

Volume I

Conditions of Contract

Two Stage – Bidding Procedure

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Section-1

Section 1: Invitation for the Bids

1.1 About this document

The purpose of this document is selection of Smart Grid Elements Implementation Agency (SGIA) for the “Employer”.

Bidders are advised to study this document carefully. Submission of RFP shall be deemed to have been done after careful study and examination of this document with full understanding of its implications. This RFP document is not transferable. This document must be read in its entirety. Please verify that you have a complete copy.

1.2 The Opportunity

Employer intends to develop Smart Grid elements in to its Distribution System & Process and has selected works to be executed under the current Program through Smart Grid Implementation Agency (SGIA).

The SGIA would supply, install and commission the equipment and systems described under the Specifications.

1.3 Calendar of Events

Event	Date	Time
Begin Sale of RFP Document	<To be filled by Utility>	<To be filled by Utility>
Pre-Bid Conference	<To be filled by Utility>	<To be filled by Utility>
End Sale of RFP Document	<To be filled by Utility>	<To be filled by Utility>
Deadline for submission	<To be filled by Utility>	<To be filled by Utility>
RFP Opening	<To be filled by Utility>	<To be filled by Utility>

1.4 Sections in the RFP Document

Section	Content	Page Number <To be filled by Utility>
Section 1	Invitation for Bids	
Section 2	Instructions to Bidders	
Section 3	Bid Data Sheet	
Section 4	General Conditions of Contract	
Section 5	Special Conditions of Contract	
Section 6	Sample Form & Procedures	
Section 7	Scope of Work	
Section 8	Guidelines for Technical Proposal	
Section 9	Evaluation Methodology	

Section-2

Section 2: Instructions to Bidders

2.0 Preamble

This section (Section –II) of the Bidding Documents provides the information necessary for bidders to prepare responsive bids, in accordance with the requirements of the Employer. It also provides information on bid submission, opening and, on contract award.

Further in all matters arising out of the provisions of this Section – II and the Section – III of the Bidding Documents, the laws of the Union of India shall be the governing laws and courts of <To be filled by Utility> shall have exclusive jurisdiction.

A. Introduction

1. . Source of Funds

- 1.1 The Employer intends to use domestic funding (Internal Resources/Domestic Borrowings/Bonds/GOI Grants) for this Project.

All eligible payments under the contract(s) for the package for which this Invitation for Bids is issued shall be made by the Employer, named in the **BDS**.

2. Eligible Bidders

- 2.1 This Invitation for Bids, issued by the Employer is open to all firms including company (ies), Government owned Enterprises registered and incorporated in India as per Companies Act, 1956, barring Government Department as well as foreign and those bidders with whom business is banned by the Employer.

- 2.2 Bidders should not be associated, or had been associated in the past, directly or indirectly, with a firm or any of its affiliates:

- (a) that has provided consulting services related to the facilities to the Employer during the preparatory stages of the Project of which the facilities form a part, or
- (b) that has been hired (or is proposed to be hired) by the Employer as Project Manager for the contract.

- 2.3 The Bidder, directly or indirectly shall not be a dependent agency of the Employer.

3. Eligible Plant, Equipment, and Services

- 3.1 For the purposes of these Bidding Documents, the words “facilities,” “plant and equipment,” “installation services,” etc., shall be construed in accordance with the respective definitions given to them in the General Conditions of Contract.
- 3.2 All plant and equipment to be supplied and installed and services carried out under the contract shall have their origin in any country barring those countries against whom sanction for conducting business is imposed by Government of India and barring those firms with whom business is banned by the Employer.
- 3.3 For purposes of this clause, “origin” means the place where the plant and equipment or component parts thereof are mined, grown, or produced. Plant and equipment are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 3.4 The origin of the plant, equipment, and services is distinct from the nationality of the Bidder.

4. Cost of Bidding

- 4.1 The Bidder shall bear all costs associated with the preparation and submission of its bid including post-bid discussions, technical and other presentations etc., and the Employer will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.

B. The Bidding Documents

5. Content of Bidding Documents

- 5.1 The facilities required, bidding procedures, contract terms and technical requirements are prescribed in the Bidding Documents. The Bidding Documents comprise of the following and shall include amendments, if any, thereto:

VOLUME – I: Conditions of Contract

- Section 1 Invitation for Bids (IFB)
- Section 2 Instructions to Bidders (ITB)
- Section 3 Bid Data Sheet (BDS)
- Section 4 General Conditions of Contract (GCC)
- Section 5 Special Conditions of Contract (SCC)
- Section 6 Sample Forms and Procedures (FP)
- Section 7 Scope of Work
- Section 8 Guidelines for Technical Proposal
- Section 9 Evaluation Methodology

Volume-II: Technical Specification

Volume-III: Bid Form, Price Schedule & Technical Data sheet

- 5.2 The Bidder is expected to examine all instructions, forms, terms, specifications and other information in the Bidding Documents. Failure to furnish all information required by the Bidding Documents or submission of a bid not substantially responsive to the Bidding Documents in every respect will be at the Bidder's risk and may result in rejection of its bid.
- 5.3 Scope of Work is given in Volume-II of Bidding Documents titled "Technical Specifications".

6. Clarification of Bidding Documents; and Pre-Bid Meeting

- 6.1 A prospective Bidder requiring any clarification of the Bidding Documents may notify the Employer in writing or by cable (hereinafter, the term cable is deemed to include Electronic Data Interchange (EDI), telex or telefax) at the Employer's mailing address indicated in the **BDS**. Similarly, if a Bidder feels that any important provision in the documents, such as those listed in ITB Sub-Clause 9.3(e) will be unacceptable; such an issue should be raised as above. The Employer will respond in writing to any request for clarification or modification of the Bidding Documents that it receives no later than twenty-eight (28) days prior to the original deadline for submission of bids prescribed by the Employer. The Employer shall not be obliged to respond to any request for clarification received later than the above period. Further, the mere request for clarification from the Bidders shall not be a ground for seeking extension in the deadline for submission of bids. Written copies of the Employer's response (including an explanation of the query but not identification of its source) will be sent to all prospective bidders that have received the Bidding Documents.
- 6.2 The Bidder is advised to visit and examine the site where the facilities are to be installed and its surroundings and obtain for itself on its own responsibility and cost all information that may be necessary for preparing the bid and entering into a contract for supply and installation of the facilities. The costs of visiting the site shall be at the Bidder's own expense.
- 6.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such inspection, but only upon the express condition that the Bidder, its personnel and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to

property and any other loss, damage, costs and expenses incurred as a result of the inspection.

- 6.4 The Bidder's designated representative(s) is/are invited to attend a pre-bid meeting, which, if convened, will take place at the venue and time stipulated in the **BDS**. The purpose of the meeting will be to clarify any issues regarding the Bidding Documents in general and the Technical Specifications in particular. The Bidder is requested, as far as possible, to submit any question in writing, to reach the Employer not later than one week before the meeting. It may not be practicable at the meeting to answer questions received late, but questions and responses will be transmitted as indicated hereafter. Minutes of the meeting, including the text of the questions raised (without identifying name of the bidders) and the responses given, together with any responses prepared after the meeting, will be transmitted without delay to all purchasers of the Bidding Documents. Any modification of the Bidding Documents listed in ITB Sub-Clause 5.1, which may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to ITB Clause 7 and not through the minutes of the pre-bid meeting.

Non-attendance at the pre-bid meeting will not be a cause for disqualification of a bidder.

7. Amendment of Bidding Documents

- 7.1 At any time prior to the deadline for submission of bids, the Employer may, for any reason, whether at its own initiative, or in response to a clarification requested by a prospective Bidder, amend the Bidding Documents.
- 7.2 The amendment will be notified in writing or by cable to all prospective bidders who have purchased the Bidding Documents and will be binding

on them. Bidders are required to immediately acknowledge receipt of any such amendment, and it will be assumed that the information contained therein will have been taken into account by the Bidder in its bid.

- 7.3 In order to afford reasonable time to the prospective Bidders to take the amendment into account in preparing their bid, the Employer may, at its discretion, extend the deadline for the submission of bids, in such cases; the Employer will notify all bidders in writing of the extended deadline.

C1. First Stage Bids: Preparation

8. Language of Bid

- 8.1 The bid prepared by the Bidder and all correspondence and documents exchanged by the Bidder and the Employer related to the bid shall be written in the English language, provided that any printed literature furnished by the Bidder may be written in another language, as long as such literature is accompanied by English translation of its pertinent passages, in which case, for purposes of interpretation of the bid, the English translation shall govern.

9. Documents Comprising the Bid

- 9.1 The First Stage bid submitted by the Bidder shall comprise of the following documents:

Bid Form – First Stage duly completed and signed by the Bidder, together with all Attachments identified in ITB Sub-Clause 9.3 below.

First Stage bids are technical bids and shall contain no prices or price schedules or other reference to rates and prices for completing the facilities. First Stage bids containing such price information will be rejected.

- 9.2 Bidders shall note that they are permitted to propose technical alternatives or other alternative bids with their First Stage bids in addition to or in lieu of the requirements specified in the Bidding Documents, provided they can establish that the proposed alternative bids are to the benefit of the Employer, that they fulfill the principal objectives of the contract, and that they meet the basic performance and technical criteria specified in the Bidding Documents.

Any alternative bid proposed by bidders in their First Stage bid will be the subject of discussion during the clarification meeting with the Bidder, pursuant to ITB Clause 18.

- 9.3 Attachments to the First Stage bid:

Each Bidder shall submit with its First Stage bid the following attachments:

- (a) Attachment 1: Power of Attorney

A power of attorney, duly notarized, indicating that the person(s) signing the bid has (ve) the authority to sign the bid and thus that the bid is binding upon the Bidder.

- (b) Attachment 2: Bidder's Eligibility and Qualifications

In the absence of prequalification, documentary evidence establishing that the Bidder is eligible to bid in accordance with ITB

Clause 2 and is qualified to perform the contract in accordance with **Annexure – A (BDS)**, if its bid is accepted.

The documentary evidence of the Bidder's eligibility to bid shall establish to the Employer's satisfaction that the Bidder, at the time of submission of its bid, is eligible as defined in ITB Clause 2.

The documentary evidence of the Bidder's qualifications to perform the contract, if its bid is accepted, shall establish to the Employer's satisfaction that the Bidder has the financial, technical, production, procurement, shipping, installation and other capabilities necessary to perform the contract, and, in particular, meets the experience and other criteria outlined in the Qualification Requirement for the Bidders in **Annexure – A (BDS)** and shall also include:

The complete annual reports together with Audited statement of accounts of the company for last five years of its own (separate) immediately preceding the date of submission of bid.

[Note I. In the event the Bidder is not able to furnish the above information of its own (i.e., separate), being a subsidiary company and its accounts are being consolidated with its Group/ Holding/ Parent company, the Bidder should submit the audited balance sheet, income statement, other information pertaining to it only (not of its Group/Holding/Parent company) duly certified by any one of the authority [(i) Statutory Auditor of the Bidder/(ii) Company Secretary of the Bidder a (iii) A certified Public Accountant] certifying that such information/documents are based on the audited accounts as the case may be.

Note II. Similarly, if the Bidder happens to be a Group/Holding/ Parent company, the Bidder should submit the above documents/information of its own (i.e., exclusive of its subsidiaries) duly certified by any one of the authority mentioned in Note I above certifying that these information/documents are based on audited accounts, as the case may be.]

Unless otherwise mentioned in **BDS**, bids submitted by a joint venture of two or more firms as partners, if allowed as per stipulated Qualification Requirements in Annexure-A (BDS), shall comply with the following requirements:

- (i) The bid shall include all the information required for Attachment 2 as described above for each joint venture partner.
- (ii) The bid shall be signed so as to be legally binding on all partners.
- (iii) One of the partners responsible for performing a key component of the contract shall be designated as leader, this authorization shall be evidenced by submitting with the bid a power of attorney signed by legally authorized signatories as per Form-14 of Section-VI.
- (iv) The leader shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture, and the entire execution of the contract, including payment, shall be done exclusively with the leader, provided otherwise requested by the joint venture and agreed between the Employer and the leader.
- (v) The Lead Partners of the consortium shall be liable for the entire contract in accordance with the contract terms, while

other Consortium Members shall be liable severally for their portion of Work.

