works performed by the Contractor up to the date of termination;

(d) to the extent legally possible assign or novate to RFCL all right, title and benefit of the Contractor to the Works as at the date of termination, and, as may be required by RFCL, in any subcontracts between the Contractor and its Subcontractors;

(e) subject to Clause 32.4.1(d), remove all Contractor's Equipment, surplus materials (as per Clause 9.12.2 (b), scaffolding from the Site, dismantle and

remove its Site offices and quarters and other Temporary Works and structures and repatriate the Contractor's 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; and

(f) deliver to RFCL all documents prepared by the Contractor in connection with the Works as at the date of termination.

Should the Contractor fail to comply with the provisions of sub-Clause (e) above, RFCL shall have the right, at the sole risk and Cost of the Contractor, to clear the Site of all rubbish, scaffolding, surplus materials, Contractor's Equipment, machinery, dismantle and remove the Contractor's Site offices and other Temporary Works and store, sell, dispose of and/or otherwise deal with any of the above and the Contractor shall forthwith on demand pay RFCL the costs and expense incurred by RFCL in this regard with an additional amount equivalent to 10% (ten percent) of such costs and expenses to cover RFCL's overheads. RFCL shall have the right to recover such amounts from: (i) the proceeds of any sale of disposal of the Contractor's Equipment, machinery, surplus materials, Temporary Works or other items removed from the Site; and (ii) any amounts due to the Contractor under the Contract.

Nothing contained in this Clause or otherwise in the Contract shall constitute RFCL as a trustee or bailee for or in respect of any of the Contractor's Equipment, surplus materials, machinery or other items or things removed, cleared, demolished or dismantled as mentioned above and RFCL shall not be bound by any duty of care in respect thereof.

32.4.3 Notwithstanding anything contained in Clause 32.4.2 above, upon termination of the Contract, RFCL may require the Contractor to:

(a) complete or take to an intermediary stage of completion any item of the Works already commenced by the Contractor; and

(b) take such steps as are considered necessary by the Engineer-in-Charge for properly protecting and securing the Works already completed by the Contractor.

32.5 Payment on Termination

32.5.1 If the Contract is terminated under Clause 27.7 or 32.1, the Contractor is entitled to be paid:

(a) the Contract Price attributable to the Works performed as at the date of termination, or in the case of a termination under Clause 27.7, the commencement of the relevant event of Force Majeure; and

(b) the costs, if any, necessarily incurred in performing the work (if any) specified in the notice of termination issued by RFCL under Clause 31 or as instructed by RFCL pursuant to Clause 32.4.3; and

(c) if the Contract is terminated in accordance with Clause 31, additionally (but without duplication):

(i) the costs reasonably incurred by the Contractor in terminating any subcontracts as a result of the termination of the Contract; and

(ii) the costs reasonably incurred by the Contractor in the repatriation of the Contractor's and the Subcontractor's employees,

less the aggregate of all previous payments allocated to the Works. Any sums due to RFCL from the Contractor accruing prior to the date of termination or the commencement of the relevant event of Force Majeure (as the case may be) will be deducted from the amount to be paid to the Contractor under the Contract. If, as a result of any such deductions, there is a negative amount payable to the Contractor, then the Contractor must pay an amount equal to that negative sum to RFCL within 15 (fifteen) days of RFCL raising an invoice for that amount.

The Contractor agrees and acknowledges that payment of termination compensation in terms of this Clause 32.5.1 shall be the sole and exclusive liability of RFCL and the sole and exclusive remedy of Contractor, with respect to a termination of the Contract under Clause 32.1 or Clause 27.7.

32.5.2 If the Contract is terminated under Clause 32.3, RFCL will not be bound to make any further payment to the Contractor until the full and final cost of completion of the Works by RFCL or other contractors and all damage, loss or expense suffered or incurred by RFCL as a result of the termination of the Contract have been ascertained.

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32.5.3 Upon all cost, damages, loss and/or expense being ascertained under Clause 32.5.2, the Engineer-in-Charge must issue a certificate stating the total amount of the cost of completing the Works and any damage, loss or expense suffered or incurred by RFCL as a result of the termination of the Contract.

32.5.4 If the Contract Price attributable to the Works performed as at the date of termination less the aggregate of: (a) all previous payments allocated to the Works which have been paid to the Contractor; and (b) the amount stated in the certificate under Clause 32.5.3,

(a) is a positive amount payable to the Contractor, then RFCL must pay such amount to the Contractor within 15 (fifteen) Business Days of the issuance of the certificate pursuant to Clause 32.5.3; or

(b) is a negative amount payable to the Contractor, then an amount equal to that negative sum will be a debt due and payable to RFCL by the Contractor and the Contractor must pay such amount to RFCL within 15 (fifteen) days of RFCL raising an invoice for that amount.

33 INSURANCE

33.1. RFCL shall at its own Cost, take out and maintain in effect, or cause to be taken out and maintained in effect, during the execution of the Works, a comprehensive Erection All Risks Policy ("**RFCL's Insurance**").

33.2. Without prejudice to Clause 33.1, the Contractor shall be required to take out and maintain at all times during the subsistence of this Contract, adequate insurance coverage in respect of:

(a) any damages or compensation against claims, demands, proceeding, costs, charges and expenses, whatsoever in respect or in relation thereto, payable under Applicable Laws in respect or any consequence of any accident or injury to any Contractor's Personnel during or pursuant to their employment by the Contractor or by the Contractor's Subcontractors, save and except an accident or injury resulting from any act or fault of RFCL;

(b) all Contractor's Equipment brought on to the Site by the Contractor or its Subcontractors for use in connection with the Works, to the extent of their full value against all loss or damage from whatever cause arising; and

(c) third party liability for physical loss of or damage to any third party property or injury to or death of any third party which may arise out of or in connection with the execution of the Works at the Site by the Contractor or RFCL, (collectively "**Contractor's Insurance**").

33.3. RFCL's Insurance and the Contractor's Insurance shall each be composite policies in the joint names of the Parties, for their respective rights and interests. The terms of RFCL's Insurance and the Contractor's Insurance shall entitle the respective Parties to maintain the policies in force after termination of the Contract.

33.4. Either Party shall, at the request of the other Party, produce within 7 (seven) days of request, such evidence as the other may reasonably require and as is obtainable from insurers that RFCL's Insurance or the Contractor's Insurance (as relevant) have been effected, which evidence may include sight of the insurance policies and confirmation of the payment of all premiums to keep the policies in force.

If either Party fails upon request to produce to the other satisfactory evidence in accordance with this Clause 33.4 that there is in force any of RFCL's Insurance or the Contractor's Insurance (as relevant), the other Party may effect and keep in force any such insurance and the Party failing to evidence insurance shall pay to the other all reasonable costs incurred by the other for such purpose.

33.5. Each Party shall ensure that it and its personnel, Subcontractors, servants and agents at all times:

(a) Comply with the terms and conditions of RFCL's Insurance or the Contractor's Insurance, as relevant;

(b) Comply with the procedures for claims notification and administration there under; and

(c) Do nothing nor omit to do anything which might entitle any insurer to refuse to pay any claim under, or which might otherwise prejudice any of RFCL's Insurance or the Contractor's Insurance.

33.6. RFCL's Insurance as well as the Contractor's Insurance, shall wherever possible, provide for 30 (thirty) days written notice of any cancellation, non-renewal or material modification of any such policy to be given by the insurers to the insured persons. Further, RFCL's Insurance and the Contractor's Insurance shall contain a clause to the effect that the insurers have agreed to waive all rights of subrogation against the persons assured (including all beneficiaries thereof).

33.7. Regardless of the extent of settlement of claims for insurance proceeds under RFCL's Insurance or under the Contractor's Insurance or the time taken for settlement of such claims, the Contractor shall promptly make good any loss or damage for which it is responsible under the terms of this Contract. The Contractor shall be reimbursed to the extent that any insurance proceeds are received and payable to the Contractor.

34 GOVERNING LAW AND JURISDICTION

34.1 The Contract shall be governed by and construed in accordance with the laws of India and the courts at Delhi shall have exclusive jurisdiction over all Disputes arising under or in connection with the Contract.

35 CLAIMS AND DISPUTE RESOLUTION

35.1 Claims

35.1.1. If the Contractor intends to claim any additional payment on the occurrence of any event which entitles the Contractor to claim such additional payment, the Contractor shall give notice to the Engineer-in-Charge as soon as possible and in any event within 10 (ten) days of the Contractor becoming aware of such event.

35.1.2. The Contractor shall keep such contemporary records as may be necessary to substantiate any claim. Without admitting RFCL's liability, the Engineer-in-Charge may on receipt of a notice pursuant to Clause 35.1.1 above, inspect such records and may instruct the Contractor to produce and maintain further records. The Contractor shall permit the Engineer-in-Charge to inspect all such records and shall (if instructed) submit copies to the Engineer-in-Charge.

35.1.3. Within 30 (thirty) days of issuing a notice pursuant to Clause 35.1.1, the Contractor shall send to the Engineer-in-Charge an account, giving detailed particulars of the amount and basis of the claim.

35.1.4. If the Contractor fails to comply with this Clause 33, the Contractor shall not be entitled to claim any additional payment.

35.1.5. Notwithstanding anything to the contrary in this Contract, RFCL shall not be liable for any claim arising out of or in connection with the Contract or the execution of the

Works, unless the Contractor shall have given notice of such claim within 60 (sixty) days from the date of issuance of the Completion Certificate.

35.1.6. The Contractor shall be entitled to additional costs as the Engineer-in-Charge considers due, after taking Approval from RFCL. If the particulars supplied are insufficient to substantiate the whole of the claim, the Contractor shall be entitled to payment for such part of the claim as has been substantiated by the Engineer-in-Charge and agreed to by RFCL.

35.2 Dispute Resolution

35.2.1. If any disagreement arises out of or in connection with the validity, application or interpretation of the Contract (the "**Dispute**"), the Parties shall endeavour in good faith to resolve the Dispute through negotiation within 7 (seven) days of a written notice setting out the nature of such Dispute.

35.2.2. In the event that any Dispute is unable to be resolved between the Parties pursuant to Clause 35.2.1 within 21 (twenty-one) days of receipt of the notice under Clause 35.2.1, then such Dispute shall be referred to arbitration.

35.2.3. The arbitration will be conducted as per the 'Arbitration Act'. The arbitral tribunal shall comprise of a sole arbitrator whom shall be appointed by RFCL. The place of arbitration for any Disputes and Related Disputes shall be Delhi (save and except where otherwise specified under the Main Contract for the Related Dispute, in which event the place of arbitration shall be the place of arbitration for such Related Dispute). The language to be used in the arbitral proceedings shall be English. The arbitral award shall be final and binding upon both the Parties.

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35.2.4. Responsibility of payment for all costs of arbitration, excepting counsel fees, shall be as per the arbitration award.

35.2.5. While any Dispute under this Contract is pending; and except where this Contract has been terminated in accordance with the terms of this Contract, the Parties shall continue to perform all of their respective obligations under this Contract without prejudice to the final determination in accordance with the provisions under this Clause 35.