- (vi) A copy of the agreement entered into by the joint venture partners shall be submitted with the bid as per Form-15 of Section-VI, including interalia delineation of responsibilities and obligations of each partners appended thereto, notwithstanding the joint and several liability.
- (vii) The joint venture agreement should indicate precisely the responsibility of all members of JV in respect of planning, design, manufacturing, supply, installation, commissioning and training. All members of JV should have active participation in execution during the currency of the contract. This should not be varied/modified subsequently without prior approval of the employer; and

In order for a joint venture to qualify, each of its partners or combination of partners must meet the minimum criteria listed in the Qualification Requirement for the Bidder in enclosed Annexure-A(BDS) for an individual Bidder for the component of the contract they are designated to perform. Failure to comply with this requirement will result in rejection of the joint venture bid.

A firm can be a partner in only one joint venture; bids submitted by joint ventures or consortia including the same firm as partner will be rejected.

In the case of a Bidder who offers to supply and/or install plant and equipment under the contract that the Bidder did not manufacture

or otherwise produce and/or install, the Bidder shall (i) have the financial and other capabilities necessary to perform the contract; (ii) have been duly authorized by the manufacturer or producer of the related plant and equipment or component as per proforma in Attachment 16 to supply and/or install that item in the Employer's country; and (iii) be responsible for ensuring that the manufacturer or producer complies with the requirements of ITB Sub-Clause 3.2 and meets the minimum criteria listed for an individual Bidder for that item.

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

Documentary evidence established in accordance with ITB Clause 3 that the facilities offered by the Bidder in its bid or in any alternative bid are eligible and conform to the Bidding Documents.

The documentary evidence of the eligibility of the facilities shall consist of a statement on the country of origin of the plant and equipment offered, which shall be confirmed by a certificate of origin issued at the time of shipment.

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

- (i) A detailed description of the essential technical and performance characteristics of the facilities;
- (ii) A list giving full particulars, including available sources, of all spare parts, special tools, etc., necessary for the proper and continued functioning of the facilities for a period as

Specified in Technical Specifications following completion of facilities in accordance with provisions of contract; and

- (iii) A commentary on the Employer's Technical Specifications and adequate evidence demonstrating the substantial responsiveness of the facilities to those specifications. Bidders shall note that standards for workmanship, materials and equipment designated by the Employer in the Bidding Documents are intended to be descriptive (establishing standards of quality and performance) only and not restrictive. The Bidder may substitute alternative standards, brand names and/or catalog numbers in its bid, provided that it demonstrates to the Employer's satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Technical Specifications.
 - (iv) All details regarding after sale service support offered.
 - (v) All details regarding proposed training for Employer's personnel.
 - (vi) Detailed answers to all the Questions in the Questionnaire, if prescribed in the bidding document.
 - (vii) Details establishing the responsiveness of the offer in accordance with Technical Specification, Volume-II.
- (d) Attachment 4: Subcontractors Proposed by the Bidder

The Bidder shall include in its bid details of all major items of supply or services that it proposes to purchase or sublet, and shall give details of the name and nationality of the proposed Subcontractor, including vendors, for each of those items. Bidders

are free to list more than one Subcontractor against each item of the facilities.

The Bidder shall be responsible for ensuring that any Subcontractor proposed complies with the requirements of ITB Clause 2, and that any plant, equipment or services to be provided by the Subcontractor comply with the requirements of ITB Clause 3 and Qualification Requirement for the Bidder, enclosed as **BDS** and Qualification Requirement for subcontractors or Sub-vendors given in Technical Specification, Volume-II.

The Employer reserves the right to delete any proposed subcontractor from the list prior to or during clarification meeting with the Bidder, pursuant to ITB Clause 18 and ITB Sub-Clause 9.3(e). The corresponding Appendix to the form of Contract Agreement shall be completed, listing the approved Subcontractors for each item concerned.

(e) Attachment 5: Deviations

Bidders shall give details of deviations, objections or reservations, other than alternative bids, from the requirements of the Bidding Documents, that they would like the Employer to consider during the clarification meeting with the Bidder, pursuant to ITB Clause 18. In particular, deviations from, objections to or reservations, if any, about critical provisions such as those concerning Bid Security (ITB Clause 24); GCC Clauses 2.14 (Governing Law), 8 (Terms of Payment), 9.3 (Performance Security), 10 (Taxes and Duties), 21.2 (Completion Time Guarantee), 22 (Defect Liability), 23 (Functional Guarantees), 25 (Patent Indemnity), 26 (Limitation of Liability), 38 (Settlement of Disputes), 39 (Arbitration), or Appendix-2 to the

Contract Agreement (Price Adjustment); and related prescriptions in the Bidding Documents, shall be explained. The Employer will consider all deviations, pursuant to ITB Clause 16. Those accepted by the Employer will be incorporated either as an amendment to the Bidding Documents, or into the “**Changes Required Pursuant to First Stage Evaluation**”, pursuant to ITB Clause 19. The deviations that will not be accepted by the Employer shall be withdrawn by the Bidder in its Second Stage bid, failing which, the bid will be rejected, pursuant to ITB Sub-Clause 32.5.

Bidders’ attention is also drawn to the provisions of ITB Sub-Clause 20.1 (vi) and 22.2 which requires the Bidders to indicate the cost of withdrawal for unresolved critical deviations failing which their second stage bid will be rejected pursuant to ITB Sub-Clause 32.5.

Bidder may further note that except for the deviations listed in Attachment-5, the First Stage Bid shall be deemed to comply with all the requirements in the Bidding Documents and the Bidders shall be required to comply with all such requirements of Bidding Documents and Technical Specifications irrespective of any mention to the contrary, anywhere else in the bid.

(f) Attachment 6: Alternative Bids

Bidders may submit alternative bids in addition to the requested bids, provided that they include complete technical justifications and meet basic performance and technical criteria. Any alternative bids that the Employer considers technically acceptable at the end of the First Stage Bid evaluation will be treated as base bids in the second stage evaluation.

- (g) Attachment 7: Answers to Questionnaire
- (h) Attachment 8: Work Completion Schedule
- (i) Attachment 9: Guarantee Declaration
- (j) Attachment 10: Information regarding ex-employees of Employer in Bidder's firm.
- (k) Attachment 11: Declaration regarding Social Accountability
- (l) Attachment 12: Integrity Pact

The Bidder shall complete the accompanying Integrity Pact, which shall be applicable for bidding as well as contract execution, duly signed on each page by the person signing the bid and shall be returned by the Bidder in two (2) originals along with the Techno - Commercial Part in a separate envelope, duly superscripted with 'Integrity Pact'. The Bidder shall submit the Integrity Pact on a non judicial stamp paper of Rs. 100/-.

If the Bidder is a partnership firm or a consortium, the Integrity Pact shall be signed by all the partners or consortium members.

Bidder's failure to submit the Integrity Pact duly signed alongwith the Bid shall lead to outright rejection of the Bid.

- (m) Attachment 13: Information for E-payment, PF details and declaration regarding Micro/Small & Medium Enterprises
- (n) Attachment 14: Additional Information
 - (i) Certificate from their Banker(s) (as per prescribed formats in Form 16, Section-VI: Sample Forms and Procedures)

indicating various fund based/non fund based limits sanctioned to the Bidder and the extent of utilization as on date. Such certificate should have been issued not earlier than three months prior to the date of bid opening. Wherever necessary the Employer may make queries with the Bidders' Bankers.

(ii) Detailed information on any litigation or arbitration arising out of contracts completed or under execution by it over the last five years. A consistent history of awards involving litigation against the Bidder or any partner of JV may result in rejection of Bid.

(iii) Any other information which the Bidder intends to furnish.

(n) Schedule – 1: Bill of Quantity (BOQ) (unpriced)

(o) All other enclosures required to be submitted as per Technical Specification.

10. Bid Form

10.1 The Bidder shall complete the First Stage Bid Form furnished in the Bidding Documents in the manner and detail indicated therein and submit the same with its first stage bid.

11. Format and Signing of Bid

11.1 The Bidder shall prepare an original and two numbers of copies/sets of the bid, clearly marking each one as: **"First Stage Bid—Original"**, **"First Stage Bid—Copy No. 1"**, **"First Stage Bid—Copy No. 2"**, as

appropriate. In the event of any discrepancy between the original and any copy, the original shall govern.

- 11.2 The original and both the copies of the bid, each consisting of the documents listed in ITB Clause 9, shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. The latter authorization shall be indicated by written power of attorney accompanying the bid and submitted as Attachment 1 to the Bid under ITB Sub-Clause 9.3. All pages of the bid, except for unamended printed literature, shall be initialed by the person or persons signing the bid.
- 11.3 The bid shall contain no alterations, omissions or additions, unless such corrections are initialed by the person or persons signing the bid.
- 11.4 The Bidder shall furnish information as described in the last paragraph of the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this bid, and to contract execution if the Bidder is awarded the contract.

C2. First Stage Bids: Submission

12. Sealing and Marking of First Stage Bids

- 12.1 The Bidder shall seal the original and each copy of the first stage bid in separate envelopes, duly marking the envelopes as “First Stage Bid—Original” and “First Stage Bid—Copy No. [number]”. The envelopes shall be sealed in an outer envelope.
- 12.2 The inner and outer envelopes shall
- (a) be addressed to the Employer at the address given in the **BDS**, and

- (b) bear the contract name indicated in the **BDS**, the Invitation for Bids title and number indicated in the **BDS**, and the statement “FIRST STAGE BID. DO NOT OPEN BEFORE [date]”, to be completed with the time and date specified in the **BDS**, pursuant to ITB Sub-Clause 2.14.1.

- 12.3 Integrity Pact in original shall be submitted in a separate envelope on which the contents shall be superscribed.

The inner envelopes shall also indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared “late.”

- 12.4 If the outer envelope is not sealed and marked as required by ITB Sub-Clauses 12.2, the Employer will assume no responsibility for the bid’s misplacement or premature opening. If the outer envelope discloses the Bidder’s identity, the Employer will not guarantee the anonymity of the bid submission, but this disclosure will not constitute grounds for bid rejection.

13. Deadline for Submission of Bids

- 13.1 First Stage bids must be received by the Employer at the address specified under ITB Sub-Clause 2.12.2 and no later than the time and date stated in the **BDS**. Late bids will be rejected and returned to the Bidder. In the event of the specified date for the submission of bids being declared a holiday for the Employer, the bids will be received upto the appointed time on the next working day. Bids once received by the Employer shall not be returned except otherwise provided in the Bidding Documents.

- 13.2 The Employer may, at its discretion, extend this deadline for submission of bids by amending the Bidding Documents in accordance with ITB Sub-Clause 7.3 for the reasons specified therein, in which case all rights and obligations of Employer and bidders will thereafter be subject to the deadline as extended.

C3. First Stage Bids: Opening and Evaluation

14. Opening of First Stage Bids by Employer

- 14.1 The Employer will open the First Stage bids in the presence of bidders' designated representatives who choose to attend, at the time, date, and location stipulated in the **BDS**. The bidders' representatives who are present shall sign a register evidencing their attendance. In the event of the specified date for the submission of bids being declared a holiday for the Employer, the bids will be received upto the appointed time on the next working day.
- 14.2 The names of all bidders who submitted First Stage bids including the presence of Integrity Pact and other such details as the Employer, at its discretion, may consider appropriate will be announced at the opening. No bid shall be rejected at bid opening except for late bids pursuant to ITB Clause 13.1 and bid not accompanied by a duly signed Integrity Pact. Such bids shall be returned to the Bidder unopened.
- 14.3 The Employer will prepare minutes of the bid opening.

15. Preliminary Examination of First Stage Bids

- 15.1 The Employer will examine the bids to determine whether they are complete, whether the documents have been properly signed and whether

the bids are generally in order. Any bids found to be nonresponsive or not meeting the minimum levels of the performance or other criteria specified in the Bidding Documents will be rejected by the Employer and not included for further consideration. The Employer will also carry out a preliminary examination of any alternative bids submitted by bidders.

16. Technical Evaluation of First Stage Bid

16.1 The Employer will carry out a detailed evaluation of the bids in order to determine whether the technical aspects are substantially responsive to the requirements set forth in the Bidding Documents. In order to reach such a determination, the Employer will examine the information supplied by the bidders, pursuant to ITB Clause 9, and other requirements in the Bidding Documents, taking into account the following factors:

- (a) overall completeness and compliance with the Technical Specifications and Drawings; the technical merits of alternatives offered and deviations from the Technical Specifications; suitability of the facilities offered in relation to the environmental and climatic conditions prevailing at the site; quality, function and operation of any process control concept included in the bid
- (b) achievement of specified performance criteria by the facilities
- (c) compliance with the time schedule called for in the corresponding Appendix to the Form of Contract Agreement and any alternative time schedules offered by bidders, as evidenced by a milestone schedule provided in the bid
- (d) type, quantity, and long-term availability of spare parts and maintenance services
- (e) any other relevant technical factors that the Employer deems necessary or prudent to take into consideration

- (f) any deviations to the commercial and contractual provisions stipulated in the Bidding Documents.
 - (g) Details furnished by the bidder in response to the requirements specified in Volume-II of the Bidding Documents.
- 16.2 The Employer will also review complete technical alternative bids, if any, offered by the Bidder, pursuant to ITB Sub-Clause 9.2, to determine whether such alternatives may constitute an acceptable basis for a Second Stage bid to be submitted on its own merits.

17. Qualification

- 17.1 In the absence of prequalification, the Employer will ascertain to its satisfaction whether bidders determined as having submitted responsive First Stage bids are qualified, as per the Qualification Requirement specified in Annexure – A (BDS) to satisfactorily perform the contract. The Employer shall be the sole judge in this regard and the Employer's interpretation of the Qualification Requirement shall be final and binding.
- 17.2 The determination will take into account the Bidder's financial, technical capabilities including production capabilities and past performance. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Sub-Clause 2.9.3 (b), as well as such other information as the Employer deems necessary and appropriate.
- 17.3 An affirmative determination will be a prerequisite for the Employer to invite the Bidder to a clarification meeting in accordance with ITB Clause 18. A negative determination will result in rejection of the Bidder's bid.

- 17.4 The Employer may waive any minor informality, nonconformity or irregularity in a bid that does not constitute a material deviation, affecting the capacity and capability of the Bidder to perform the Contract.

D. Clarification Meeting

18. Clarification of First Stage Bids and Review of Bidders' Proposed Deviations and Alternative Solutions

- 18.1 The Employer may conduct Clarification Meetings with and/or seek clarification from each or any Bidder to clarify any aspects of its First Stage bid that require explanation at this stage of the evaluation. During these meetings, the Employer may bring to the attention of the Bidder any matters, technical or otherwise, where for whatever reason, it requires amendments or changes to be made to the First Stage bid. All such amendments or changes required by the Employer will be listed in an Annex to the Memorandum documenting the clarification meeting entitled **"Changes Required Pursuant to First Stage Evaluation"** and will be formally notified to the Bidder as part of the invitation to submit the Second Stage Bid or prior to that. Conducting Clarification Meetings or seeking clarifications shall solely be the prerogative of and at the discretion of the Employer and this provision for such Clarification Meeting or seeking clarification does not confer any right, whatsoever, on the Bidder to demand the same.
- 18.2 The Employer will advise the Bidder of any exceptions or deviations in the First Stage bid, pursuant to ITB Sub-Clause 9.3, that are unacceptable and that are to be withdrawn in the Second Stage bid, and of such exceptions or deviations that the Employer finds acceptable. Alternatively, the Employer may require the Bidder to provide in its Second Stage bid the additional price, if any, for withdrawal of the deviations.

- 18.3 The Employer will also advise the Bidder whether the proposed alternative bid, if any, is acceptable, and will identify the degree (if any) to which such an alternative bid may be incorporated in the Bidder's Second Stage bid.

19. Invitation to Submit Second Stage Bids

- 19.1 At the end of the First Stage evaluation and after holding clarification meetings,
- (a) the Employer may issue an amendment to the Bidding Documents modifying, inter alia and as needed, the evaluation criteria or other sections of the Instructions to Bidders, the Special Conditions of Contract, and the Technical Specifications resulting from the First Stage evaluation and clarification meetings, with the objective of improving competition without compromising essential project objectives and/or
 - (b) The Employer will either
 - (i) invite a Bidder to submit Second Stage bid alongwith or after, an updated technical First Stage bid based on the updated Technical Specifications and Drawings and any other technical revisions required for the original First Stage bid as recorded in the Annex to the Memorandum entitled "Changes Required Pursuant to First Stage Evaluation" of the clarification meeting or any other changes that the Employer may require (such updation, at Employer's discretion may also be by way of the Bidder's confirmation of compliance to the "Changes Required Pursuant to First Stage Evaluation" and/or any other changes that the Employer may require), or

- (ii) invite a Bidder to submit Second Stage bid alongwith or after, as may be decided by the Employer, an updated technical First Stage bid based on an alternative bid proposed by the Bidder in its First Stage taking into account the updated Technical Specifications and Drawings and any other technical revisions required for the First Stage bid as recorded in the Memorandum entitled “Changes Required Pursuant to First Stage Evaluation” of the clarification meeting or any other changes that the Employer may require (such updation, at Employer’s discretion may also be by way of the Bidder’s confirmation of compliance to the “Changes Required Pursuant to First Stage Evaluation” and/or any other changes that the Employer may require), or
- (iii) notify a Bidder that its bid has been rejected on the grounds of being substantially nonresponsive, or that the Bidder does not meet the minimum qualification requirements set forth in the Bidding Documents.

19.2 Bidders are not allowed to form joint venture(s) or consortium (consortia) with other bidders, nor change the partner or structure of the joint venture or consortium if the Bidder in the First Stage was a joint venture or consortium.

19.3 The deadline for submission of Second Stage bids will be specified in the invitation to submit Second Stage bids.

E1. Second Stage Bids: Preparation

20. Documents Comprising the Second Stage Bid

20.1 When submitting the Second Stage bid in accordance with ITB Part E2 (Second Stage Bids: Submission) of these Instructions to Bidders, the documents to be submitted are the following:

- (a) Updated First Stage Bid, as applicable, pursuant to ITB Sub-Clause 19.1(b);
- (b) The **commercial (Price) bid**, consisting of
 - (i) Bid Form—Second Stage duly completed and signed by Bidder, together with all Attachments identified in subparagraph (d) below
 - (ii) Price Schedules duly completed by the Bidder;
- (c) Attachments to the Second Stage bid:
 - (i) Attachment 1: Bid Security

A bid security furnished in accordance with ITB Clause 24.
 - (ii) Attachment 2: Power of Attorney

A power of attorney, duly notarized, indicating that the person(s) signing the bid has(ve) the authority to sign the bid and thus that the bid is binding upon the Bidder during the full period of its validity, in accordance with ITB Clause 25.
 - (iii) Attachment 3: Bidder's Eligibility and Qualifications

Any changes that may have occurred between the time of submitting the First and Second Stage bids that have any material effect on the Bidder's eligibility and qualifications to perform the Contract.
 - (iv) Attachment 4: Eligibility and Conformity of the Facilities

Documentary evidence established in accordance with ITB Clause 3 that any additional or varied facilities to be supplied and installed by the Bidder, in accordance with the requirements of the “Changes Required Pursuant to First Stage Evaluation” and/or any other changes that the Employer may require, are eligible.

The documentary evidence of the eligibility of the additional facilities shall consist of a statement on the country of origin of the plant and equipment offered, which shall be confirmed by a certificate of origin issued at the time of shipment.

The documentary evidence of the conformity of the facilities to the requirements of the “Changes Required Pursuant to First Stage Evaluation” and/or any other changes that the Employer may require may be in the form of literature, drawings and data.

(v) Attachment 5: Subcontractors proposed by the Bidder

If the Bidder proposes to engage any Subcontractors additional to those named in its First Stage bid, it shall give details of the name and nationality of the proposed Subcontractor, including vendors, and the part of the facilities it proposes subletting to them or purchasing from them. Bidders are free to list more than one Subcontractor against each item of the facilities. Quoted rates and prices will be deemed to apply to whichever Subcontractor is appointed, and no adjustment of the rates and prices will be permitted.

The Employer reserves the right to delete any proposed Subcontractor from the list prior to award of contract, and after discussion between the Employer and the Contractor, the corresponding Appendix to the Form of Contract Agreement

shall be completed listing the approved Subcontractors for each item of work.

(vi) Attachment 6: Cost of withdrawal for unresolved deviations against critical provisions

(vii) Attachment 7: Guarantee Declaration

(viii) Attachment 8: Information regarding ex-employees of Employer in Bidder's firm.

(ix) Attachment 9: Information for E-payment, PF details and declaration regarding Micro/Small & Medium Enterprises

21. Bid Form and Price Schedules

21.1 The Bidder shall complete the Bid Form—Second Stage and the appropriate Price Schedules furnished in the Bidding Documents in the manner and detail indicated therein, following the requirements of ITB Clauses 22 and 23.

22. Bid Prices

22.1 Unless otherwise specified in the Technical Specifications, bidders shall quote for the entire facilities on a "single responsibility" basis such that the total bid price covers all the Contractor's obligations mentioned in, or to be reasonably inferred from, the Bidding Documents in respect of the design, manufacture, including procurement and subcontracting (if any), delivery, construction, installation and completion of the facilities. This includes all requirements under the Contractor's responsibilities for the testing, precommissioning and commissioning of the facilities including supply of mandatory spares (if any), and where so required by the Bidding Documents, the acquisition of all permits, approvals and licenses, etc., operation, maintenance and training services and such other items and

services as may be specified in the Bidding Documents, all in accordance with the requirements of the General Conditions of Contract. Items against which no price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other items.

22.2 The Bidder shall provide the additional price, if any, for withdrawal of the unresolved deviations in Attachment 6 of its bid.

22.3 Bidders shall give a breakdown of the prices in the manner and detail called for in the Price Schedules. Where no Price Schedules are included in the Bidding Documents, bidders shall present their prices in the following manner:

Separate numbered Schedules shall be used for each of the following elements. The total amount from each Schedule 1 to 5 shall be summarized in a grand summary of Price Proposal (Schedule 6) giving the total bid price(s) to be entered in the Bid Form.

Schedule 1 : Plant and Equipment (including mandatory Spares) to be supplied including Type Test Charges

Schedule 2 : Local Transportation, Insurance and other incidental services applicable for supply of Plant & Equipment

Schedule 3 : Installation Services

Schedule 4a : Break-up of Training Charges for Training to be imparted

Schedule 4b : Break-up of Annual Maintenance Charges

Schedule 5 : Taxes and Duties not included in Schedule 1 to 4

Schedule 6 : Grand Summary (Schedule Nos. 1 to 5)

Schedule 7 : Break-up of Type Test Charges

Bidders shall note that the plant and equipment included in Schedule No. 1 above exclude materials used for civil, building and other construction works. All such materials shall be included and priced under Schedule No. 3, Installation Services.

- 22.3.1 The bid price for (i) the items for which quantities have been indicated as lumpsum or lot or set and/or (ii) where the quantities are to be estimated by the Bidder shall remain constant unless there is change made in the Scope of Work by Employer. The quantities and unit prices (i) subsequently arrived while approving the Bill of Quantities (BOQ) /Billing breakup of lumpsum quantities/lot/Set and/or (ii) estimated by the bidder shall be for on account payment purpose only. In case additional quantities, over and above the quantities BOQ/billing breakup and /or estimated by the bidder, are required for successful completion of the scope of work as per Technical Specification, the Bidder shall execute additional quantities of these items for which no additional payment shall be made over and above the lumpsum bid price. In case quantities of these items supplied at site are in excess of that required for successful completion of scope of work, such additional quantities shall be the property of the bidders and they shall be allowed to take back the same from the site for which no deduction from the lumpsum bid price shall be made. Further, in case actual requirement of quantities for successful completion of scope of work is less than the quantities identified in the approved BOQ /billing breakup and/or estimated by the bidder, the lumpsum bid price shall remain unchanged and no deduction shall be made from the lumpsum price due to such reduction of quantities.
- 22.3.2 It shall be the responsibility of the bidders to pay all statutory taxes, duties and levies to the concerned authorities for such surplus material, which would otherwise have been, lawfully payable. The bidders shall submit an

indemnity bond to keep Employer harmless from any liability, before release of such material to the bidder by Employer.

22.3.3 Set/Lot/Lumpsum shall be governed as per the requirement of the corresponding item description read in conjunction with relevant provisions of Technical Specifications.