35.2.6. Where, in RFCL's absolute discretion, it is beneficial for the completion of the Facility for any Dispute between RFCL and the Contractor, in respect of which an arbitration notice has been given, to be resolved in the same arbitration proceedings as a dispute between RFCL and any other party or parties engaged in relation to the completion of the Facility (the "**Related Dispute**") then:

(a) if a notice to concur in the appointment of an arbitrator has been served in the Related Dispute, the Contractor hereby agrees that, at RFCL's sole option, the Dispute between RFCL and the Contractor shall be referred to the arbitrator appointed or to be appointed in respect of the Related Dispute and be determined at the same time as such Related Dispute;

(b) where an arbitrator has already been appointed in connection with the Related Dispute, the Contractor hereby agrees that, at RFCL's sole option, the Dispute between RFCL and the Contractor shall be referred to and be determined by the arbitrator so appointed contemporaneously with the Related Dispute.

35.3 Settlement of dispute between Govt. Dept./ Public Sector Undertaking

35.3.1 If the Contractor is a PSU or Enterprise or is a Govt. Department, any disputes or differences between the Contractor and RFCL hereto arising out of any notified claim of the Contractor in terms hereof and/or arising out of any amount claimed by RFCL (whether or not the amount claimed by RFCL or any part thereof shall have been deducted from the final bill of the Contractor or any amount paid by RFCL to the Contractor in respect of the work), then in suppression of the provisions of clause no 35.2 of the General Conditions of Contract, the following provisions shall apply, namely; such disputes or differences shall be resolved amicably by mutual consultation or through the good offices or empowered agencies of the Government. If such resolution is not possible, then the unresolved disputes or differences shall be referred to arbitration of an arbitrator to be nominated by the Secretary, Department of legal affairs (Law Secretary) in terms of the Office Memorandum No. **DPE/4(10)/2001-PMA-GL-I dated 22nd January, 2004** issued by the Cabinet Secretariat (Department of Cabinet Affairs) as modified from time to time. The Arbitration Act shall not be applicable to the arbitrator under this clause. The award of the arbitrator shall be binding upon parties to the dispute, provided, however any party aggrieved by such award may make a further reference for setting aside or revision of the award to Law Secretary whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of arbitration as intimated by the arbitrator.

35.3.2 Notwithstanding the existence of any dispute or arbitration in terms hereof or otherwise, the Contractor shall continue and be bound to continue and perform the Works to completion in all respects according to the Contract (unless the Contract or Works be determined by RFCL) and the Contractor shall remain liable and bound in all respects under the Contract.

36 MISCELLANEOUS

36.1 Personal Acts and Liabilities

(a) No director, officer or other employee of RFCL shall in any manner be personally bound or liable to the Contractor for acts, commissions or obligations of RFCL under the Contract or otherwise or be personally answerable to the Contractor for any default or omission in the performance of any act(s), deed(s) or things to be observed and/or performed by RFCL under the Contract.

(b) The Contractor shall not be entitled to any increase in the rate(s) mentioned in the Price Schedule or to any other payment by reason of any representation, explanation or assurance given or alleged to have been given by the Engineer-in-Charge or any employee, representative, consultant or agent of RFCL.

(c) No director, officer or other employee of RFCL shall be personally liable to the Contractor for any representation, explanation, statement or assurance given or alleged to have been given by him to the Contractor in connection with the Contract.

(d) The Contractor shall not, under any circumstances, pay or advance to any officer(s), servant(s) or agent(s) of RFCL any money on any account without the prior Approval of RFCL and any payment without such Approval shall be entirely at the risk of the Contractor and RFCL shall have no liability in this regard.

(e) Any money paid to any director, attorney, agent, officer or employee of the Contractor and any receipt, settlement, acknowledgement of liability or other arrangement, agreement or document whatsoever signed by any such director, attorney, agent, officer or employee of the Contractor or erstwhile director, attorney, agent, officer or employee (without notice of his cessation of interest) or by any person held to be a director, attorney, agent, officer or employee of the Contractor authorised to act on behalf of the Contractor shall, as between the Contractor and RFCL, be binding upon the Contractor and shall constitute a full release and discharge to RFCL and/or a valid settlement, acknowledgement of obligation of the Contractor, as the case may be.

(f) Any money paid to or dealing had with any partner or member of the Contractor (if a firm or consortium) and any receipt, settlement, acknowledgement of liability or other arrangement, agreement or document whatsoever signed by any one of the partners of the firm or members of the consortium or erstwhile partner of the firm or member of the consortium (without notice of the cessation of his interest) or with any person held to be a partner of the firm or member of the consortium shall be binding on the Contractor and shall constitute a full release and discharge to RFCL and/or a valid settlement, acknowledgement of obligation of the Contractor, as the case may be, provided that RFCL shall always have the right to call upon all or any of the partners/members of the Contractor's firm/consortium to sign any receipt, settlement, acknowledgement or other document and all or any of the partners of the firm or members of the consortium shall, when called upon to do so by RFCL, immediately sign the receipt, settlement, acknowledgement or other document required to be so signed.

36.2 Assignment

The Contractor shall not assign, novate or charge the whole or any part of the Contract or create any encumbrance over the Facility, without the prior written consent of RFCL. In the event of an assignment or novation by the Contractor, any stamp duty and all costs and expenses payable in respect of such documents, required to be signed by RFCL, shall be to the account of the Contractor. RFCL shall be entitled to assign and/or transfer its rights and obligations under the Contract to any party, without requirement of any further consent of the Contractor.

36.3 Partnership

Nothing contained or implied in Contract shall constitute or be deemed to constitute a partnership or agency between the Parties and none of the Parties shall have any authority to bind, commit or make any representations on behalf of the other Party.

36.4 Severability

If any provision of the Contract shall be determined to be invalid, illegal or unenforceable under Applicable Laws, all other provisions of the Contract shall continue in full force and effect unless such invalidity or unenforceability adversely affects the underlying intent of the Contract or unless the invalid or unenforceable provision comprises an integral part of, or is inseparable from the remainder of the Contract. In such circumstances the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, illegal or unenforceable provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under this Contract or otherwise.

36.5 Entire Agreement

The Contract contains all covenants stipulations and provisions agreed by the Parties, and constitutes the entire Contract between the Parties hereto and supersedes any oral or written representations, understandings, proposals, or communications heretofore entered into by or on account of the Parties and may not be changed, modified, or amended except in writing and signed by the Parties hereto.

36.6 Reservation of Rights

No forbearance, indulgence, relaxation or inaction by RFCL at any time to require performance of any of the provisions of the Contract shall in any way affect, diminish or prejudice the right of RFCL to require performance of that provision, and no delay in exercising or omission to exercise any right, power or remedy accruing to RFCL upon any default or otherwise under the Contract shall impair any such right, power or remedy or shall be construed to be a waiver thereof or any acquiescence in such default, nor shall the action or inaction of RFCL in respect of any default or any acquiescence by it in any default, affect or impair any right, power or remedy of RFCL in respect of any other default.

36.7 Abnormally High Rates (AHR items)

In item rate contract where the quoted rates for the items exceed 50% (fifty percent) of the RFCL's estimated rates, such items will be considered as Abnormally High Rates Items (AHR) and payment of AHR items beyond the contracted quantities shall be made at the lower of the following rates:

(a) Rates as per the Schedule of Rates, quoted by the Contractor.

(b) Rate of the item, derived as follows:

(i) Based on rates of machine and labour as available from the Contract (which includes Contractor's supervision, profit, overheads and other expenses).

(ii) In case rates are not available in the Contract, rates will be calculated based on prevailing market rates of machine/equipments, material and labour plus 15% (fifteen percent) to cover Contractor's supervision profit, overhead & other expenses.

In any case, quantities of AHR items shall not be increased / revised more than 100% of the quantity defined in SOR.

36.8 Corrupt and Fraudulent Practices

36.8.1 Bidders are required to furnish the complete and correct information/ documents required for evaluation of their bids. If the information/ documents forming basis of evaluation is found to be false/ fake/ forged, the same shall be considered adequate ground for rejection of the bids and forfeiture of earnest money deposit.

36.8.2 RFCL requires that the Contractor observes the highest standard of ethics during the execution of Contract. In pursuance of this policy, RFCL defines, for the purposes of this provision, the terms set forth below as follows:

(a) "Corrupt Practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of public official in contract execution; and

(b) "Fraudulent Practice" means a misrepresentation of facts in order to influence the execution of a Contract to the detriment of RFCL, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive RFCL of the benefits of free and open competition.

(c) "False/Fake" means to make or construct falsely. "Faked alibi" is a made, manufactured, or false alibi. Something that is not what is purports to be; counterfeit, an imposter.

(d) "Forgery" means the false making or the material altering of a document with the intent to defraud. A signature of a person that is made without the person's consent and without the person otherwise authorizing it. A person is guilty of forgery if, with the purpose to defraud or injure anyone or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone, the actor (i) alters any writing of another without his authority (ii) makes, completes, authenticates, executes, issues or transfers any writing, so that it purports to be the act of another who did not authorize that act or to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to, be a copy of an original when no such original exists. Utters any writing which he knows to be false in a manner specified in (i) & (ii) above.

36.8.3 RFCL may terminate the Contract if it discovers subsequently that the Contractor had engaged in Corrupt Practices, or Fraudulent Practices in competing for the Contract.

36.8.4 The Contractor is required to execute the "Integrity Pact" attached in the Bid Document as a condition precedent to execution of the Contract.

36.8.5 In case, the information/ document furnished by the Contractor forming basis of evaluation of its Bid is found to be false / fake/ forged after the award of the Contract, RFCL shall have the right to terminate the Contract and get the remaining Works

executed by a third party at the risk & Cost of the Contractor and without any prejudice to other rights available to RFCL under the Contract such as forfeiture of the Contract Performance Bank Guarantee, withholding of payment etc.

36.8.6 In case, this issue of submission of false/fake documents comes to the notice after execution of the Works, RFCL shall have full right to forfeit any amount due to the Contractor along with forfeiture of the Contract Performance Bank Guarantee furnished by the Contractor.

36.8.7 Further, any Contractor which is found guilty of any Corrupt or Fraudulent Practice or submission of false/fake /forged documents, shall be put on the negative/ holiday list of RFCL debarring them from future business with RFCL.

36.9 Integrity Pact

The Integrity Pact forming a part of the Bidding Document, duly signed by the authorized person(s) of RFCL and the Contractor, will form part of the Contract. If the Contract has been terminated according to provisions of the Integrity Pact, or, if RFCL is entitled to terminate the Contract according to provisions of Integrity Pact, RFCL shall be entitled to demand and recover from Contractor an amount specified in the Integrity Pact, which amount may be recovered by forfeiting the Contract Performance Bank Guarantee.

36.10 Liability of Government of India

(a) It is expressly understood that Govt. of India is not a party to this Contract and has no liability, obligations or rights hereunder. It is expressly understood that RFCL is an independent legal entity with power and authority to enter into the Contract solely on its behalf under the Applicable Laws and general principles of contract law.

(b) The Contractor expressly agrees and acknowledges and understands that RFCL is not an agent, representative or delegatee of Government of India.

36.11 Computerized Contractor's Billing System

Contractor should follow the following billing system:

(a) The Running Bills will be prepared by the Contractor on their personal computers as per the standard formats and codification scheme proposed by RFCL. The Contractor will be provided with data entry software to capture the relevant billing data for subsequent processing. The Contractor will submit these data to RFCL in an electronic media along with the hard copy of the bill, necessary enclosures and documents. The Contractor will also ensure the correctness and consistency of data so entered with the hard copy of the bill submitted for payment.

(b) RFCL will utilize this data for processing and verification of the Running Bills of the Contractor.

36.12 Terms applicable to Consortium Contractors

Where the Contractor is a consortium, the lead member of the consortium shall represent the Contractor in all dealings with RFCL and shall do all acts, deeds, matters and things required to be done by the Contractor under the Contract, including (but not limited to) exchange of correspondence, raising invoices, drawings, documents and receiving payments.

(a) All dealings had with and/or all acts, deeds, matters and things and things done by or payments made to and invoices/documents drawn and/or negotiated by the lead member shall be binding upon the Contractor and each member of the consortium, and in so far as RFCL shall require a discharge in respect of any dealing had or act, deed, matter or thing done or payment made as aforesaid, the same shall constitute a valid discharge to RFCL.

(b) Each and every member of the consortium shall be jointly and separately liable to RFCL for and in respect of all liabilities obligations of the Contractor under the Contract.

The constitution of the Consortium or the relative distribution of the Work(s) and/or activities amongst the consortium members as approved by RFCL shall not be altered or assigned, as the case may be except with the prior written consent of RFCL and any contrary alteration or re-assignment shall be deemed to be an unauthorized assignment of the Contract with attendant liabilities including termination of the Contract.

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36.13 Government Controlled Materials

In respect of all Government controlled or other scarce/imported materials in respect of which licenses, release orders, permits or authorizations have been granted in the name of RFCL, the Contractor shall be deemed to be acting on behalf of RFCL and as agent of RFCL in respect of deliveries taken by the Contractor against any licences, release orders, permits, or authorizations issued in the name of RFCL for Government controlled materials. The ownership in such materials shall (without prejudice to the responsibility/liability of the Contractor in respect thereof as set out in the various conditions hereof) vest in RFCL from the point of time when it would have ordinarily vested in RFCL on a direct delivery to RFCL.

36.14 Distinction Between Foundation and Superstructure

To distinguish between work in foundations and superstructures, the following criteria shall apply:

(b) For all equipment pedestals, pipe racks, other foundation and R.C.C. Structures, work done upto 300 mm level above finished grade level will be taken as work in foundations and work above this level will be treated as work in superstructures and payments would be made accordingly.

(c) For buildings only, all works up to plinth level corresponding to finished floor level shall be treated as 'work in foundation' and all works above the finished floor level shall be treated as "work in superstructure".

(d) Irrespective of what has been stated above, all pavements, R.C.C. retaining wall, all pipe sleepers and any similar item would be taken as work done in foundations irrespective of locations, nomenclature and levels given anywhere.

(e) Where not specifically pointed out all works in cellars/ sumps, tank pads, cable trenches, or such similar item would be taken as work in foundation.

36.15 Excavation by Blasting

The Contractor shall obtain licence from the relevant Authorities for undertaking blasting work as well as for obtaining and storing the explosive as per Explosive Rules 2008 (as made under the Explosives Act, 1884), as amended from time to time. The Contractor shall purchase the explosives, fuses, detonators etc. only from a licensed dealer and shall be responsible for the safe custody and proper accounting of the explosive materials. The Engineer-in-Charge and his authorized representative shall have access to check the Contractor's store of explosives and its accounts. In case where the explosives are required to be transported and stored at Site, relevant clauses of the Explosives Rules 2008 as amended subsequently shall apply. The Contractor shall be responsible for any accident to workman, public or property, due to blasting operations.

36.16 Import Licence

Contractor shall arrange for the import of all materials required for permanent incorporation in the Works as well as construction equipment as per the guidelines laid down by the Government of India. RFCL shall not provide import licence.

36.17 Retired Government or Company Directors

No Director of RFCL is allowed to tender for a contract to be awarded by RFCL for a period of 2 (two) years after his retirement from the employment of RFCL, without the previous permission of RFCL. The Contract if awarded is liable to be cancelled if the Contractor is found at any time to be such a person and has not obtained the permission of the RFCL before submission of the tender. Any tender by a person aforesaid shall carry a disclosure thereof on the tender, and shall be accompanied by a copy of the document by which the requisite consent is given. Such disqualifications shall apply to every partner of a partnership firm.

36.18 Other Contractors

The Contractor agrees and acknowledges that that access to the Site and access routes thereto, has been granted to the Contractor on a non-exclusive basis, and that RFCL, may at its sole discretion, grant access thereto, to other Persons ("**Other Contractors**") to undertake thereon, any works other than those contemplated under the Contract. Further, the Contractor shall at all times undertake its works in such manner, as to not cause minimal disturbance to the Other Contractors, in the

performance of the works allocated to such Other Contractors.[3]

36.19 Survival

The termination of the Contract shall not relieve the Contractor or RFCL of any obligations hereunder which expressly or by implication survives termination. Further, except as otherwise provided in any provision of the Contract expressly limiting the liability of either Party, the termination of the Contract shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omission of such Party prior to the effectiveness of such termination or arising out of such termination.

36.20 Amendment

Any amendment, variation and/or modification to the contract will be effective only if such amendment is made in writing and has been executed by each of the parties.

Appendix 1

FORM OF CONTRACT PERFORMANCE BANK GUARANTEE

[*ON APPROPRIATE STAMP PAPER***]**

Beneficiary: RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED, 4th Floor, Mohta Building, 4, Bhikaiji Cama Place, New Delhi-110 066

Bank Guarantee No. [.....●]

THIS DEED OF GUARANTEE is executed on this [.....*insert day*] day of [.....*insert month and year*] at [.....*insert place*] by [.....***INSERT NAME OF BANK***] having its head/registered office at [.....*insert address*], (hereinafter referred to as the "**Guarantor**", which expression shall unless it is repugnant to the subject or context thereof include successors and assigns)

IN FAVOUR OF:

RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED, a public limited company incorporated under the Indian Companies Act, 1956, having its registered office at Scope Complex, Core-3, 7 Instituional Area, Lodhi Road, New Delhi-110 003, India], (hereinafter referred to as the "**RFCL**", which expression shall unless it is repugnant to the subject or context thereof include successors and assigns).

WHEREAS

A. RFCL has entered into a Engineering, Procurement and Construction Contract dated [.....■] (the "**Contract**") with [.....***insert name of Contractor***], a company incorporated under the Indian Companies Act, 1956 and having its registered office at [.....■] (the "**Contractor**", which expression shall, unless it be repugnant to the context or meaning thereof, include its successors-in-title and permitted assigns), for the Project.

B. In terms of the Contract, the Contractor is required to furnish to RFCL, an unconditional, irrevocable, on demand bank guarantee for an amount equal to 10% of the Contract Price as security for due and punctual performance/discharge of the Contractor's obligations under the Contract for the Contract Validity Period.

C. At the request of RFCL and for sufficient consideration, the Guarantor has agreed to provide an unconditional, irrevocable and on-demand bank guarantee, for the due and punctual performance/discharge by the Contractor of its obligations under the Contract during the Contract Validity Period.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. Capitalised terms used herein but not defined shall have the meaning ascribed to them in the Contract.

2. The Guarantor hereby irrevocably and unconditionally guarantees and secures (as primary obligor and not merely as guarantor) to RFCL the payment in full of all amounts at any time that may be due, owing or payable to RFCL from the Contractor for the failure of the Contractor to duly and punctually perform all of its obligations under the Contract (the "**Guarantee**"), without any demur, reservation, protest or recourse, immediately on receipt of a demand from RFCL.

   The Guarantee is given in consideration for consideration received from the Contractor (the receipt and sufficiency of which is hereby acknowledged).

   The Guarantor agrees that the value of the Guarantee shall be maintained at the amount of Rs. [.....*insert amount*] (the "**Guaranteed Amount**") with effect from the date hereof until the end of the Contract Validity Period i.e., up to midnight of {..... ***insert date***} plus additional 90 days to enable claims to be made i.e., up to midnight of {..... ***insert date***}.

   The Guarantor further agrees that this Guarantee does not limit the number of claims that may be made by RFCL against the Guarantor.

   Any payment made hereunder shall be made free and clear of and without deduction for, or on account of, any present or future Taxes, deductions or withholdings of any nature whatsoever and by whomsoever imposed, and where any withholding on a payment is required by any Applicable Law, the Guarantor shall comply with such withholding obligations and shall pay such additional amount in respect of such payment such that RFCL receives the full amount due hereunder as if no such withholding had occurred.

3. The Guarantor shall, pay to RFCL sums not exceeding the Guaranteed Amount, within 5 (five) Business Days of receipt of a written demand from RFCL stating that the Contractor has failed to meet its performance obligations under the Contract. The Guarantor shall not be required to go into the veracity of any breach or failure on the part of the Contractor or validity of demand so made by RFCL and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Contractor or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

4. The obligations of the Guarantor herein are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Contract or the insolvency, bankruptcy, reorganization, dissolution or liquidation of the Contractor or any change in ownership of the Contractor or any purported assignment by the Contractor or any other circumstance whatsoever which might otherwise constitute a discharge or defence of a guarantor or a surety.

   Further, this Guarantee is in no way conditional upon any requirement that RFCL first attempt to procure the Guaranteed Amount from the Contractor, or any other Person,

or resort to any other means of obtaining payment of the Guaranteed Amount, prior to make any recourse to this Guarantee.

5. In order to give effect to this Guarantee, RFCL shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor under this Guarantee shall not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the Guarantor from any of the Guaranteed Amount or prejudice or diminish the Guaranteed Amount in whole or in part, including (whether or not known to it, or RFCL):

   (a) any time or waiver granted to, or composition with, the Contractor or any other Person;
   (b) any incapacity or lack of powers, RFCL or legal personality of or dissolutions, or insolvency, or bankruptcy, or change in the status of the Contractor or any other Person;

   (c) any variation of the Contract so that references to the Contract in this Guarantee shall include each variation;

   (d) any unenforceability, illegality or invalidity of any obligation of any Person under the Contract or any unenforceability, illegality or invalidity of the obligations of the Guarantor under this Guarantee or the unenforceability, illegality or invalidity of the obligations of any Person under any other document or guarantee, to the extent that each obligation under this Guarantee shall remain in full force as a seperate, continuing and primary obligation, and its obligations be construed accordingly, as if there were no unenforceability, illegality or invalidity;

   (e) the partial or entire release of any Guarantor or other Person primarily or secondarily liable or responsible for the performance, payment or observance of any of the Contractor's obligations during the Construction Period; or by any extension, waiver, or amendment whatsoever which may release a guarantor or Guarantor (other than performance or indefeasible payment of a Guaranteed Amount); or

   (f) any part performance of the Contract by the Contractor or by any failure by RFCL to timely pay or perform any of its obligations under the Contract.

6. If, and to the extent that, for any reason the Contractor enters or threatens to enter into any proceedings in bankruptcy or reorganization or otherwise, or if, for any other reason whatsoever, the performance or payment by the Contractor of the Guaranteed Amount becomes or may reasonably be expected to become impossible, then the Guaranteed Amount shall be promptly paid by the Guarantor to RFCL on demand.

7. So long as any sum remains owing by the Contractor to RFCL, the Guarantor shall not exercise any right of subrogation or any other rights of a guarantor or enforce any guarantee or other right or claim against the Contractor (whether in respect of its liability under this Guarantee or otherwise) or claim in the insolvency or liquidation of the Contractor or any such other Person in competition with RFCL. If the Guarantor

receives any payment or benefit in breach of this Clause 7, it shall hold the same upon trust for RFCL.