22.4 In the Schedules, bidders shall give the required details and a breakdown of their prices as follows:

- (a) Plant and equipment including mandatory spares manufactured or fabricated, shall be quoted on an EXW (ex-factory, ex-works, ex-warehouse or off-the-self, as applicable) basis and Type Test Charges (including the Type Test to be conducted abroad in case of an Indian Bidder), shall also be quoted in Schedule 1.

In respect of direct transaction between the Employer and the Contractor, EXW price shall be inclusive of all cost as well as duties and taxes (viz., customs duties & levies, duties, sales tax/VAT etc.) paid or payable on components, raw materials and any other items used for their consumption incorporated or to be incorporated in the Plant & Equipment.

Sales tax/VAT, excise duty, local tax and other levies for equipment/items under direct transaction including octroi/entry tax as applicable for destination site/state shall not be included in the EXW price but shall be indicated wherever applicable in respective column of Schedule 5.

Whenever EXW price is quoted exclusive of excise duty and/or VAT, then the due credit under the CENVAT (Central Value Added Tax)/VAT scheme as per the relevant Government policies wherever applicable shall be taken into account by the Bidder while quoting bid price.

In respect of bought-out finished items, which shall be dispatched directly from the sub-vendor's works to the Employer's site (sale-in-transit), EXW price shall be inclusive of all cost as well as duties and tax (viz., custom duties & levies, duties, sales tax/VAT etc.) paid or payable. While quoting the EXW price, inclusive of excise duty and/or VAT, the due credit under the CENVAT (Central Value Added Tax)/VAT scheme as per the relevant Government policies wherever applicable shall be taken into account by the Bidder.

Further, Bidders offering (i) imported Equipments/items as 'Off the Shelf' or dispatched directly from the Indian Port of disembarkation and/or (ii) bought-out finished Equipments/items as 'Off the Shelf' items or dispatched directly from the Bidder's works, the price of such Equipments/items shall be inclusive of all cost as well as duties and tax (viz., custom duties & levies, duties, sales tax/VAT etc.) paid or payable.

However, octroi/entry tax as applicable for destination site/state shall not be included in the EXW price but shall be indicated separately in respective column of Schedule 5.

Requisite Sales Tax Declaration forms for all the equipments/items to be supplied from within India shall be furnished by the Employer.

- (b) Local transportation, insurance and other Services incidental to delivery of the Plant and Equipment including mandatory spares to be supplied shall be quoted separately in Schedule 2.
- (c) Installation Charges shall be quoted separately (Schedule 3) and shall include rates and prices for all labour, Contractor's equipment, temporary works, materials, consumables and all matters and things of whatsoever nature, provision of operations and maintenance manuals, etc. wherever identified in the Bidding Documents as

necessary for the proper execution of all installation services except those priced in other Schedules.

- (d) The break-up of Training Charges shall be furnished separately in Schedule-4a for the training. Similarly, the break-up of Annual Maintenance Charges shall be furnished separately in Schedule-4b and the break-up of Type test charges shall be furnished separately in Schedule 7.
- (e) The bidder shall include the Sales Tax/VAT on Works Contract, Turnover Tax or any other similar taxes under the Sales Tax/VAT Act for services to be performed, as applicable in their quoted bid price and Employer would not bear any liability whatsoever on this account. Employer (or the Employer on behalf of the Owner) shall, however, deduct such taxes at source as per the rules and issue Tax Deducted at Source (TDS) Certificate to the bidder.
- (f) The Bidder shall include Service Tax and surcharge/cess etc. on it as applicable in their quoted bid price and Employer would not bear any liability whatsoever on this account. Employer (or the Employer on behalf of the Owner) shall, however, deduct such tax at source as per the rules and issue necessary Certificate to the Contractor.

22.4.1 Discount(s)/rebate(s) offered by the bidder shall be indicated as a percentage of price component(s). Bidder shall also indicate in his bid, the price component(s) on which the discount is to be applied.

22.5 The prices shall be in accordance with the following:

Adjustable Price: Prices quoted by the Bidder shall be subject to adjustment during performance of the contract to reflect changes in the cost elements such as labor, material, etc. in accordance with the procedures specified in the corresponding Appendix – 2 to the Form of Contract Agreement. A bid submitted with a fixed price quotation will not

be rejected, but the price adjustment will be treated as zero. The price adjustment provision will not be taken into consideration in bid evaluation. Bidders are required to indicate the source of labour & materials indices in the relevant Attachment of Second Stage Bid.

23. Bid Currencies

23.1 Prices shall be quoted in Indian Rupees Only.

24. Bid Security

24.1 The Bidder shall furnish, as part of its Second Stage bid, a bid security in the amount and currency as stipulated in the **BDS**. The bid security must be submitted in the form provided in the bidding document.

24.2 The bid security shall, at the bidder's option, be in the form of a crossed bank draft/pay orders/banks certified cheque in favour of Employer as stipulated in **BDS** from a reputed commercial bank or a bank guarantee from a scheduled commercial bank selected by the bidder and located in India or abroad. The format of the bank guarantee shall be in accordance with the form of bid security included in the Bidding Documents. Bid security shall remain valid for a period of thirty (30) days beyond the original bid validity period, and beyond any extension subsequently requested under ITB Sub-clause 25.2.

24.3 Any bid not accompanied by an acceptable bid security shall be rejected by the Employer and shall be returned unopened. The bid security of a joint venture must be in the name of all the partners in the joint venture submitting the bid.

24.4 The bid securities of unsuccessful bidders will be returned as promptly as possible, but not later than twenty-eight (28) days after the expiration of the bid validity period.

24.5 The successful Bidder shall be required to keep its bid security valid for a sufficient period till the performance security(ies) pursuant to ITB Clause 43 are furnished to the satisfaction of the Employer. The bid security of the successful Bidder will be returned when the Bidder has signed the Contract Agreement, pursuant to ITB Clause 42, and has furnished the required performance security, pursuant to ITB Clause 43.

24.6 The bid security may be forfeited

- (a) if the Bidder withdraws its bid during the period of bid validity specified by the Bidder in the Bid Form; or
- (b) In case the Bidder does not withdraw the deviations proposed by him, if any, at the cost of withdrawal stated by him in the bid; or
- (c) If a Bidder does not accept the corrections to arithmetical errors identified during preliminary evaluation of his bid pursuant to ITB Clause 32.2; or
- (d) If, as per the requirement of Qualification Requirements the Bidder is required to submit a Deed of Joint Undertaking and he fails to submit the same, duly attested by Notary Public of the place(s) of the respective executant(s) or registered with the Indian Embassy/High Commission in that Country, within ten days from the date of intimation of post – bid discussion; or
- (e) in the case of a successful Bidder, if the Bidder fails within the specified time limit
 - (i) to sign the Contract Agreement, in accordance with ITB Clause 42, or

- (ii) to furnish the required performance security(ies), in accordance with ITB Clause 43 and/or to keep the bid security valid as per the requirement of ITB Sub Clause 24.5.

24.7 No interest shall be payable by the Employer on the above Bid Security.

25. Period of Validity of Bid

25.1 Second Stage Bids shall remain valid for the period of six months after the date of opening of bids prescribed by the Employer, pursuant to ITB Sub-Clause 28.1. A bid valid for a shorter period shall be rejected by the Employer as being nonresponsive.

25.2 In exceptional circumstance, the Employer may solicit the Bidder's consent to an extension of the bid validity period. The request and responses thereto shall be made in writing or by cable. If a Bidder accepts to prolong the period of validity, the bid security shall also be suitably extended. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request will not be required or permitted to modify its bid.

26. Format and Signing of Bid

26.1 The Bidder shall prepare an original and two number of copies/sets of the bid, clearly marking each one as: **"Second Stage Bid—Original"**, **"Second Stage Bid—Copy No. 1"**, **"Second Stage Bid—Copy No. 2"**, as appropriate. In the event of any discrepancy between the original and any copy, the original shall govern.

26.2 The original and both the copies of the bid, each consisting of the documents listed in ITB Sub-Clause 20.1, shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. The latter authorization shall be indicated by written power of attorney accompanying the bid and

submitted as Attachment 2 to the Bid under ITB Sub-Clause 20.1. All pages of the bid, except for unamended printed literature, shall be initialed by the person or persons signing the bid.

- 26.3 The bid shall contain no alterations, omissions or additions, unless such corrections are initialed by the person or persons signing the bid.
- 26.4 The Bidder shall furnish information as described in the last paragraph of the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this bid, and to contract execution if the Bidder is awarded the contract.

E2. Second Stage Bids: Submission

27. Sealing and Marking of Second Stage Bids

- 27.1 The Bidder shall seal the original and each copy of the second stage bid in separate envelopes, duly marking the envelopes as “Second Stage Bid—Original” and “Second Stage Bid—Copy No. [number]”. The envelopes shall be sealed in an outer envelope.
- 27.2 The inner and outer envelopes shall
- (a) be addressed to the Employer at the address given in the **BDS**, and
 - (b) bear the contract name indicated in the **BDS**, title and number indicated in Invitation for Bids for Second Stage Bids, and the statement “SECOND STAGE BID. DO NOT OPEN BEFORE [date]”, to be completed with the time and date specified in the invitation, pursuant to ITB Sub-Clause 31.1.
- 27.3 The inner envelopes shall also indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared “late.”

- 27.4 If the outer envelope is not sealed and marked as required by ITB Sub-Clauses 27.2, the Employer will assume no responsibility for the bid's misplacement or premature opening. If the outer envelope discloses the Bidder's identity, the Employer will not guarantee the anonymity of the bid submission, but this disclosure will not constitute grounds for bid rejection.

28. Deadline for Submission of Bids

- 28.1 Second Stage bids must be received by the Employer at the address specified under ITB Sub-Clause 27.2 and no later than the time and date stated in the Invitation to submit Second Stage Bid. In the event of the specified date for the submission of bids being declared a holiday for the Employer, the bids will be received upto the appointed time on the next working day. Bids once received by the Employer shall not be returned except otherwise provided in the Bidding Documents.
- 28.2 The Employer may, at its discretion, extend this deadline for submission of bids by amending the Bidding Documents in accordance with ITB Sub-Clause 7.3 for the reasons specified therein at any time prior to opening of bids by the Employer pursuant to ITB Clause 31, in which case all rights and obligations of Employer and bidders will thereafter be subject to the deadline as extended.

29. Late Bids

- 29.1 Any bid received by the Employer after the bid submission deadline prescribed by the Employer, pursuant to ITB Clause 28, will be rejected and returned unopened to the Bidder.

30. Modification and Withdrawal of Bids

- 30.1 The Bidder may modify or withdraw its Second Stage bid after submission, provided that modification or written notice of withdrawal is

received by the Employer prior to the deadline prescribed for bid submission.

30.2 The Bidder's modifications shall be prepared, sealed, marked and dispatched as follows:

(a) The Bidders shall provide an original and two number of copies of any modifications to its bid, clearly identified as such, in two inner envelopes duly marked "Second Stage Bid Modifications—Original" and "Second Stage Bid Modifications—Copies." The inner envelopes shall be sealed in an outer envelope, which shall be duly marked "Second Stage Bid Modifications."

(b) Other provisions concerning the marking and dispatch of bid modifications shall be in accordance with ITB Sub-Clauses 27.2, 27.3 and 27.4.

30.3 A Bidder wishing to withdraw its bid shall notify the Employer in writing prior to the deadline prescribed for bid submission. The notice of withdrawal shall

(a) be addressed to the Employer at the address named in the **BDS**, and

(b) bear the contract name, the IFB number, and the words "Second Stage Bid Withdrawal Notice." Bid withdrawal notices received after the bid submission deadline will be ignored, and the submitted bid will be deemed to be a validly submitted bid.

30.4 No Second Stage bid may be withdrawn in the interval between the bid submission deadline and the expiration of the bid validity period specified in ITB Clause 25. Withdrawal of a bid during this interval may result in the Bidder's forfeiture of its bid security, pursuant to ITB Sub-Clause 24.6.