8. This Guarantee shall remain in full force and effect from the date hereof until the end of the Contract Validity Period i.e., up to midnight of {..... ***insert date***} plus additional 90 days to enable claims to be made i.e., up to midnight of {..... ***insert date***}, unless discharged/ released earlier by RFCL in accordance with the provisions of the Contract. No claim made after such date shall be valid against the Guarantor.

   Notwithstanding the foregoing, this Guarantee shall continue in effect until the sums payable under this Guarantee have been indefeasibly paid in full and the Guarantor receives written notice thereof from RFCL (such notice to be issued promptly upon such occurrence).

9. The Guarantor represents and warrants to RFCL that:

   (a) it has the power to execute, deliver and perform the terms and provisions of this Guarantee and has taken all necessary action to authorize the execution, delivery and performance by it of this Guarantee;

   (b) the Guarantor has duly executed and delivered this Guarantee, and this Guarantee constitutes its legal, valid and binding obligation enforceable in accordance with its terms except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles;

   (c) neither the execution, delivery or performance by the Guarantor of this Guarantee, nor compliance by it with the terms and provisions hereof will: (i) contravene any material provision of any law, statute, rule or regulations or any order, writ, injunction or decree of any court or governmental instrumentality; (ii) conflict or be inconsistent with or result in any breach of any of the material terms, covenants, conditions or provisions of, or constitute a default under any agreement, contract or instrument to which the Guarantor is a party of by which it or any of its property or assets is bound; or (iii) violate any provision of the Guarantor's constituent documents; and

   (d) no order, consent, approval, license, authorization or validation of, or filing, recording or registration with (except as have been obtained or made prior to the date hereof), or exemption by, any governmental or public body or RFCL, or any subdivision thereof, is required to authorize, or is required in connection with: (i) the execution, delivery and performance of this Guarantee; or (ii) the legality, validity, binding effect or enforceability of this Guarantee.

10. This Guarantee is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. No failure or delay on the part of RFCL in exercising any right, power or privilege hereunder and no course of dealing between RFCL and the Guarantor, or

the Contractor, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

11. The rights, powers and remedies expressly provided in this Guarantee are cumulative and not exclusive of any rights, powers or remedies which RFCL would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other further notice or demand in similar or other circumstances or constitute a waiver of the rights of RFCL to any other or further action in any circumstances without notice or demand.

12. If any one or more of the provisions contained in this Guarantee are or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the Guarantor shall enter into good faith negotiations with RFCL to replace the invalid, illegal or unenforceable provision.

13. The Guarantor hereby agrees to execute and deliver all such instruments and take all such actions as may be necessary to make effective fully the purposes of this Guarantee.

14. This Guarantee may be executed in one or more duplicate counterparts, and when executed and delivered by the Guarantor and RFCL shall constitute a single binding agreement.

15. Any notice, request or other communication to be given or made under this Guarantee shall be in writing addressed to the Guarantor at the location set opposite its signature hereto and in the manner as set out in respect of notices under the Contract.

16. This Guarantee shall be governed by, and construed in accordance with, the laws of India. The Guarantor irrevocably agrees that any legal action, suit or proceeding arising out of or relating to this Guarantee may be brought in the courts in Delhi.

17. RFCL may assign or transfer all or any part of its interest herein to any other person with prior notification to the Guarantor. The Guarantor may not assign or transfer any of its rights or obligations under this Guarantee.

IN WITNESS WHEREOF the Guarantor has set its hands hereunto on the day, month and year first hereinabove written.

Signed and delivered by [.....*insert name of Bank*] Bank by hand

Name:

Designation:

Appendix 2
FORM OF MOBILIZATION ADVANCE GUARANTEE

[*ON APPROPRIATE STAMP PAPER*]

Beneficiary: RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED, 4th Floor, Mohta Building, 4, Bhikaiji Cama Place, New Delhi-110 066

Bank Guarantee No. [.....●]

THIS DEED OF GUARANTEE is executed on this [.....*insert day*] day of [.....*insert month and year*] at [.....*insert place*] by [.....***INSERT NAME OF BANK***] having its head/registered office at [.....*insert address*], (hereinafter referred to as the "**Guarantor**", which expression shall unless it is repugnant to the subject or context thereof include successors and assigns)

IN FAVOUR OF

RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED, a company incorporated under the (Indian) Companies Act, 1956, with its registered office at Scope Complex, Core-3, 7 Instituional Area, Lodhi Road, New Delhi-110 003, India (hereinafter referred to as the "**RFCL**", which expression shall unless repugnant to the context thereof, be deemed to include its successors-in-interest and permitted assigns).

WHEREAS

A. [.....■] with its registered office at [.....■] (hereinafter referred to as the "**Contractor**", which expression shall unless repugnant to the context thereof, be deemed to include its successors-in-interest and permitted assigns) has been awarded a contract by RFCL for [the engineering, procurement, construction, testing and commissioning] of the Facility ("**Contract**").

B. In terms of Clause 9.4.1 of the Contract, Contractor is required to furnish a Mobilization Advance Guarantee to RFCL in the form of an unconditional, irrevocable, on demand bank guarantee for securing the Mobilization Advance made to Contractor in accordance with the Contract ("**Mobilization Advance Guarantee**") for INR [.....*insert amount*] or US$ [.....*insert amount*] ("**Guaranteed Amount**").

C. At the request of the Contractor and for sufficient consideration, the Guarantor has agreed to issue this guarantee in favour of RFCL.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. Capitalised terms used herein but not defined shall have the meaning ascribed to them in the Contract.

2. The Guarantor shall upon a written demand from RFCL informing the Guarantor that the Mobilization Advance made to the Contractor has not been adequately adjusted, pay to RFCL, within 5 (five) days of receipt of such written demand from RFCL, without further proof or conditions and without contest, recourse, demur or protest and without any enquiry to RFCL or the Contractor, forthwith and in full amount, without any deductions or set off or counter claims whatsoever, the sum claimed by RFCL in such demand not exceeding an amount equivalent to the Guaranteed Amount. The Guarantor will pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute raised by the Contractor or any other person.

   The Guarantor agrees that this Mobilization Advance Guarantee does not limit the number of claims that may be made by RFCL against the Guarantor provided that such claims taken together shall not exceed the Guaranteed Amount.

   Any payment made hereunder shall be made free and clear of and without deduction for, or on account of, any present or future Taxes, deductions or withholdings of any nature whatsoever and by whomsoever imposed, and where any withholding on a payment is required by any Applicable Law, the Guarantor shall comply with such withholding obligations and shall pay such additional amount in respect of such payment such that RFCL receives the full amount due hereunder as if no such withholding had occurred.

3. This Mobilization Advance Guarantee shall be a continuing guarantee during its currency and shall remain in force and effect until the earlier of: (i) date when the Mobilization Advance has been fully recovered; and (ii) [.....*insert date*], upon which the obligations of the Guarantor under this Mobilization Advance Guarantee shall stand discharged.

4. The obligations of the Guarantor herein are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Contract or the insolvency, bankruptcy, reorganisation, dissolution or liquidation of the Contractor or any change in ownership of the Contractor or any purported assignment by the Contractor or any other circumstance whatsoever which might otherwise constitute a discharge or defence of a guarantor or a surety.

   Further, this Mobilization Advance Guarantee is in no way conditional upon any requirement that RFCL first attempts to procure the Guaranteed Amount from the Contractor or any other person, or resort to any other means of obtaining payment of the Guaranteed Amount, prior to making recourse to this Guarantee.

5. The Guarantor shall not be required to go into the veracity of any breach or failure on the part of the Contractor or validity of demand so made by RFCL and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Contractor or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

6. The Guarantor hereby agrees that its liability under this Mobilization Advance Guarantee shall not be discharged by virtue of any agreement between the Contractor

and RFCL, whether with or without the Guarantor's knowledge, or by reason of RFCL showing any indulgence or forbearance to the Contractor.

7. The Guarantor's obligations under this Mobilization Advance Guarantee for the Guaranteed Amount is primary, independent and absolute and not by way of surety only.

8. The obligations of the Guarantor under this Mobilization Advance Guarantee shall not be affected by any act, omission, matter or thing which, but for this provision, would prejudice or diminish the Guaranteed Amount in whole or in part, including (whether or not known to it or RFCL):

   (a) any time or waiver granted to, or composition with, the Contractor or any other person;
   (b) any incapacity or lack of powers, authority or legal personality of or dissolutions, or insolvency or bankruptcy, or change in the status of the Contractor or any other Person;
   (c) any variation of the Contract so that references to the Contract in this Mobilization Advance Guarantee shall include each variation;
   (d) any unenforceability, illegality or invalidity of any obligation of any person under the Contract or any unenforceability, illegality or invalidity of the obligations of the Guarantor under this Mobilization Advance Guarantee or the unenforceability, illegality or invalidity of the obligations of any person under any other document or guarantee, to the extent that each obligation under this Mobilization Advance Guarantee shall remain in full force as a separate, continuing and primary obligation, and its obligations be construed accordingly, as if there were no unenforceability, illegality or invalidity;
   (e) any extension, waiver, or amendment whatsoever which may release a guarantor or the Guarantor (other than performance or indefeasible payment of a Guaranteed Amount); or
   (f) any part performance of the Contract by the Contractor or by any failure by RFCL to timely pay or perform any of its obligations under the Contract.

9. So long as any sum remains owing by the Contractor to RFCL, the Guarantor shall not exercise any right of subrogation or any other rights of a guarantor or enforce any guarantee or other right or claim against the Contractor (whether in respect of its liability under this Mobilization Advance Guarantee or otherwise) or claim in the insolvency or liquidation of the Contractor or any such other person in competition with RFCL. If the Guarantor receives any payment or benefit in breach of this Clause, it shall hold the same in trust for RFCL.

10. The Guarantor represents, warrants and undertakes to RFCL that:

   (a) it has the power to execute, deliver and perform the terms and provisions of this Mobilization Advance Guarantee and has taken all necessary action(s) to authorize the execution, delivery and performance by it of this Mobilization Advance Guarantee;

   (b) the Guarantor has duly executed and delivered this Mobilization Advance

Guarantee, and this Mobilization Advance Guarantee constitutes its legal, valid and binding obligation enforceable in accordance with its terms except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles;

(c) neither the execution, delivery or performance by the Guarantor of this Mobilization Advance Guarantee, nor compliance by it with the terms and provisions hereof will: (i) contravene any material provision of any law, statute, rule or regulations or any order, writ, injunction or decree of any court or governmental instrumentality; (ii) conflict or be inconsistent with or result in any breach of any of the material terms, covenants, conditions or provisions of, or constitute a default under any agreement, contract or instrument to which the Guarantor is a party or by which it or any of its property or assets is bound; or (iii) violate any provision of the Guarantor's constituent documents;

(d) no order, consent, approval, license, authorization or validation of, or filing, recording or registration with (except as have been obtained or made prior to the date hereof), or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to authorize, or is required in connection with: (i) the execution, delivery and performance of this Mobilization Advance Guarantee; or (ii) the legality, validity, binding effect or enforceability of this Mobilization Advance Guarantee; and

(e) this Mobilization Advance Guarantee will be enforceable when presented for payment to a Scheduled Bank (as defined by the Reserve Bank of India Act, 1934) in [.....*Insert name of place*].