E3. Second Stage Bids: Opening and Evaluation

31. Opening of Second Stage Bids by Employer

- 31.1 The Employer will open the Second Stage bids in public, including withdrawals and modifications made pursuant to ITB Clause 30, in the presence of bidders' designated representatives who choose to attend, at the time, date, and location stipulated in the **BDS**. The bidders' representatives who are present shall sign a register evidencing their attendance. In the event of the specified date for the submission of bids being declared a holiday for the Employer, the bids will be received up to the appointed time on the next working day.
- 31.2 Envelopes marked "Withdrawal" shall be opened first and the name of the Bidder shall be read out. Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 30 shall be returned unopened.
- 31.3 For all other Bids, the bidders' names, the Bid Prices, including any alternative Bid Price or deviation, any discounts, the presence of bid security, the financing proposal, losses figures, and any such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. Subsequently, all envelopes marked "Modification" shall be opened and the submissions therein read out in appropriate detail. No bid shall be rejected at bid opening except for late bids pursuant to ITB Clause 29 and bids not accompanied with bid security or the bid security is found to be prima facie unacceptable. Such bids shall be returned to the Bidder unopened. However, opening of bid accompanied with the bid security shall not be construed to imply its acceptability which shall be examined in detail pursuant to ITB 32.
- 31.4 The Employer shall prepare minutes of the bid opening in the form of Bid Opening Statement, including the information disclosed to those present in accordance with ITB Sub-Clause 31.3. The prices and details as may

be read out during the bid opening and recorded in the Bid Opening Statement would not be construed to determine the relative ranking amongst the Bidders, or the successful Bidder, and would not confer any right or claim whatsoever on any Bidder. The successful Bidder (also referred to as the L1 Bidder) shall be determined as per the provisions of this Section – II and considered for award of contract as provided in ITB Clause 39.

- 31.5 Bids not opened and read out at bid opening shall not be considered further for evaluation, irrespective of the circumstances and shall be returned to the Bidder unopened.

32. Preliminary Examination of Second Stage Bids

- 32.1 The Employer will examine the Second Stage bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the bids are generally in order. The Employer may, at its discretion, ask the Bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the price or substance of the bid shall be sought, offered or permitted.
- 32.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity, or between subtotals and the total price, the unit or subtotal price shall prevail, and the total price shall be corrected. However, in case of items quoted without indicating any quantity or the items for which the quantities are to be estimated by the Bidder, the total price quoted against such items shall prevail. If there is a discrepancy between words and figures, the amount in words will prevail. The subtotal, total price or the total bid price, irrespective of the

discrepancy between the amount indicated in words or figures shall be rectified in line with the procedure explained above. If the Bidder does not accept the correction of errors, its bid will be rejected and the amount of Bid Security forfeited.

The prices of all such item(s) against which the Bidder has not quoted rates/amount (viz., items left blank or against which '-' is indicated) in the Price Schedules will be deemed to have been included in other item(s).

If the discount(s)/rebate(s) offered by the Bidder is a percentage discount and the price component(s) on which the said discount is not indicated in the bid, the same shall be considered on the total bid price [i.e. proportionately on each price component], in the event of award. However, if lump-sum discount is offered, the same shall be considered in full on the Ex-works price component (by proportionately reducing Ex-works price of individual items), in case of award. Further, Conditional discounts/rebates, if any, offered by the bidder shall not be taken into consideration for evaluation. It shall, however, be considered in case of award.

In respect of taxes, duties and other levies indicated by the Bidder in the Bid, which are reimbursable in line with the provisions of the Bidding Documents, the applicable rate and amount thereof shall be ascertained by the Employer based on which, if required, necessary rectification and arithmetical correction shall be carried out by the Employer for the purpose of evaluation. The rate and amount so ascertained by the Employer shall prevail.

The Bidder should ensure that the prices furnished in various price schedules are consistent with each other. In case of any inconsistency in the prices furnished in the specified price schedules to be identified in Bid Form for this purpose, the Employer shall be entitled to consider the

highest price for the purpose of evaluation and use the lowest of the prices in these schedules for the purpose of award of the Contract.

- 32.3 The Employer may waive any minor informality, nonconformity or irregularity in a bid that does not constitute a material deviation, whether or not identified by the Bidder in Attachment 6 to its bid, and that does not prejudice or affect the relative ranking of any Bidder as a result of the technical and commercial evaluation, pursuant to ITB Clauses 34 and 35.
- 32.4 Prior to the detailed evaluation, the Employer will determine whether each bid is of acceptable quality, is complete, is substantially responsive to the Bidding Documents and has properly incorporated all the modifications listed in the “Changes Required Pursuant to First Stage Evaluation” or any other changes required by the Employer. For purposes of this determination, a substantially responsive bid is one that conforms to all the terms, conditions and specifications of the Bidding Documents and the “Changes Required Pursuant to First Stage Evaluation” or any other changes required by the Employer without material deviations, objections, conditionalities or reservations. A material deviation, objection, conditionality or reservation is one (i) that affects in any substantial way the scope, quality or performance of the contract; (ii) that limits in any substantial way, inconsistent with the Bidding Documents, the Employer’s rights or the successful Bidder’s obligations under the contract; or (iii) whose rectification would unfairly affect the competitive position of other bidders who are presenting substantially responsive bids.
- 32.4.1 Regarding deviations, conditionality or reservations introduced in the bid, which will be reviewed to conduct a determination of substantial responsiveness of the Bidder’s bid as stated in ITB Clause 32.4, the order

of precedence of these documents to address contradictions, if any, in the contents of the bid, shall be as follows:

- I. Covering Letter
- II. Bid Form
- III. Attachment-6
- IV. Price Schedule
- V. Technical Data Sheet
- VI. Any other part of the bid

Contents of the document at Sr. No. I above will have overriding precedence over other documents (Sr. No. II to VI above). Similarly, contents of document at Sr. No. II above will have overriding precedence over other documents (Sr. No. III to VI above), and so on.

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

33. Conversion to Single Currency

- 33.1 This shall not be applicable as firms are required to quote the prices in Indian Rupees only.

34. Technical Evaluation of Second Stage Bid

- 34.1 The Employer will carry out a detailed evaluation of the Second Stage bids to determine whether the technical aspects concerning the modifications to the technically acceptable base or alternative bid detailed in the "Changes Required Pursuant to First Stage Evaluation" or any other

changes required by the Employer, pursuant to ITB Sub-Clause 19.1, have been properly addressed and are substantially responsive to the requirements set forth in the Bidding Documents.

35. Commercial Evaluation of Second Stage Bid

35.1 The comparison shall be on the total price in Price Schedule No. 6 Grand Summary (Total of Schedule Nos. 1 to 5).

The comparison shall also include the applicable taxes, duties and other levies, which are reimbursable in line with the provisions of the Bidding Documents.

The Employer's comparison will also include the costs resulting from application of the evaluation procedures described in ITB Sub-Clause 35.2 & 35.3.

35.2 The Employer's evaluation of a bid will take into account, in addition to the bid prices indicated in Price Schedule Nos. 1 through 5, the following costs and factors that will be added to each Bidder's bid price in the evaluation using pricing information available to the Employer, in the manner and to the extent indicated in ITB Sub-Clause 35.3 and in the Technical Specifications:

- (a) the cost of withdrawal of all deviations and omissions from the contractual and commercial conditions and the Technical Specifications as identified in Attachment 6 to the bid, and other deviations and omissions not so identified;
- (b) compliance with the time schedule called for in the corresponding Appendix to the Form of Contract Agreement and evidenced as needed in a milestone schedule provided in the bid;

- (c) the functional guarantees of the facilities offered;
- (d) The performance of the equipment offered;
 - (i) Bidder shall state the guaranteed performance or efficiency of the Equipments, named in the **BDS**, in response to the Technical Specifications. Equipment offered shall have minimum performance specified in Technical Specification to be considered responsive. Bids offering Equipment with a performance less than the specified may be rejected.
 - (ii) For the purpose of evaluation, the adjustment on the basis of per unit of differential loss in terms of Indian Rupees indicated in the **BDS** will be added to the bid price.

The best parameter of loss quoted at rated current for the equipment by any technically responsive bidder shall be taken as basis and that quoted by the particular bidder shall be used to arrive at differential price to be applied for the bid.
- (e) the extra cost of work, services, facilities, etc., required to be provided by the Employer or third parties;
- (f) any other relevant factors listed in BDS.

35.3 Pursuant to ITB Sub-Clause 35.2, the following evaluation methods will be followed:

- (a) Contractual and commercial deviations

The evaluation shall be based on the evaluated cost of fulfilling the contract in compliance with all commercial, contractual and technical obligations under this bidding document. In arriving at the evaluated cost, the cost for withdrawal of deviations shown in Attachment 6 of the bid will be used, if necessary.

(b) Time schedule (program of performance)

The plant and equipment covered by this bidding shall have the 'Taking Over' by the Employer after successful Completion within the period specified in **BDS**. Bidders are required to base their prices on the time schedule given in Appendix 4 to the Form of Contract Agreement (Time Schedule) or, where no time schedule is given in Appendix 4, on the Completion date(s) given above. No credit will be given to earlier completion. Bids offering completion beyond the specified period will be rejected.

(c) Functional Guarantees of the facilities

(i) Bidders shall state the functional guarantees (e.g., performance, efficiency, consumption) of the proposed facilities in response to the Technical Specifications. Plant and equipment offered shall have a minimum (or a maximum, as the case may be) level of functional guarantees specified in the Technical Specifications to be considered responsive. Bids offering plant and equipment with functional guarantees less (or more) than the minimum (or maximum) specified shall be rejected.

(ii) For the purposes of evaluation, the adjustment specified in the Technical Specifications will be added to the bid price for each drop (or excess) in the responsive functional guarantees offered by the Bidder, below (or above) either a norm of one hundred (100) or the value committed in the responsive bid with the most performing functional guarantees, as specified in the Technical Specifications.

(d) Performance Guarantees of the Equipments

- (i) Bidder shall state the guaranteed performance or efficiency of the Equipments, named in the BDS, in response to the Technical Specifications. Equipment offered shall have a minimum (or a maximum, as the case may be) level of guarantees specified in the Technical Specifications to be considered responsive. Bids offering plant and equipment with guarantees less (or more) than the minimum (or maximum) specified shall be rejected.
 - (ii) For the purposes of evaluation, the adjustment specified in the **BDS** will be added to the bid price for each drop (or excess) in the guarantees offered by the Bidder.
- (e) Work, services, facilities, etc., to be provided by the Employer

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

35.4 Any adjustments in price that result from the above procedures shall be added, for purposes of comparative evaluation only, to arrive at an "Evaluated Bid Price." Bid prices quoted by bidders and rectified as per ITB Sub Clause 32.2 shall remain unaltered.

36. Purchase/Domestic Preference

36.1 Purchase Preference as admissible under the policy of Government of India in vogue will be allowed to Central Public Sector Enterprises in evaluation and comparison of bids.

37. Contacting the Employer

- 37.1 From the time of bid opening to the time of contract award, if any Bidder wishes to contact the Employer on any matter related to its bid, they should do so in writing.
- 37.2 Any effort by a Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result in rejection of the Bidder's bid. The Employer shall be the sole judge in this regard.

F. Award of Contract

38. Changes in Qualification Status

- 38.1 Prior to proceeding with the award of contract, the Employer will determine to its satisfaction that no circumstances, in particular the Bidder's contract work in hand, future commitments and current litigation, have arisen or intervened during the period between the submission of the First and Second Stage bids that would change the Employer's opinion as to whether the Bidder determined as having submitted the lowest evaluated and responsive Second Stage bid is still qualified to satisfactorily perform the contract.
- 38.2 An affirmative determination will be a prerequisite for award of the contract to the Bidder. A negative determination will result in rejection of the Bidder's bid, in which event the Employer will proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- 38.3 The capabilities of the vendors and subcontractors proposed in Attachment 5 to be used by the lowest evaluated Bidder will also be evaluated for acceptability. Their participation should be confirmed with a letter of intent between the parties, as needed. Should a vendor or subcontractor be determined to be unacceptable, the Bid will not be

rejected, but the Bidder will be required to substitute an acceptable vendor or subcontractor without any change to the bid price.

39. Award Criteria

- 39.1 Subject to ITB Clause 40, the Employer will award the contract to the successful Bidder (also referred to as the L1 Bidder) whose Second Stage bid has been determined to be substantially responsive and to be the lowest evaluated bid, further provided that the Bidder is determined to be qualified, as per the Qualification Requirement specified in Annexure-A(BDS) to perform the contract satisfactorily. This shall, however, be subject to assessment that may be carried out, if required, by the Employer as per the provisions of Annexure – A(BDS). The Employer shall be the sole judge in this regard.

The Employer reserves the right to waive minor deviations if they do not materially affect the capability of the Bidder to perform the contract.

- 39.2 The Employer may request the Bidder to withdraw any of the deviations listed in Attachment 6 to the winning bid, at the price shown for the deviation in Attachment 6 to the bid.

At the time of Award of Contract, if so desired by the Employer, the bidder shall withdraw the deviations listed in Attachment 6 at the cost of withdrawal stated by him in the bid. In case the bidder does not withdraw the deviations proposed by him, if any, at the cost of withdrawal stated by him in the bid, his bid will be rejected and his bid security forfeited.

Bidder would be required to comply with all other requirements of the Bidding Documents except for those deviations which are accepted by the Employer.

39.3 The Employer reserves the right to vary the quantity of any of the spares and/or delete any items of spares altogether at the time of Award of Contract. However, evaluation will be carried out as per the quantity of spares stipulated in second stage bids.

39.4 The mode of contracting with the successful bidder will be as per stipulation outlined in Clause GCC 2.1 and briefly indicated below:

39.4.1 The award shall be made as follows:

- (i) First Contract: For Ex-Works supply of all equipments and materials (whether in India or abroad) including mandatory spares and Type Test to be conducted (whether in India or abroad).
- (ii) Second Contract: For providing all services i.e. port handling and custom clearance of imported goods and loading, inland transportation for delivery at site, insurance, unloading, storage, handling at site, installation, Testing and Commissioning including performance testing in respect of all the equipments supplied under the "First Contract", Training to be imparted (whether in India or abroad), Maintenance of the equipment and any other services specified in the Contract Documents.

Both contracts will contain a cross fall breach clause specifying that breach of one will constitute breach of the other.

40. Employer's Right to Accept Any Bid and to reject any or All Bids

40.1 The Employer reserves the right to accept or reject any First or Second Stage bid, and to annul the bidding process and reject all bids at any time prior to award of contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Employer's action.

41. Notification of Award

- 41.1 Prior to the expiration of the period of Second Stage bid validity, the Employer will notify the successful Bidder in writing, that its bid has been accepted. The notification of award will constitute the formation of the contract.
- 41.2 The Employer shall publish the results on its website, identifying the bid and Specification numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at bid opening; (iii) name and evaluated prices of each Bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.
- 41.3 Upon the successful Bidder's furnishing of the performance security pursuant to ITB Clause 43, the Employer will promptly discharge the bid securities, pursuant to ITB Sub-Clause 24.4 & 24.5.

42. Signing the Contract Agreement

- 42.1 At the same time as the Employer notifies the successful Bidder that its Second Stage bid has been accepted, the Employer in consultation with the Bidder will prepare the Contract Agreement as provided in the Bidding Documents, incorporating all agreements between the parties.
- 42.2 The Contract Agreement shall be prepared within twenty-eight (28) days of the Notification of Award and the successful Bidder and the Employer shall sign and date the Contract Agreement immediately thereafter.

43. Performance Security

- 43.1 Within thirty (30) days after receipt of the notification of award, the successful Bidder shall furnish the performance security for 10% (Ten percent) of the contract price plus additional performance securities, if any, in line with the requirement of Qualification Requirements, in the

amount given in the **BDS** and in the form provided in Section VII, Sample Forms and Procedures, of the Bidding Documents. The performance security of a joint venture shall be in the name of joint venture.

- 43.2 Failure of the successful Bidder to comply with the requirements of ITB Clause 42 or Clause 43 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security, in which event the Employer may make the award to the next lowest evaluated Bidder or call for fresh bids.

44. Fraud and Corruption

- 44.1 It is the Employer's policy that requires the Bidders, suppliers and contractors and their subcontractors under the contracts to observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Employer:

- (a) defines, for the purpose of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - (ii) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) "Collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(v) “obstructive practice” is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Employer’s investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation;

or

(bb) acts intended to materially impede the exercise of the Employer’s inspection and audit rights.

- (b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;
- (d) will sanction a firm or individual, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a contract; and
- (e) will have the right to require that the provision be included in Bidding Documents and in contracts, requiring Bidders, suppliers, and contractors and their sub-contractors to permit the Employer to inspect their accounts and records and other documents relating to

bid submission and contract performance and to have them audited
by auditors appointed by the Employer.

Section-3

Section 3: Bid Data Sheet

Sl. No.	ITB Clause Ref. No.	Bid Data Details
1.	ITB 1.1	<p>The Owner is:</p> <p>< Address ></p> <p>< Contact Details ></p> <p>< Telephone No.s ></p>
2.	ITB 1.1	<p>The Employer is:</p> <p>< Address ></p> <p>< Contact Details ></p> <p>< Telephone No.s ></p>
3.	ITB 5.1	<p>Insert the following after Sl. No. 18:</p> <p>19. Form of Joint Deed of Undertaking by the Bidder/Contractor along with Collaborator/Associate for successful performance of the System.</p> <p>20. Form of Bank Guarantee for Contract Performance (to be submitted by Collaborator/Associate).</p> <p>21. Form of Bank Guarantee for Contract Performance (to be submitted by the Bidder) for Annual Maintenance part of the Contract for 6 years after Defect Liability Period.</p>

Sl. No.	ITB Clause Ref. No.	Bid Data Details
4.	ITB 6.1	Address of the Employer: < Address > < Contact Details > < Telephone No.s >
5.	ITB 6.4	Deleted
6.	ITB 12.2(a), ITB 12.2(b), ITB 13.1, and ITB 14.1	Address for submission of First Stage Bids and its modification and withdrawal, if any; Address in Person or by Post: Deadline : < Date and Time for Submission of First Stage Bid > < Address for First Stage Bid Opening > < Time and date for First Stage Bid Opening > (a) Bid Title: First Stage Bid for Smart Grid Elements Implementation

Sl. No.	ITB Clause Ref. No.	Bid Data Details
		<p>Specification No.: < ----- ></p> <p>(b) Do not open before < date and time ></p>
7.	ITB 22.4	<p>Add new point ITB 22.4 (g) after ITB 22.4 (f):</p> <p>(g) The Bidder shall include insurance charges in its bid prices as per insurance requirement mentioned in Section – IV: General Conditions of Contract (GCC) and Appendix-3: Insurance Requirements to Form of Contract Agreement as contained in Section VI: Sample Forms and Procedures (FORMS) of the Bidding Documents. Bidder shall further note that the Employer shall not be liable to make any payment/ reimbursement to the Contractor whatsoever for insurance of Contractor's Plant and Machinery.</p>
8.	ITB 22.5	<p>Replace ITB 22.5 with the following:</p> <p>Prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation on any account. A bid submitted with the adjustable price quotation will be treated as non-responsive and rejected.</p>
9.	ITB 24.1	<p>Amount of Bid Security: < Rs. ----- ></p>

Sl. No.	ITB Clause Ref. No.	Bid Data Details
10.	ITB 24.2	The Bid Security shall be in favour of ' Employer ' payable at < to be filled by Employer >
11.	ITB 24.3	Delete the following last sentence of the Clause: 'The bid security of a joint venture must be in the name of all the partners in the joint venture submitting the bid. '
12.	ITB 27.2(a), ITB 27.2(b), ITB 28.1, ITB 30.3 (a) and ITB 31.1	Address for submission of Second Stage Bids and its modification and withdrawal, if any; Address in Person or by Post: < Address for submission of Second stage Bids > Deadline: As per ITB Sub-Clause 28.1, the deadline shall be specified in the Employer's letter while inviting Second Stage Bids from the short-listed bidders. < Address for Second Stage Bid Opening > Same as first stage bid opening.

Sl. No.	ITB Clause Ref. No.	Bid Data Details
		<p>< Time and date for Second Stage Bid Opening ></p> <p>Date & Time: To be intimated by the Employer to the short-listed bidders at the time of inviting Second Stage Bids from them.</p> <p>(a) Bid Title:</p> <p>Second Stage Bid for Smart Grid Elements implementation.</p> <p>Specification No.: < _____ ></p> <p>(b) Do not open before < time and date ></p>
13.	ITB 35.2 (c)	This shall be applied as per the provision of Technical Specification, Volume-II of the Bidding Documents.
14.	ITB 35.2(d)	<p>Replace the existing provisions with the following:</p> <p>the performance of the equipments offered;</p> <p>Bidder shall conform to the guaranteed performance or efficiency of the Equipments in response to the Technical Specifications. Equipments offered shall have minimum performance specified in Technical Specification to be considered responsive. Bids</p>

Sl. No.	ITB Clause Ref. No.	Bid Data Details
		offering Equipments with a performance less than the specified may be rejected.
15.	ITB 35.3 (b)	The Time for Completion for successful Completion of Smart Grid Elements implementation shall be 18 (Eighteen) months from the date of Notification of Award.
16.	ITB 35.3 (c)	This shall be applied as per the provision of Technical Specification, Volume-II of the Bidding Documents.
17.	ITB 35.3 (d)	For the purpose of evaluation, no adjustment to the bid price towards performance guarantees of the equipments is applicable. However, the provision of Technical Specification, Volume-II of the Bidding Documents and Clause ITB 35.2 (d) shall prevail.
18.	ITB 36.1	Supplementing Sub Clause ITB 36.1 No purchase preference is presently applicable for the Plant and Equipments to be supplied under the Contract.
19.	ITB 36.2	Add a new Sub Clause ITB 36.2 as under: No margin of domestic preference will be allowed in evaluation and comparison of bids.

Sl. No.	ITB Clause Ref. No.	Bid Data Details
20.	ITB 43.1	<p>In addition to the Performance Security of 10% of the Contract Price, the successful bidder is required to furnish additional performance security (ies), if applicable, as per Clause no. 4 of Joint Deed of Undertaking mentioned at Sl. No. 19 of Section – VI: Sample Forms and Procedures.</p> <p>Delete the following last sentence of the Clause ITB 43.1:</p> <p>“The performance security of a joint venture shall be in the name of joint venture”.</p>

Payment Schedule

- **Advance Payment:** 10% of total value of contract as (excluding FMS and Bandwidth Charges) “Mobilization Advance” after signing the contract. The following shall be ascertained before release of payment :-
 - Opening of site office in project area
 - Submission of necessary Bank Guarantee for the equivalent amount of Initial Advance
 - Submission of the necessary Contract Performance Bank Guarantee. The same will be released on completion of contract/assignment.
 - Submission of agreed project implementation schedule
- Progressive /Milestone based payment for Project will be regulated as under, however each Milestone to be agreed based on the Proposal and Utility requirement, if any.
-

Sl. No.	ITB Clause Ref. No.	Bid Data Details	
		Description/Milestone	% Value of the Project Cost
A.	1.0	Software interoperability Matrix, Data Exchange information, Module List and Data Blue print (Metadata) details	10%
	2.0	Approval of DRS of Hardware, Configuration Diagram and Test Procedures	10%
	3.0	On receipt of all the necessary software & hardware equipments at the Field location of Control Systems, commissioning of Data Center & demonstration of software functionalities with data from at least 100 meters with Head/IT of Utility issues a “Goods received in Condition” certificate	30 %
	4.0	On successful installation, testing, commissioning and auditing of all systems**	20 %
	5.0	On successful completion of all responsibilities and obligations under the contract	20%
** Note: These can be further divided into Sub-milestones based on proposal of Bidder.			

1.0 QUALIFICATION OF THE BIDDERS

Appendix-A (BDS)

Qualification Criteria:

Qualification of bidder will be based on meeting minimum pass /fail criteria specified below regarding the Bidder's technical experience and financial position as demonstrated by the Bidder's responses in the corresponding bid schedules. Technical experience and financial resources of any proposed sub contractor shall not be taken in to account in determining the bidders compliance with the qualifying criteria

Employer/ Owner may assess the capacity and capability of the bidder, to successfully execute the scope of work covered under the package within stipulated completion period. The assessment shall inter-alia include (i) document verification ; (ii) bidders work/manufacturing facilities visit ; (iii) manufacturing capacity, details of work executed, works in hand, anticipated future & balance capacity available for the present scope of work (iv) details of plant and machinery, manufacturing and testing facilities, manpower and financial resources ;(v) details of quality systems in place ; (vi) past experience and performance ; (viii) customer feedback ; (viii) Banker's feedback etc.