रामागुण्डम फर्टिलाइजर्स एण्ड केमिकल्स लिमिटेड

11. This Mobilization Advance Guarantee is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. No failure or delay on the part of RFCL in exercising any right, power or privilege hereunder and no course of dealing between RFCL and the Guarantor, or the Contractor, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

12. If any one or more of the provisions contained in this Mobilization Advance Guarantee are or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the Guarantor shall enter into good faith negotiations with RFCL to replace the invalid, illegal or unenforceable provision.

13. The Guarantor hereby agrees to execute and deliver all such instruments and take all such actions as may be necessary to make effective fully the purposes of this Mobilization Advance Guarantee.

14. This Mobilization Advance Guarantee may be executed in one or more duplicate counterparts, and when executed and delivered by the Guarantor and RFCL shall constitute a single binding agreement.

15. Any demand, notice, request or other communication to be given or made under this Mobilization Advance Guarantee shall be deemed to have been duly given or served:

    (i) Upon RFCL, at [.....*insert address*] marked for the attention of [.....*insert name*];
    (ii) Upon a Scheduled Bank (as defined by the Reserve Bank of India Act, 1934), at [.....insert], India.

16. The Guarantor:

    (a) acknowledges that the Lenders will review this Mobilization Advance Guarantee and may require changes thereto as a condition of granting financing and/or providing political risk insurance; and

    (b) shall consider any such requirements in good faith.

17. This Mobilization Advance Guarantee shall be governed by, and construed in accordance with, the laws of India. The Guarantor irrevocably agrees that any legal action, suit or proceeding arising out of or relating to this Mobilization Advance Guarantee may be brought in the courts in Delhi.

18. RFCL may assign or transfer all or any part of its interest herein together with the Contract to any other person with prior intimation to the Guarantor. The Guarantor may not assign or transfer any of its rights or obligations under this Mobilization Advance Guarantee.

IN WITNESS WHEREOF the Guarantor has set its hands hereunto on the day, month and year first hereinabove written.

Signed and delivered by [.....*insert name of* Guarantor] Guarantor by hand

Name:
Designation:

Appendix 3
SAFETY CODE
[*To be inserted*]

1. GENERAL

1.1 The CONTRACTOR shall adhere to safe construction practices and guard against hazardous and unsafe working conditions and shall comply with RFCL's safety rules as set forth herein.

1.2 In addition, the CONTRACTOR shall adhere to and be bound by the "Safety Practices during Construction" (OISD-GDN-192 and OISD-207) formulated by the Oil Industry Safety Directorate from time to time. A copy of the existing "Safety Practices During Construction" as presently formulated by the Oil Industry Safety Directorate is annexed hereto as Appendix III

1.3 In the event of any irreconcilable conflict between the “Safety Practices during Construction” prescribed by the Oil Industry Safety Directorate and the Safety provisions set out herein, the "Safety Practices during Construction" established by the Oil Industry Safety Directorate shall prevail to the extent of the irreconcilable conflict.

1.4 In this Section any reference to the Facility shall wherever applicable include any existing plant, unit or installation in or adjacent to which the Site or any part thereof is located.

2. FIRST AID AND INDUSTRIAL INJURIES

2.1 The Contractor shall maintain first aid facilities for its employees and those of its sub-contractors.

2.2 The Contractor shall make outside arrangements for ambulance service and for the treatment of industrial injuries. Names of those providing these services shall be furnished to the Engineer-in-Charge prior to start of construction, and their telephone numbers shall be prominently posted in Contractor’s field office.

2.3 All critical industrial injuries shall be reported promptly to the Engineer-in-Charge, and a copy of Contractor’s report covering each personal injury requiring the attention of a physician shall be furnished to RFCL.

3. GENERAL RULES

Carrying/Striking of matches, lighters, smart phone, camera within the Site, smoking within the Site, tank, farm, or dock limits are strictly prohibited. Violators of the "No Smoking" rules shall be discharged immediately. Within the operation area, no hot work shall be permitted without valid gas safety/fire permits. The Contractor shall be held liable and responsible for all lapses of his subcontractors/employees in this regard.

4. CONTRACTOR'S BARRICADES

4.1 The CONTRACTOR shall erect and maintain barricades required in connection with his operation to guard or protect:

(i) Excavation
(ii) Hoisting areas
(iii) Areas adjudged hazardous by the Contractor‘s or RFCL's inspectors.
(iv) RFCL’s existing property liable to damage by Contractor's operations, in the opinion of Engineer-in-Charge.
(v) Railroad unloading spots.

4.2 The Contractor’s employees and those of its sub-contractors shall become acquainted with RFCL's barricading practices and shall respect the provisions thereof.

4.3 Barricades and hazardous areas adjacent to but not located in normal routes of travel shall be marked by red flasher lanterns at nights.

5. SCAFFOLDING

5.1 Suitable scaffolding shall be provided for workmen for all works that cannot safely be done from the ground or from solid construction except such short period work as can be done safely from ladders. When a ladder is used, an extra person shall be engaged for holding the ladder and if the ladder is used for carrying materials as well, suitable footholds and handholds shall be provided on the ladder and the ladder shall be given an inclination not steeper than 1 in 4 (1 horizontal 4 vertical).

5.2 Scaffolding or staging more than 12' (twelve feet) above the ground floor, swung or suspended from an overhead support or erected with stationary support shall have a guard rail properly attached, bolted, braced and otherwise rewinded at least 3' high above the floor or platform of scaffolding or staging and extending along the entire length of the outside and ends thereof with only such openings as may be necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent it from swaying from the building or structure.

5.3 Working platforms, gangways and stairways should be so constructed that they should not sag unduly or unequally and if the height of the platform or the gangway or the stairway is more than 12' above ground level or floor level, they should be closely boarded, should have adequate width and should be suitably fastened as described in Clause 5.2 above.

5.4 Every opening in the floor of a building or in a working platform shall be provided with suitable fencing or railing whose minimum height shall be 3 feet to prevent the fall of persons or materials by providing.

5.5 Safe means of access shall be provided to all working platforms and other working places. Every ladder shall be securely fixed. No portable single ladder shall be over 30' in length while the width between the side rails in rung ladder shall in no case be less than 11.5" for ladder up to and including 10' in length. For longer ladders this width would be increased by at least ¼" for each additional foot of length. Uniform step

spacing shall not exceed 12". Adequate precautions shall be taken to prevent danger from electrical equipment. No materials on any site of work shall be so stacked or placed as to cause danger or inconvenience to any person or public. The Contractor shall also provide all necessary fencing and lights to protect the workers and staff from accidents, and shall be bound to bear the expenses of defense of every suit, action or other proceedings, that may be brought by any person for injury sustained owing to neglect of the above precautions and to pay damages and costs which may be awarded in any such suit or action or proceedings to such person, or which may with the consent of the Contractor be paid to compromise any claim by any person.

6. EXCAVATION AND TRENCHING

6.1 All trenches 4' (Four feet) or more in depth, shall at all times be supplied with at least one ladder for each 100' length or fraction thereof.

6.2 The Ladder shall be extended from bottom of the trench to at least 3' 3" above the surface of the ground. The site of the trenches which is 5' (Five feet)or more in depth shall be stepped back to give suitable slope, or securely held by timber bracing, so as to avoid the danger of sides to collapse. Cutting shall be done from top to bottom. Under no circumstances shall undermining or undercutting be done.

7. DEMOLITION

7.1 Before any demolition work is commenced and also during the process of such works all roads and open areas adjacent to the Site shall either be closed or suitably protected.

7.2 No electric cable or apparatus which is liable to be a source of danger over a cable or apparatus used by the operator shall remain electrically charged.

7.3 All practical steps shall be taken to prevent danger to persons employed, from risk of fire or explosion or flooding. No floor or other part of the building shall be so overloaded with debris or material as to render it unsafe.

8. SAFETY EQUIPMENT

8.1 All necessary personal safety equipment as considered adequate by the Engineer-in-Charge should be made available for the use to the persons employed on the Site and maintained in a condition suitable for immediate use, and the Contractor should take adequate steps to ensure proper use of equipment by those concerned.

8.2 Workers employed on mixing asphaltic materials, cement and lime mortars shall be provided with protective footwear and protective gloves.

8.3 Those engaged in white washing and mixing or stacking of cement bags or any materials which are injurious to the eyes shall be provided with protective goggles.

8.4 Those engaged in welding and cutting works shall be provided with protective face and eye- shields, and gloves, etc.

8.5 Stone breakers shall be provided with protective goggles and protective clothing and seated at sufficiently safe intervals.

8.6 When workers are employed in sewers and manholes, which are in use, the Contractor shall ensure that the manhole covers are opened and are ventilated at least for an hour before the workers are allowed to get into the manholes, and the manholes so opened shall be cordoned off with suitable railing and provided with warning signals or boards to prevent accident.

8.7 The Contractor shall not employ men below the age of 18 years and women on the work of painting or products containing lead in any form. Wherever men above the age of 18 years are employed on the work of lead painting, the following precautions should be taken:

(a) No paint containing lead product shall be used except in the form of paste or readymade paint.
(b) Suitable face masks shall be supplied for use by the workers when paint is applied in the form of spray or if a surface having lead paint dry rubbed and scrapped.
(c) Overalls shall be supplied by the Contractor to workmen and adequate facilities shall be provided to enable the working painters to wash during and on cessation of Work.

9. RISKY PLACES

When the work is done near any place where there is a risk of drowning, all necessary safety equipments shall be provided and kept ready for use and all necessary steps taken for prompt rescue of any person in danger and adequate provision should be made for prompt first aid treatment of all injuries likely to be sustained during the course of the work.

10. HOISTING EQUIPMENT

Use of hoisting machines and tackle including their attachments, anchorage and supports shall conform to the following standards or conditions:

(a) These shall be of good mechanical construction, sound materials and adequate strength and free from patent defect and shall be kept in good condition and in good working order.

(b) Every rope used in hoisting or lowering materials or as a means of suspension shall be of durable quality and adequate strength and free from patent defects.

(c) Every crane driver or hoisting appliance operator shall be properly qualified and no person under the age of 21years should be in charge of any hoisting machine including any scaffolding winch or to give signals to the operator.

(d) In case of every hoisting machine and of every chain, ring, hook, shackle,

swivel and pulley block used in hoisting or lowering or as a means of suspension, the safe working load shall be ascertained by adequate means.

(e) Every hoisting machine and all gear referred to above shall be plainly marked with the safe working load and the condition under which it is applicable shall be clearly indicated. No part of any machine or any gear referred to above in this paragraph shall be loaded beyond the safe working load except for the purpose of testing.

(f) In case of departmental machines, the safe working load shall be notified by the Engineer-in-Charge. As regards Contractor's machines, the Contractor shall notify the safe working load of the machine to the Engineer-in-Charge, whenever he brings any machinery to Site of work and get it verified by the Engineer-in-Charge concerned.

11. ELECTRICAL EQUIPMENT

Motor, Gearing, Transmission, wiring and other dangerous parts of hoisting appliances shall be provided with efficient safeguards. Hoisting appliances should be provided with such means as will reduce to the minimum, the risk of accidental descent of the load. Adequate precautions shall be taken to reduce to the minimum the risk of any part of a suspended load becoming accidentally displaced. When workers are employed on electrical installations which are already energized, insulating mats, wearing apparel, such as gloves and boots as may be necessary shall be provided. The workers shall not wear any rings, watches and carry keys or other materials which are good conductors of electricity.