Employer/Owner reserves the right to waive minor deviations if they do not materially affect the capability of the bidder to perform the contract.

1.1 TECHNICAL EXPERIENCE

The Bidder must have:-

- a) Lead bidder or its consortium partners should be a system integrator with experience in at least 2 completed projects of value not less than the estimated cost of this project involving application software, hardware and network installation; and with ability to manage multiple partners with different skill sets in different technology domains.
- b) Lead bidder on its own or its consortium partners shall have previous experience in the design, supply, installation, testing and commissioning of at least two (2) SMART GRID systems (projects) implemented for power utilities covering no. of consumers equivalent or more than the targeted pilot in the last five (5) years as on date of First Stage bid opening. Out of the two projects, at least one on them should be for Automated Metering Infrastructure, and other must cover one of the following functionalities:
1. Outage Management
 2. Distribution Management System
 3. Peak Load Management/Load Control
 4. Micro Grid
 5. Distributed Generation Control /RE Integration
 6. Power Quality

The above two projects should be in successful operation for at least one (1) year as on the date of First Stage bid opening.

- c) The bidder must have experience either in (1) Training utility staff in the smart grid projects, or (2) Business process change for proper operation of smart grid projects, or (3) Data Center design for the IT system.

d) The bidder must provide a core team of at least 5 experts (core team). covering the following skills:

- **Expert 1** - Team Leader/Project Manager - Expert in Project Management, and System Integration covering application software, hardware and network installation, integration design, and ability to manage multiple partners with different skill sets in different technology domains.
- **Expert 2** - Expert in Utility Management with experience in business process engineering, distribution automation, SCADA and DMS etc
- **Expert 3:** Expert in cyber security related aspects covering planning and implementing high level system security requirements, managing data privacy and confidentiality, information flow through adequate authorizations, threat modeling and security testing.
- **Expert 4:** Expert in metering and related aspects covering installation and management of smart meters, DCU/modems, last mile connectivity, head end system and MDMS
- **Expert 5:** Expert in implementing communication protocols, implementing applications using different communication technologies and ensuring communication inter-operability across applications/functionalities.

The Team Leader/Project Manager should be dedicated for the duration of the project. The above team can further be strengthened with support team.

(Please Note: In case of pilots with functionalities such as Renewable Energy Integration or Distributed Generation, the Employer may specify additional personnel (1 no.) with expertise in Grid Integration of Renewable Energy or Distributed Generation respectively.)

Further, except as the Employer may otherwise agree, no changes shall be made in the core team of above five experts. If, for any reason beyond the reasonable control of the SGIA, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the core team members, the SGIA shall provide as a replacement a person of equivalent or better qualifications. Such replacement will be subject to approval of the Employer.

- e) In case of collaboration /associate as per clause 2.0 (b) above, the bidder shall submit a legally enforceable deed of undertaking with the collaborator/Associate as per the format enclosed with the bidding documents along with the collaborator's / associate's confirmation to furnish a performance guarantee for 10% of cost of SMART GRID system in addition to the CPG to be furnished by the successful bidder (Contractor) on award of the contract.
- f) Bids may be submitted by individual firm or consortium of firms provided they can be classified as one of the following:
 - i. A single firm that on its own meets all the qualification requirements
 - ii. A consortium of two or more firms as partners provided that:
 - A. The bid and the contract (in case of a successful bidder) shall be signed as to be legally binding on all partners.

- B. One of the partners shall be nominated as being in-charge (Lead Partner) and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners.

1.2 FINANCIAL POSITION

a) Minimum Average Annual Turnover*(MAAT) for the best three years i.e 36 months out of last five financial years of the bidder should be Rs.---- Crores.

Note: * Annual total income as incorporated in the Profit & Loss account except non-recurring income e.g. sale of fixed assets

b) Bidder shall have liquid Assets (L.A.) or / and evidence of access to or availability of credit facilities of not less than Rs. ----- Crores.

In case bidder is a holding company, MAAT & LA referred to in clause 3.0 (a) & (b) above shall be of that of holding company only (i.e. excluding its subsidiary /group companies). In case Bidder is a subsidiary of holding company, MAAT & LA referred to in clause 3.0 (a) & (b) above shall be of that subsidiary company only (i.e. excluding its holding company).

Section: 4

Section 4: General Conditions of Contract (GCC)

General Conditions of Supply

A. Definitions and Interpretation

1. Definitions

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

- (a) “Arbitrator” means the person or persons appointed by agreement between the Employer and the Contractor to make a decision on or to settle any dispute or difference between the Employer and the Contractor referred to him or her by the parties pursuant to GCC Sub-Clause 39.1 (Arbitration) hereof.
- (b) “Associate” means a party who has been conjoined by the Contractor to independently execute a pre-selected part of facilities of the contract and grant him the associated contractual rights and obligations, without diluting the overall responsibility of the contractor in respect of the Facilities under the contract.
- (c) “Collaborator” or “Parent Company” means the firms/corporations who has provided technological support to the manufacturer for establishing production line for the specific Equipment.
- (d) “Commissioning” means operation of the Facilities or any part thereof, if any, as per GCC Sub-Clause 1.1(e) by the Contractor as specified in the Technical Specifications, which operation is to be carried out by the Contractor as provided in GCC Sub-Clause 20.1.3 (Commissioning), for the purpose of Trial – Operation (GCC Sub-Clause 20.1.4).

- (e) “Completion” means that the Facilities (or a specific part thereof where specific parts are specified in the **SCC**) have been completed operationally and structurally and put in a tight and clean condition and that all works in respect of pre-commissioning of the Facilities (or a specific part thereof where specific parts are specified in the **SCC**) has been completed (wherever required, as per Technical Specifications) and Commissioning followed by Trial – Operation has been completed, as provided in GCC Sub-Clause 20.1 (Completion of Facilities) hereof.
- (f) “Contract” means the Contract Agreement entered into between the Employer and the Contractor together with the Contract Documents referred to therein.
- (g) “Contract Documents” means the documents listed in Clause 1.1 of Article 1 (Contract Documents) of the Form of Contract Agreement (including any amendments thereto).
- (h) “Contract Price” means the sum specified in Clause 2.1 of Article 2 (Contract Price) of the Contract Agreement, subject to such additions or deductions therefrom, as may be made pursuant to the Contract. For the purpose of Liquidated Damages and Contract Performance Guarantee, the “Contract Price” means the sum specified in Clause 2.1 of Article 2 (Contract Price) of the Contract Agreement.
- (i) “Contractor” means the firms whose bid to perform the Contract has been accepted by the Employer and is named in the Contract Agreement, and includes the legal successors or permitted assigns of the Contractor.
- (j) “Contractor’s Equipment” means all plant, facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of

Facilities that are to be provided by the Contractor, but does not include Plant and Equipment, or other things intended to form or forming part of the Facilities.

- (k) “Contractor’s Representative” means any person nominated by the Contractor and approved by the Employer in the manner provided in GCC Sub-Clause 13.2 (Contractor’s Representative and Construction Manager) hereof to perform the duties delegated by the Contractor.
- (l) “Day” means calendar day of the Gregorian Calendar.
- (m) “Defect Liability Period” means the period of validity of the warranties given by the Contractor commencing at Completion of the Facilities or a part thereof, if any, as per GCC Sub-Clause 1.1(e), during which the Contractor is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC Clause 22 (Defect Liability) hereof.
- (n) “Effective Date” means the date of Notification of Award from which the Time for Completion shall be determined.
- (o) “Employer” means the firm/corporation/ government entity, named in the **SCC**, who is responsible for getting the Facilities implemented. The Employer may be Owner himself or an agency appointed by the Owner and shall include the legal successors or permitted assigns of the Employer.
- (p) “Facilities” means the Plant and Equipment to be supplied and installed, as well as all the Installation Services to be carried out by the Contractor under the Contract.
- (q) “GCC” means the General Conditions of Contract hereof.

- (r) “Guarantee Test(s)” means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Technical Specifications in accordance with the provisions of GCC Sub-Clause 20.2.1 (Guarantee Test) hereof during/after successful Commissioning followed by Trial - Operation.
- (s) “Installation Services” means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Contractor under the Contract; e.g., transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor’s Equipment and the supply of all construction materials required), installation, testing, precommissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training, etc.
- (t) “Month” means calendar month of the Gregorian Calendar.
- (u) “Notification of Award” means the official notice issued by the Employer notifying the Contractor that his bid has been accepted.
- (v) “Operational Acceptance” means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor’s fulfillment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of GCC Sub-Clause 20.2.2 (Operational Acceptance) hereof after successful Commissioning followed by Trial - Operation.

- (w) "Owner" means the firm/corporation/government entity, named in the SCC, who has decided to set up the Facilities and shall includes the legal successors or permitted assigns of the Owner.
- (x) "Plant and Equipment" means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the spare parts to be supplied by the Contractor under GCC Sub-Clause 3.3 hereof), but does not include Contractor's Equipment.
- (y) "Precommissioning" means the testing, checking and other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning as provided in GCC Sub-Clause 20.1.2 (Pre-Commissioning) hereof.
- (z) "Project Manager" means the person appointed by the Employer in the manner provided in GCC Sub-Clause 13.1 hereof to perform the duties delegated by the Employer.
- (aa) "SCC" means the Special Conditions of Contract.
- (bb) "Site" means the land and other places upon which the Facilities are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site.
- (cc) "Subcontractor"/"vendor"/"sub-vendor" means firms/ corporations/government entities to whom execution of any part of the Facilities, including preparation of any design or supply of any Plant and Equipment, is sub-contracted directly or indirectly by the Contractor with the consent of the Employer in writing, and includes its legal successors or permitted assigns.

(dd) “Taking Over” means the Employer’s written acceptance of the Facilities under the Contract, after successful Trial – Operation for the specified period in accordance with the Contract, as provided in GCC Sub-Clause 20.1.5.

(ee) “Time for Completion” means the time within which Completion of the Facilities is to be attained in accordance with the specifications, as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed in the **SCC**) and “Taking Over” by the Employer is to be attained.

2. Interpretation

2.1 Contract

The Contracts to be entered into with the successful Bidder shall be as defined in **SCC**.

2.2 Contract Documents

All documents forming part of the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory, subject to Article 1.2 (Order of Precedence) of the Contract Agreement. The Contract shall be read as a whole.

2.3 Language

The ruling language of the Contract and the language for communications shall be English.

2.4 Singular and Plural

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

2.5 Headings

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

2.6 Entire Agreement

Subject to GCC Sub-Clause 12.4 hereof, the Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

2.7 Amendment

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

2.8 Independent Contractor

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

Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Employer, and nothing contained in the Contract or in any subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and the Employer.

2.9 Joint Venture

If the Contractor is a joint venture of two or more firms, all such firms shall be jointly and severally bound to the Employer for the fulfillment of the provisions of the Contract and shall designate one of such firms to act as a leader with authority to bind the joint venture. The composition or the constitution of the joint venture shall not be altered without the prior written consent of the Employer.

2.10 Non-Waiver

2.10.1 Subject to GCC Sub-Clause 2.10.2 below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

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

2.11 Severability

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

2.12 Country of Origin

“Origin” means the place where the materials, equipment and other supplies for the Facilities are mined, grown, produced or manufactured, and from which the services are provided. Plant and equipment are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

2.13 Notices

2.13.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, special courier, telegraph, facsimile or Electronic Data Interchange (EDI) to the address of the relevant party set out in the Contract Agreement, with the following provisions:

- (a) Any notice sent by telegraph, facsimile or EDI shall be confirmed within two (2) days after dispatch by notice sent by special courier, except as otherwise specified in the Contract.
- (b) Any notice sent by special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and conveyed to the postal authorities or courier service for transmission by special courier. Provided further that whenever the postal authorities or courier service provide a proof of delivery, the same shall also be applicable for presenting the fact of dispatch.
- (c) Any notice delivered personally or sent by telegraph, facsimile or EDI shall be deemed to have been delivered on date of its dispatch.

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

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

2.14 Governing Law & its Jurisdiction

The Contract shall be governed by and interpreted in accordance with laws of and the state and the Courts of state capital shall have exclusive jurisdiction in all matters arising under this Contract.