12. MAINTENANCE OF SAFEY DEVICES

All scaffolds, ladders and other safety devices mentioned or described herein shall be maintained in safe conditions and no scaffold, ladder or equipment shall be altered or removed while it is in use. Adequate washing facilities should be provided at or near the place of work.

13. DISPLAY OF SAFETY INSTRUCTIONS

These safety provisions should be brought to the notice of all concerned by display on a notice board at a prominent place at the Site. The person responsible for compliance of the safety code shall be named therein by the CONTRACTOR.

14. ENFORCEMENT OF SAFETY REGULATIONS

To ensure effective enforcement of the rules and regulations relating to safety precautions, the arrangements made by the Contractor shall be open to inspection by the Welfare Officer, Engineer-in-Charge or Safety Engineer of RFCL or their representatives.

15. NO EXEMPTION

15.1 Notwithstanding anything provided in this Appendix 3, the Contractor shall be bound by the provisions of any other Act or rules in force in the Republic of India, with a view that the provisions hereof shall be in addition thereto and not in lieu thereof.

15.2 The works throughout including any temporary works shall be carried on in such a manner as not to interfere in any way whatsoever with the traffic on any roads or footpaths at the Site or in the vicinity thereof or with any existing works whether the property of RFCL or of a third party.

15.3 The Contractor shall also arrange to obtain valid gate passes for his men and equipment from the concerned Authorities.

15.4 No man/material/equipment not covered by valid passes shall be permitted within the Site no material/equipment shall be permitted to be taken out of the Site, unless authorized by the concerned Authorities. The Contractor shall be held fully responsible for any or all delays/ losses/ damages that may result consequent on any lapse(s) that may occur on the part of his subcontractors/employees in this regard.

16. ENTRY PASSES

16.1 The CONTRACTOR has to apply for photo Entry Passes for his workers and staff and the workers and staff of his Sub-Contractors in a prescribed proforma provided by RFCL. The Application shall be accompanied by a Statement and Declaration in the form prescribed by RFCL signed by the employees for whom the Entry Passes are sought and confirmed by the employer. The photo Entry Passes shall be issued by RFCL for a maximum period of 3 (three) months, which will be extendable upon the Contractor's application. As a special case, Temporary Passes may be issued for a maximum period of 7 (seven) days.

16.2 Unutilized/expired Entry Passes/Identity Cards shall have to be immediately surrendered to RFCL.

16.3 In case of the loss of an Entry Pass/Identity Card, the Contractor shall immediately lodge an FIR with the local police station and inform the Engineer-in-Charge of the loss and shall pay a charge of Rs.150/- against Entry Pass/Identity Card lost. The Contractor is required to keep an account and track of all Entry Passes issued and surrendered.

Gate Passes/Identity Cards issued by the Security Section should always be displayed by the Contractor's or Sub-contractor's employees while working inside the Plant.

17. GATE PASSES

17.1 To bring materials, equipment, tools and tackle and other things inside the Site for construction Work, the Contractor has to produce proper documents of title or authority relative thereto for inspection by RFCL's personnel at the gate. These shall be checked thoroughly by RFCL's personnel at the Gate and recorded in their Register before permitting the same to be brought inside within the Site. It is the Contractor's responsibility to see that the entry is duly recorded in the Register with proper Entry

Number, date and signature of RFCL's authorized representative and that the supporting challans /documents are stamped and signed by RFCL's personnel at the gate at the time of entry.

Those materials which need repairing/ replacement as per Site condition will be allowed to move beyond RFCL's battery limit only after exchange of good equivalent material.

18. WORK PERMIT

18.1 In order to keep RFCL informed of the various jobs being undertaken within the Site and to enable RFCL to regulate the same to ensure the observance of safety regulations relative thereto, when Work is to be carried out in hazardous areas, a Hot Work Permit is to be obtained by the Contractor from RFCL before start of Work on jobs which are capable of generating a flame, spark or heat e.g., gas cutting, grinding, welding, use of any electrical, diesel, petrol or battery operated prime mover, machine, tool or equipment or generator set, mixer machine, drilling machine, pump, crane, fork lift or hand truck or trailer or chipping or breaking of rocks or concrete or hacksaw cutting and drilling. Similarly the Contractor shall obtain a Cold Work Permit from RFCL for jobs which do not come under the category of hot work and in respect of which there is no risk of fire, e.g., transportation, backfilling of ordinary soil by manual process, pile testing, hydro-testing, shuttering, fixing of reinforcement, hand mixed concreting, plastering and brickwork.

18.2 Depending on the nature of the Work and the equipments and tools involved, the Contractor shall apply for Cold/Hot Permit in a prescribed format at least 7(seven) days before the Work is planned to start. No Work Permit shall be issued by RFCL unless proper arrangement is made by the Contractor to ensure safe performance of the Work inside the Site limit. Job-wise and area-wise permits shall be issued to the Contractor and for Work against each permit the Contractor shall post at Site at least one Construction Supervisor and one Safety Supervisor of required level to ensure the due observance of all safety requirements.

19. VEHICLE PERMIT

Permits are to be obtained separately for entry/use of vehicles/trailers and other mobile equipment inside the Site limits. All the Contractor's vehicles should have a valid 'PUC Certificate'. The following requirements are to be met to obtain vehicle permit:

(i) Vehicle/Equipment shall be in good condition and fitted with spark arrestor.
(ii) Vehicles should carry, wherever applicable, valid Road Tax Certificate and Fitness Certificate from the competent authority and insurance policy.
(iii) Valid operating/driving license of driver/operator.

20. VALIDITY OF THE PERMIT

(i) Any Hot or Cold Work Permit issued is valid only for 24 hours.
(ii) Thereafter the validity of the Permit must be renewed for each shift (morning &

evening) by the shift in-charge/ shift representative of RFCL.

(iii) The permit may be renewed for a maximum period of one month from the date of issue and if extension is required, the Contractor has to apply for a fresh permit.

(iv) A permit is not valid for Work on holidays unless special permission of RFCL is obtained for the purpose.

21. SPECIAL SAFETY REGULATIONS

21.1 REGARDING WORK PERMIT

(a) The Work shall be carried out inside the Site to conform to the RFCL's safety section and in accordance with any instructions of the Engineer-in-Charge issued from time to time. Sometimes working hours may be drastically reduced or increased to satisfy safety requirements and the Contractor shall meet these requirements without any time and cost implications. No claim for idling of machinery, plant, manpower or equipment shall be entertained for reason of delay in the issue of a Work Permit and it shall be the exclusive responsibility of the Contractor to apply for, pursue and obtain the requisite Work Permit(s) well in advance of the relative requirement(s).

(b) The Contractor shall abide by all safety regulations of the Plant and ensure that safety equipment for specific jobs as stipulated in the Factories Act Safety Handbook is issued to all employees during the execution of Work, failing which all the works at Site shall be suspended.

(c) HSE specifications, OISD and other requirements shall be followed in totality.

RFCL
रामागुण्डम फर्टिलाइजर्स एण्ड केमिकल्स लिमिटेड

21.2 REGARDING HOT WORK

(a) When doing hot work inside the plant, the Contractor must ensure that the fire hose is hooked up with the fire water system and extended to the Site. In addition, at least one fire extinguisher must be kept near the working spot. The area around and below the place of hot work must be adequately protected from sparks and hot metals by a booth made of asbestos cloth/sheet and by wetting with water. In addition, depending on the location and hazard of the work, the Contractor shall at its own Cost arrange sufficient number of additional fire hoses and such firefighting equipment of approved quality as may be required to carry out hot job inside the plant.

(b) Welding & electrical cables should be of approved quality and no jointing or loose connection shall be permitted.

(c) At the end of the working day the Contractor must inform the electrical section to switch off power at sub-station end.

(d) The Contractor must provide cotton clothes, safety shoes, safety helmet, safety belt, and hand gloves of approved quality to his workers to meet the safety requirement of various jobs to be carried out inside the Plant.

21.3 REGARDING USE OF VEHICLE

(a) Vehicle must not ply on any road within the Site at a speed exceeding 20 KM/hr.
(b) Mobile cranes, loaded trucks and trailers must not exceed the speed limit of 15 KM/hr inside the plant.
(c) No crane is allowed to move inside the plant with load.
(d) No vehicle is allowed to be parked inside the plant.
(e) Limited number of vehicles will be permitted inside the battery area due to security reasons.

22. DEDUCTIONS FROM CONTRACT PRICE

22.1 In addition to price reduction and deductions as provided for, RFCL shall be entitled to deduct from any payment due to the Contractor, any amount claimed by RFCL under the Contract and any costs, damages or expenses for which the Contractor is liable under the Contract.

22.2 In addition to price reduction and deductions as provided for in the Contract, RFCL shall be entitled to deduct from any payment due to the Contractor, for violations of safety provisions, as per details given below:

(i) Violation of applicable safety, health and environment related norm, a price reduction of INR 5000/- per occasion
(ii) Violation as above resulting in (a) Any physical injury - a price reduction of 0.5% of the Contract Price (maximum of INR 2,00,000) per injury in addition to INR 5,000/; or (b) Fatal accident - a price reduction of 1% of the Contract Price (maximum of INR 10,00,000) per fatality in addition to INR 5,000/-

Except above if anything mentioned in contract in terms of compliance to Health Safety & Environment (HSE) policy, shall also be applicable in addition to price reduction and deductions as provided for in the Contract.

23. SPECIAL CONTRIBUTIONS

With a view to ensure the formulation and enforcement of a safety code by the Contractor, it is stipulated that in the event of any act, omission or accident at the Site which results in the death of a person, the Contractor shall contribute a sum of INR 5,00,000/- (Rupees five lakh only), or which results in the permanent disablement of a person, the Contractor shall contribute a sum of INR 3,00,000/- (Rupees three lakh only) in addition to any other sum(s) required to be paid by the Contractor under any law or other contract, to a welfare fund to be established by RFCL for, inter alia, such contributions, and until such fund is established, to a charity nominated by RFCL.

APPENDIX IV

INDEMNITY BOND
(TO BE NOTORISED AND ON STAMP PAPER OF APPROPRIATE VALUE)

To

RAMAGUNDAM FERTILIZERS AND CHEMICALS LIMITED
(Address as applicable)

Dear Sirs,

WHEREAS RFCL and address ……. (hereinafter called "the Indemnified" which expression shall include its successors and assigns) has awarded to M/s…… a Partnership Firm/ Sole Proprietor Business/ a company having its Registered Office at …….. (hereinafter called "the Indemnifier", which expression shall include its successors and assigns) a contract for conditions set out, inter-alia, in "the Indemnified" Purchase Order No. ……..… dated…….…….…….. (hereinafter referred to as "the said Contract") to "the Indemnifier".

AND WHEREAS "the Indemnified" has agreed to supply to "the Indemnifier" raw material/ components to the value of INR……... (Rupees…… …… only) for incorporation in fabrication by "the Indemnifier" in terms of "the said contract", the components/ raw material to be supplied by "the Indemnified" to "the Indemnifier" for the said fabrication, (hereinafter, or the sake of brevity, referred to as "the said material") and pending fabrication and delivery at job-site of the completed fabricated work(s) incorporating "the said material" and accounting for "the said material" shall be under the sole custody and charge of "the Indemnifier" and shall be kept, stored, altered, worked upon and/ or fabricated at the sole risk and expenses of "the Indemnifier".

As a Pre-condition to the supply of "the said material" by "the Indemnified" to "the Indemnifier", the Indemnified" has required "the Indemnifier" to furnish to "the Indemnified" security in the manner and upon terms and conditions hereinafter indicated:

NOW THEREFORE, in consideration of the premises aforesaid "the Indemnifier" Shri……, Shri……. all Directors/ Partners/ Sole proprietor of "the Indemnifier" in consideration of aforesaid "contract" hereby irrevocably and unconditionally and jointly and severally undertake to indemnify and always keep "the Indemnified" from and against all loss, damage and destruction (inclusive but not limited to any or all loss or damage or destruction to or of "the said material" or any item or part thereof) by theft, fire, flood, storm, tempest, lightning, explosion, storage, chemical or physical action or reaction, bending, wrapping, exposure, rusting, faulty workmanship, faulty fabrication or faulty method of technique of fabrication, riot, civil commotion or other act of omission or commission whatsoever within or beyond the control of "the Indemnifier", misuse and misappropriation by "the Indemnifier's" servants and/or agents whatsoever to, of or in "the said material" or any part or item thereof between the date that the same or relative part or item thereof was supplied to "the Indemnifier" up to and until the return to "the Indemnified" on due

dates of “the said material” or relative part or item thereof or completed fabricated work(s) incorporating the said material AND jointly and severally undertake to pay to “the indemnified” forthwith on first demand in writing without protest or demur the value of “the said material” or item part thereof lost, damaged, destroyed, misused and/or misappropriated, as the case may be, inclusive of “the Indemnified” ’s cost and expenses (inclusive but not limited to handling, transportation, cartage, insurance, freight, packing and inspection costs and/ or expenses) as specified in the said demand.

AND “the Indemnifier” hereby agree with “the Indemnified” that :

1. This Indemnity shall remain valid and irrevocable until the settlement of all claims of “the Indemnified” arising hereunder.

2. This Indemnity shall be in addition to any other Indemnity, Guarantee or Security whatsoever that “the Indemnified” may now or any time anywise have in relation to “the Indemnifier” ‘s obligations/ liabilities under and/ or in connection with the said contract inclusive of “the said material” and “the Indemnified” shall have full authority to take recourse to or enforce this security in preference to the other security (ies) at its sole discretion, and no failure on the part of “the Indemnified” in enforcing or requiring enforcement of any other security shall have the effect of releasing “the Indemnifier” from its full liability hereunder:

3. “The Indemnified” shall be at liberty without reference to “the Indemnifier” and without affecting the full liability of “the Indemnifier” hereunder to take any other such security in respect of “the Indemnifier’s” obligations and/or liabilities under or in connection with the “said contract” inclusive of “the said material” and to vary the terms vis-a-vis “the Indemnifier” of “the said contract” or to grant time and/or indulgence to “the Indemnifier” or to reduce or to increase or otherwise vary the prices or the total contract value or the quantity, quality, description or value of the said material or to release or to forbear from endorsement of all or any of the obligations of “the Indemnifier” under the said contract (inclusive of anything in respect of “the said material”) and/or to remedies of “the Indemnified” under any other security (ies) now or hereinafter held by “the Indemnified” and no such dealing(s), variations(s), reduction(s), increase (s) or other indulgence (s) or arrangement(s) with “the Indemnifier” or release “the Indemnifier” from their full liability to “the Indemnified” hereunder or of anywise prejudicing rights of “the Indemnified” against “the Indemnifier” and “the Indemnifier” hereby waive all rights, if any, at any time, inconsistent with the terms of this Indemnity.

4. This Indemnity shall not be determined or affected by the liquidation or winding up, dissolution, or change of constitution or bankruptcy or insolvency of “the Indemnifier” and the obligations of “the Indemnifier” in terms hereof shall not be anywise affected or suspended by reason of any dispute or disputes having been raised by “the Indemnifier” (whether now pending before any Arbitrator, Officer, Tribunal or Court) or any denial of liability by “the Indemnifier” or any other order or communication whatsoever by “the Indemnifier” or any other order or communication whatsoever by “the Indemnifier” stopping or preventing or purporting to stop or prevent any payment by “the Indemnifier” to “the Indemnified” in terms hereof.

5. The mere statement made by or on behalf of “the Indemnified” in any notice or demand or

other writing addressed to “the Indemnifier” as to any of “the said material” or item or part thereof supplied to “the Indemnifier” having been lost, damaged, destroyed, misused or misappropriated while in the custody of “the Indemnifier” before or after completion of the completed fabricated work(s) incorporating “the said material” and delivery at job site thereof shall as between “the Indemnifier” and “the Indemnified” be conclusive of the factum of “the said material” or item or part thereof having been supplied to “the Indemnifier” and/or the loss, damage, destruction, misuse or misappropriation thereof, as the case may be, while in the custody of “the Indemnifier” and/or prior to the completion of the completed fabricated work(s) and delivery to job site thereof without necessity on the part of “the Indemnified” to produce any documentary proof or other evidence whatsoever in support of this.

6. The amount stated in any notice of demand addressed by “the Indemnified” to “the Indemnifier” as the value of any of “the said material”, lost, damaged, destroyed or misused or misappropriated, inclusive relative to the cost and expenses incurred by “the Indemnified” in connection therewith shall as between “the Indemnifier” and “the Indemnified” be conclusive of the value of such “said material” and the said costs and expenses as also of the amount liable to be paid by “the Indemnifier” to “the Indemnified” in terms and for the purpose of, without necessity for “the Indemnified” to produce any voucher, bill or other documentation or evidence whatsoever in support thereof.

In witness whereof “the Indemnifier” have hereunto set and subscribed his hand this day and year first hereinabove written in the presence of witnesses.

Yours faithfully,

1.

2.

3.

WITNESSES:

1.

2.

APPENDIX V

PART A

FORMAT-I

INTIMATION REGARDING SYSTEM COMPLETION

PROJECT: _____ CUSTOMER: _____
UNIT: _____
Following system/sub-system has been mechanically completed in all respects with exceptions noted below. The system/sub-system can be taken up for checking and preparation of checklist.

SYSTEM NO.

SYSTEM DESCRIPTION:

EXCEPTIONS:

SIGNATURE
DATE
CONTRACTOR'S CONSTRUCTION:
CO-ORDINATOR

The system is ready/ not ready for Check listing
RFCL/PMC

PART B

FORMAT-II

CHECKLIST

PROJECT: _____ CUSTOMER: _____ UNIT: _____
SYSTEM/SUB-SYSTEM _____

SL. NO.

CHECKLIST ITEMS

CHECKLIST TYPE

PRELIMINARY/FINAL

REMARKS

PMC/RFCL:

SIGNATURE DATE

APPENDIX VI
FORMAT-III
READY FOR PRE-COMMISSIONING CERTIFICATE

PROJECT: _____ CUSTOMER: _____ UNIT: _____
SYSTEM/SUB-SYSTEM _____
This is to certify that the following Plant/system/sub-system as detailed below is completely installed and all the Checklist points are carried out except for minor details s given in the attached list.

DESCRIPTION ON PLANT/SECTION/SUB-SECTION
_____

SIGNATURE DATE

CONTRACTOR'S CONTRACTION
CO-ORDINATOR:

CONTRACTOR'S COMMISSIONING
CO-ORDINATOR:

The system is ready/ not ready for Check listing
PMC/RFCL:

APPENDIX VII
FORMAT-IV
READY FOR COMMISSIONING CERTIFICATE

PROJECT: _____ CUSTOMER: _____ UNIT: _____
SYSTEM/SUB-SYSTEM _____

This is to certify that all the necessary pre-commissioning activities for the system/sub-system as detailed below have been completed and the system/sub-system is ready for commissioning except for the minor details as given below which will not affect the commissioning trial runs.

DESCRIPTION ON PLANT/SECTION/SUB-SECTION
_____

SIGNATURE

DATE

CONTRACTOR'S COMMISSIONING:
CO-ORDINATOR

SIGNATURE

DATE
PMC/RFCL:

APPENDIX VIII
FORMAT-V

COMPLETION OF COMMISSIONING CERTIFICATE

PROJECT: _____ CUSTOMER: _____ UNIT: _____
SYSTEM/SUB-SYSTEM _____

This is to certify that the system/sub-system as detailed below has been successfully commissioned and is under operational control of Client's Production department. The minor items, which will not affect the normal operation of the system/sub-system, are given in the attached list.

DESCRIPTION ON PLANT/SECTION/SUB-SECTION
_____

SIGNATURE

DATE

CONTRACTOR'S COMMISSIONING:
CO-ORDINATOR

SIGNATURE

DATE
PMC/RFCL:

SPECIAL CONDITIONS
OF
CONTRACT

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1.0 GENERAL

1.1 Special Conditions of Contract shall be read in Conjunction with the General Conditions of Contract, specification of work, Drawings and any other documents forming part of this Contract wherever the context so requires.

1.2 Notwithstanding the sub-division of the documents into these separate sections and volumes every part of each shall be deemed to be supplementary to and complementary of every other part and shall be read with and into the Contract so far as it may be practicable to do so.

1.3 Where any portion of the General Condition of Contract is repugnant to or at variance with any provisions of the Special Conditions of Contract, unless a different intention appears, the provisions of the Special Conditions of Contract shall be deemed to over-ride the provisions of the General Conditions of Contract and shall to the extent of such repugnancy, or variations, prevail.

1.4 "Owner" means a Joint Venture Company [i.e., Ramagundam Fertilizers and Chemicals Limited (RFCL)] involving the major three stakeholders, M/s Engineers India Limited (EIL), M/s National Fertilizers Limited (NFL) and M/s Fertilizer Corporation of India Limited (FCIL).

1.5 "EIL" means Engineers India Limited, a company incorporated in India and having its registered office at 1, Bhikaiji Cama Place, New Delhi – 66. EIL has been appointed by RFCL as the EPCM Consultant for the subject Project. EIL is the Engineer-in-Charge for the project.

1.6 Wherever it is stated in this Bidding Document that a supply is to be made or a work is to be carried out, it shall be understood that the same shall be made/ carried out by the Contractor at his own cost, unless a different intention is specifically and expressly stated herein or otherwise explicit from the context. Contract Price shall be deemed to have included such cost.

1.7 The materials, design and workmanship shall satisfy the applicable relevant Indian Standards & technical specifications, the job specifications/standards contained herein and codes referred. 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/ Specifications/ Codes of practice for detailed specifications covering any part of the work covered in this bidding document, the instructions/ directions of Owner / EIL will be binding upon the Contractor.

1.8 The Articles contained in Instructions to Bidder shall supplement to the Special Conditions of Contract, General Conditions of Contract. Where any portion of Special Conditions of Contract and General Conditions of Contract is repugnant or at variance with any provisions of Instructions to Bidder then in that case Instructions to Bidder shall be deemed to over-ride the provision(s) of Special Conditions of Contract, and General Conditions of Contract only to the extent that such repugnancies of variations in Instructions to Bidder are not possible of being reconciled with the provisions of Special Conditions of Contract, General Conditions of Contract. Clause 2.1 of General Conditions of Contract stands modified accordingly.

1.9 It will be the Contractor's responsibility to bring to the notice of Engineer-in-Charge any irreconcilable conflict in the contract documents, before starting the work (s) or making the supply with reference, which the conflict exists.

1.10 In the absence of any Specifications covering any material, design of work (s) the same shall be performed / supplied / executed in accordance with Standard Engineering Practice as per the instructions / directions of the Engineer-in-Charge, which will be binding on the Contractor.

1.11 GST was implemented by Government of India with effect from 01.07.2017. "GST" shall mean Goods and Services Tax charged on the supply of material(s) and services. The term "GST" shall be construed to include the Integrated Goods and Services Tax (hereinafter referred to as "IGST") or Central Goods and Services Tax (hereinafter referred to as "CGST") or State Goods and Services Tax (hereinafter

referred to as "SGST") or Union Territory Goods and Services Tax (hereinafter referred to as "UTGST") depending upon the import / interstate or intrastate supplies, as the case may be. It shall also mean GST compensation Cess.

2.0 **SCOPE OF WORK & SCOPE OF SUPPLY**

2.1 Scope of work and supply shall be as specified in Technical Section of the Bidding Document.

3.0 **SUPPLY OF WATER, POWER & OTHER UTILITIES**

3.1 General Conditions of Contract is modified to the following extent :

3.1.1 No Water and Electricity shall be provided to the Contractor by the Owner. The Contractor shall make his own arrangement for procurement, consumption, maintenance etc. and deposit all charges fee etc. in connection with to the Municipal Authorities.

3.1.2 The Contractor shall keep acoustic DG sets of adequate capacity at different locations to keep the work in progress at his cost.

3.1.3 OWNER shall provide space for Contractor field office, fabrication yard and storage yard etc. only at site as per availability of land. No land shall be provided for accommodation purposes to the Contractor.

3.1.4 The CONTRACTOR shall remove all temporary buildings/ facilities etc. immediately after completion of works in all respect.

3.1.5 Notwithstanding above, Construction Water, if available, shall be provided by Owner on chargeable basis at a single point as per convenience of the Owner. Further, distribution network shall be arranged by Contractor at his own cost with prior permission of Engineer-in-charge. Rate of Construction Water, if provided by Owner, shall be Rs. 35 / m3 plus GST, as applicable.

4.0 **TIME OF COMPLETION**

4.1 The work shall be executed strictly as per time Schedule mentioned in the Letter Inviting Bid (LIB) / Notice for Invitation for Bids (IFB). The period of completion given includes the time required for mobilization as well as testing, commissioning, rectifications, if any, retesting and completion in all respects to the entire satisfaction of the Engineer-in-Charge and handing over to Owner / EIL.

4.2 The Engineer-in-Charge and Contractor will prepare a joint programme of execution of work. This programme will take into account the time of completion mentioned above.

4.3 Monthly/ weekly construction programme will be drawn up by Engineer-in-Charge jointly with the Contractor based on availability of work fronts and the joint construction programmes as 4.2. The Contractor shall strictly adhere to this Targets/ Programme.

4.4 Contractor shall give every day report on category wise labour and equipment deployed along with the progress of work done on previous day in the proforma prescribed by the Engineer-in-Charge.

5.0 **DELETED**

6.0 **EXTENDED STAY COMPENSATION**

6.1 In case the time of completion of work is delayed beyond the time schedule indicated in the Bidding document plus a grace period equivalent to 1/5th of the time schedule or 8 weeks whichever is more, due to reasons not attributable to contractor, the contractor shall be paid extended stay compensation in order to maintain necessary organizational set up and construction tools, tackles, equipments etc. at site of work. The bidder shall mention the rate for such extended stay compensation per month in the 'Priced Part' which will be considered for evaluation. The period for the purpose of evaluation shall be 1/5th of the time schedule or 1 (one) month whichever is less.

In case bidder does not indicate the rate for extended stay compensation as per the proforma in priced part or do not submit the proforma of extended stay compensation, it

will be presumed that no extended stay compensation is required to be paid to the contractor and evaluation of the Bids shall be carried out accordingly.

In case the Completion of work is delayed beyond a period of one month after the grace period then both the Owner and the contractor shall mutually decide the future course of action including payment of further extended stay compensation.

Bidder shall note that in case they don't indicate the rate for extended stay compensation as per the proforma or do not submit the proforma of extended stay compensation, provisions of this clause will not be applicable for them.

GST, at quoted rate, shall be additionally payable on such Extended Stay compensation subject to provisions of Bidding Document

7.0 DRAWINGS AND DOCUMENTS

7.1 The drawings accompanying the Bidding Document (if any) are of indicative nature and issued for bidding purpose only. Purpose of these drawing is to enable the bidder to make an offer in line with the requirements of the Owner / EIL. However no extra claim whatsoever shall be entertained for variation in the "Approved for Construction" and "Bidding document drawings" regarding any changes/units. Construction shall be as per drawings/specifications issued / approved by the Engineer-in-Charge during the course of execution of work. Detailed construction drawings (wherever required) on the basis of which actual execution of work is to proceed will be prepared by the Contractor.

7.2 The drawings and documents to be submitted by the Contractor to Owner / EIL after award of the work as per the requirements enlisted in the bidding document shall be for Owner / EIL review, information and record. The Contractor shall ensure that drawings and documents submitted to Owner / EIL are accompanied by relevant calculations, data as required and essential for review of the document/ drawings. Owner / EIL shall review the drawings/ documents within two weeks from the date of submission provided the same are accompanied by relevant calculations, data as required and essential for review.

7.3 All documents and drawings including those of Contractors sub-vendor's manufacturer's etc. shall be submitted to Owner / EIL after having been fully vetted in detail, approved and co-opted by the Contractor & shall bear Contractor seal/ certifications to this effect. All documents/drawings & submissions made to Owner / EIL without compliance to this requirement will not be acceptable and the delay & liability owing to this shall be to the Contractor's account.

7.4 The review of documents and drawings by Owner / EIL shall not absolve Contractor from his responsibility to meet the requirements of specifications, drawings etc. and liabilities for mistakes and deviations. Upon receiving the comments on the drawing/documents reviewed by Owner / EIL, Contractor shall incorporate the comments as required and ensure their compliance.

7.5 Copies of all detailed working drawing relating to the works shall be kept at the contractors' office at the site and shall be made available to the Engineer-in-charge/ Owner at any time during execution of the contract. However no extra claim what so ever shall be entertained for any variation in the "approved/issued for construction drawings" and "tender drawings" regarding any changes/units unless otherwise agreed.

7.6 The Contractor shall rectify any inaccuracies, errors and non-compliance to contractual requirements. Any delay occurring on this shall not construe a reason for delay/ extension.

8.0 SINGLE POINT RESPONSIBILITY

8.1 A single order covering the entire scope of work shall be placed by Owner to the Contractor. Split ordering will not be permitted.

8.2 Complete responsibility & liability towards the execution of Contract shall be taken by the main Contractor

9.0 **TRANSFER OF TITLE**

Clause 11.0 of General Conditions of Contract (GCC) stands modified to the following extent.

9.1 Contractor shall be the consignee of all goods and title transfer of goods shall take place on completion of the contract.

9.2 Contractors shall arrange Road Permits / Way bills by themselves and comply with the statutory laws of the concerned state.
In case as per state laws the issuance of Road Permit / Waybill is to be arranged by the Owner, RFCL will arrange to issue Road Permit / Waybill. In case of imposition of any Tax the same shall be discharged by RFCL and the same will be adjusted against the payments due to Contractors against their bills (or from any other Securities like Bank Guarantees available to RFCL).

The Contractor will be under obligation for proper utilization for the specific supply and in case of seizure of goods / vehicle, the Contractor will be wholly responsible for release and also reimburse the litigation cost to RFCL. RFCL reserves the right to recover the same against the payments due to Contractors against their bills (or from any other Securities like Bank Guarantees available to RFCL).

10.0 **TAXES, DUTIES AND LEVIES**

Provisions mentioned in the General Conditions of Contract (GCC) shall stand modified to the following extent :

10.1 The quoted price shall be deemed to be inclusive of all taxes and duties except "Goods and Services Tax" (hereinafter called GST) (i.e., IGST or CGST and SGST/UTGST applicable in case of interstate supply or intra state supply respectively and GST compensation Cess if applicable).

Except as specifically provided to the contrary in the Special Conditions of Contract,

(i) Contractor shall within their quoted price be liable to pay and bear any and all duties, taxes, levies and cesses lawfully payable on any goods, equipment or 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 their quoted price be liable to pay and bear any and all duties, taxes, levies and cesses 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, cesses, taxes, duties and levies 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 assessable against the Contractor or Contractor's employees or Sub-contractor's whether corporate or personal or applicable in respect of property.

(v) 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 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 considered and included the same in his bid and the quoted Price shall not be varied in any way on this account.

Any errors of interpretation of applicability of taxes/ duties by the CONTRACTOR shall be to CONTRACTOR's account.

10.2 **Goods and Services Tax (GST):**

Contractor shall be required to issue tax invoice in accordance with GST Rules so that input credit can be availed by RFCL. In the event that the Contractor fails to provide the invoice in the form and manner prescribed under the GST Act read with GST Invoicing Rules thereunder, RFCL shall not be liable to make any payment on account of GST against such invoice.

GST shall be paid against receipt of tax invoice. In case of non-receipt of tax invoice payment of GST shall be withheld.

GST payable under reverse charge for specified services or goods under GST act or rules, if any, shall not be paid to the Contractor but will be directly deposited to the Government by RFCL.

Further, GST payment shall be limited to the amount worked out at the quoted rate on the ceiling amount (on which GST is applicable) quoted by the Bidder as per FORM SP-2. In case of reverse charge, wherein RFCL has to pay GST over & above the GST worked out at the quoted rate on the ceiling amount quoted by the Bidder, such extra amount shall be deducted/ setoff / recovered against any amounts paid or payable by RFCL to Contractor (or from any other Securities like Bank Guarantees available to RFCL).

Where RFCL has the obligation to discharge GST liability under reverse charge mechanism and RFCL has paid or is /liable to pay GST to the Government on which interest or penalties becomes payable as per GST laws for any reason which is not attributable to RFCL or input tax credit with respect to such payments is not available to RFCL for any reason which is not attributable to RFCL, then RFCL shall be entitled to deduct/ setoff / recover such amounts against any amounts paid or payable by RFCL to Contractor (or from any other Securities like Bank Guarantees available to RFCL).

Every invoice of the Contractor shall contain invoice number, date, GSTIN number and HSN / SAC code (Harmonized system of Nomenclature / service accounting code) for the items being supplied or services being provided along with tax rate.

The Contractor shall mention their registration status (Registered / Composition/ Unregistered) on the bill / invoice. In case there is change in the Registration status of the Contractor during the execution of the contract the same should be advised immediately. Due to change in the Registration status from Composition to Registered vendor etc. RFCL will not be liable for any additional tax payments.

The Contractor shall comply with all the provisions of the GST Act / Rules / requirements like providing of tax invoices, payment of taxes to the authorities within the due dates, filing of returns within the due dates etc. to enable RFCL to take Input Tax Credit. The Contractor shall always comply with the requirements of applicable laws and provide necessary documents as prescribed under the Rules & Regulations, as applicable from time to time. In particular, if any tax credit, refund or other benefit is denied or delayed to RFCL due to any non-compliance / delayed compliance by the Contractor under the Goods & Service Tax Act (such as failure to upload the details of the sale on the GSTN portal, failure to pay GST to the Government) or due to non-furnishing or furnishing of incorrect or incomplete documents by the Contractor, the Contractor shall be liable to reimburse RFCL for all such losses and other consequences including, but not limited to the tax loss, interest and penalty.

Notwithstanding anything contained anywhere in the Agreement, in the event that the input tax credit of the GST charged by the Contractor is denied by the tax authorities to