B. Subject Matter of Contract

3. Scope of Facilities

3.1 Unless otherwise expressly limited in the Technical Specifications, the Contractor's obligation shall include the provision of all Plant and Equipment and the performance of all Installation Services required for the design, the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Precommissioning and delivery) of the Plant and Equipment and the installation, completion, commissioning and performance testing of the facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the Technical specifications. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labour, materials, equipment, spare parts (as specified in GCC Sub-Clause 3.3 below) and accessories; Contractor's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including without limitation, custom clearance, port handling, unloading and hauling to, from and at the Site); storage and training except for those supplies, works and services that will be provided or performed by the Employer.

- 3.2 The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.
- 3.3 The supply of Mandatory Spare Parts, if any, shall be included in the Contract. Beside the aforesaid Mandatory Spares parts, the Contractor shall ensure the availability of spare parts required for the operation and maintenance of the Facilities to the Employer for a minimum period of 7 years from Completion of the Facilities. The Contractor shall carry sufficient inventories to ensure an ex-stock supply of consumable spares for the plant and equipment. If so desired by the Employer, the Contractor shall submit the specifications, price and the terms and conditions relating to the supply thereof for such spares identified by the Employer with validity period of 6 months within 30 days of receipt of request from Employer for its consideration and placement of order.
- 3.4 The Contractor shall guarantee that in the event of termination of production of spare parts by the Contractor or his Sub-Contractor:
- (i) The Contractor shall send advance notification to the Employer of the pending termination, with **2 (two) years time to permit** the Employer to procure needed requirements, and

- (ii) Following such termination, the Contractor shall furnish at no cost to the Employer the blueprints, drawings and specification of the spare parts, if requested.

3.5 In case the Contractor fails to supply the spares parts in accordance with the terms stipulated above, the Employer shall sanction the Contractor declaring them ineligible for a stated period of time for future projects.

4. Time for Commencement and Completion

4.1 The Contractor shall commence work on the Facilities from the Effective Date of Contract and without prejudice to GCC Sub-Clause 21.2 hereof, the Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in the corresponding Appendix – 4 (Time Schedule) to the Contract Agreement.

4.2 The Contractor shall attain Completion of the Facilities (or of a part where a separate time for Completion of such part is specified in the Contract) within the time stated under Time for Completion or within such extended time to which the Contractor shall be entitled under GCC Clause 34 hereof.

5. Contractor's Responsibilities

- 5.1 The Contractor shall design, manufacture (including associated purchases and/or subcontracting), install and complete the Facilities with due care and diligence in accordance with the Contract.
- 5.2 The Contractor confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Facilities (including any data as to boring tests) provided by the Employer, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site (if access thereto was available) and of other data readily available to it relating to the Facilities as of the date twenty-eight (28) days prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.
- 5.3 The Contractor shall acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located that are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Employer under GCC Sub-Clause 6.3 hereof and that are necessary for the performance of the Contract.
- 5.4 The Contractor shall comply with all laws in force in **State**. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall

indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Sub-Clause 6.1 hereof.

5.5 Any Plant, Material and Services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified under GCC Sub-Clause 2.12 (Country of Origin).

5.6 The Contractor shall permit the Employer to inspect the Contractor's accounts and records relating to the performance of the Contractor.

6. Employer's Responsibilities

6.1 The Employer shall ensure the accuracy of all information and/or data to be supplied by the Employer as described in the corresponding Appendix - 6 (Scope of Works and Supply by the Employer) to the Contract, except when otherwise expressly stated in the Contract.

6.2 The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in the corresponding Appendix – 6 (Scope of Works and Supply by the Employer) to the Contract Agreement. The Employer shall give full

possession of and accord all rights of access thereto on or before the date(s) specified in that Appendix.

- 6.3 The Employer shall acquire and pay for all permits, approvals and/or licenses from all local, state or **national** government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Employer to obtain them in the Employer's name, are necessary for the execution of the Contract (they include those required for the performance by both the Contractor and the Employer of their respective obligations under the Contract), including those specified in Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement.(to be read in conjunction with employer's responsibilities mentioned in tech spec vol2)
- 6.4 If requested by the Contractor, the Employer shall use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all local, state **or national** government authorities or public service undertakings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.
- 6.5 Unless otherwise specified in the Contract or agreed upon by the Employer and the Contractor, the Employer shall provide sufficient, properly qualified operating and maintenance personnel; shall supply and make available all raw materials, utilities, lubricants, chemicals, catalysts, other materials and facilities; and shall perform all work and services of whatsoever nature, to enable the Contractor to properly carry out

Commissioning, all in accordance with the provisions of Appendix 6 (Scope of Works and Supply by the Employer) to the Contract Agreement at or before the time specified in the program furnished by the Contractor under GCC Sub-Clause 14.2 (Program of Performance) hereof and in the manner thereupon specified or as otherwise agreed upon by the Employer and the Contractor.

6.6 The Employer shall be responsible for the continued operation of the Facilities after Taking Over, in accordance with GCC Sub-Clause 20.1.5.

6.7 All costs and expenses involved in the performance of the obligations under this GCC Clause 6 shall be the responsibility of the Employer.

C. Payment

7. Contract Price

7.1 The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Form of Contract Agreement.

7.2 The Contract Price shall be subject to adjustment in accordance with the provisions of Appendix 2 (Price Adjustment) to the Contract Agreement. The Contract Price shall be increased or reduced on account of variation in quantity in accordance with Clause 33 of GCC.

- 7.3 Subject to GCC Sub-Clauses 5.2 and 6.1 hereof, the Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

8. Terms of Payment

- 8.1 The Contract Price shall be paid as specified in Section -3 (BDS)
- 8.2 All payments under the Contract shall be made in **Indian Rupees**.

9. Securities

- 9.1 Issuance of Securities

The Contractor shall provide the securities specified below in favor of the Employer at the times, and in the amount, manner and form specified below.

- 9.2 Advance Payment Security

9.2.1 The Contractor shall, within twenty-eight (28) days of the notification of contract award, provide a security in an amount equal to the advance payment calculated in accordance with the corresponding Appendix - 1 (Terms and Procedures of Payment) to the Contract Agreement, and in the same currency(ies) with initial validity of up to ninety (90) days beyond the date of Completion of the Facilities in accordance with GCC Sub-Clause 20.1. The same shall be extended by the Contractor time to time till ninety (90) days beyond the actual date of Completion of the Facilities, as may be required under the Contract.

9.2.2 The security shall be in the Form of unconditional Bank Guarantee attached hereto in Section VI - Sample Forms and Procedures. The security shall be discharged after completion of the facilities or relevant part thereof.

- Procedure for effective reduction in the Advance Payment Security

The Advance Payment Security shall be allowed to be reduced every six (06) months after First Running Account Bill/Stage payment under the Contract if the validity of the Bank Guarantee is more than one year. The cumulative amount of reduction at any point of time shall not exceed seventy five percent (75%) of the advance corresponding to cumulative value of the Facilities completed as per a certificate to be issued by the Project Manager. It should be clearly understood that reduction in the value of advance Bank Guarantee shall not in any way dilute the Contractor's responsibility and liabilities under the Contract including in

respect of the Facilities for which reduction in the value of security is allowed.

9.3 Performance Security

- 9.3.1 The Contractor shall, within twenty-eight (28) days of the notification of award, provide a performance security for the due performance of the Contract in the amount equivalent to Ten percent (10%) of the Contract Price, with a validity upto ninety (90) days beyond the Defect Liability Period. The same shall be extended by the Contractor time to time till ninety (90) days beyond the actual Defect Liability Period, as may be required under the Contract.

Apart from the Contractor's performance security, the Contractor shall be required to arrange additional performance securities, as specified in **SCC**, within twenty-eight (28) days of the notification of award in favour of the Employer in the form acceptable to the Employer.

- 9.3.2 The performance security shall be in the Form of unconditional Bank Guarantee attached hereto in the Section VI - Sample Forms and Procedures.
- 9.3.3 Reduction in the security pro rata to the Contract Price of any part of the Facilities is not admissible. However, if the Defects Liability Period has been extended on any part of the Facilities pursuant to GCC Sub-Clause 22.8 hereof, the Contractor shall issue an additional security in an amount proportionate to the Contract Price of that part. The security shall be returned to the Contractor immediately after its expiration, provided, however, that if the Contractor pursuant to GCC Sub-Clause 22, is liable for an extended warranty obligation, the performance security shall be reduced to ten percent (10%) of the value of the component covered by the extended warranty.

9.3.4 In case of award of the contract to a Joint Venture, the Bank Guarantees for performance security and the Bank Guarantee for advance payment shall be submitted in the name of all the partner(s) of the Joint Venture

9.4 Issuing Banks

The Bank Guarantee for Advance Payment Security and Performance Security are to be provided by the Contractor, which should be issued either :

- (a) by a Public Sector Bank located in India, or
- (b) a scheduled Indian Bank having paid up capital (net of any accumulated losses) of Rs. 1,000 Million or above (the latest annual report of the Bank should support compliance of capital adequacy ratio requirement), or
- (c) by a foreign bank or a subsidiary of a foreign bank, located in India with overall international corporate rating or rating of long term debt not less than A- (A minus) or equivalent by a reputed rating agency.

9.5 Indemnity

9.5.1 For the equipment/material to be provided by the Contractor, it will be the responsibility of the Contractor to take delivery, unload and store the materials at Site and execute an Indemnity Bond and obtain authorisation letter from Employer as per proforma enclosed at Section VI (Sample Forms and Procedures), in favour of the Employer against loss, damage and any risks involved for the full value of the materials. This Indemnity Bond shall be furnished by the Contractor before commencement of the

supplies and shall be valid till the scheduled date of Taking Over of the equipment by the Employer.

- 9.5.2 In case of divisible Contracts, where the Employer hands over his equipment to the Contractor for executing the Contract, then the Contractor shall, at the time of taking delivery of the equipment through Bill of Lading or other despatch documents, furnish trust Receipt for Plant, Equipment and Materials and also execute an Indemnity Bond in favour of the Employer in the form acceptable to the Employer for keeping the equipment in safe custody and to utilize the same exclusively for the purpose of the said Contract. Samples of proforma for the Trust receipt and Indemnity Bond are enclosed under Section VI (Sample Forms and Procedures). The Employer shall also issue a separate Authorization Letter to the Contractor to enable him to take physical delivery of plant, equipment and materials from the Employer as per proforma enclosed under Section VI (Sample Forms and Procedures).

10. Taxes and Duties

- 10.1 The Contractor shall be entirely responsible for payment of all taxes, duties, license fees and other such levies legally payable/incurred until delivery of the contracted supplies to the Employer.

If it is statutory requirement to make deductions towards such taxes and duties or any other applicable taxes and duties, the same shall be made by the Employer and a certificate for the same shall be issued to the Contractor.

10.2 The Contractor shall be solely responsible for the taxes that may be levied on the Contractor's persons or on earnings of any of his employees and shall hold the Employer indemnified and harmless against any claims that may be made against the Employer. The Employer does not take any responsibility whatsoever regarding taxes under Indian Income Tax Act, for the Contractor or his personnel. If it is obligatory under the provisions of the Indian Income Tax Act, deduction of Income Tax at source shall be made by the Employer.

10.3 In respect of direct transaction between the Employer and the Contractor, the EXW price is inclusive of all cost as well as duties and tax (viz., custom duties & levies, duties, sales tax/VAT etc.) paid or payable on components, raw materials and any other items used for their consumption incorporated or to be incorporated in the Plant & Equipment.

Sales tax/VAT, excise duty, local tax and other levies for the Equipment/items under 'direct transaction' including octroi/entry tax as applicable for destination site/state are not included in the EXW price. These amounts will be payable (along with subsequent variation if any), by the Employer on the supplies made by the Contractor but limited to the tax liability on the transaction between the Employer and the Contractor. Employer shall, however, issue requisite sales tax declaration form.

In respect of bought-out finished items, which shall be dispatched directly from the sub-vendor's works to the Employer's site (sale-in-transit), the EXW price is inclusive of all cost as well as duties and taxes (viz., custom

duties & levies, duties, sales tax/VAT etc.) paid or payable and any such taxes, duties, levies additionally payable will be to Contractor's account and no separate claim on this behalf will be entertained by the Employer. Employer, shall, however, issue requisite sales tax declaration forms.

Further, the EXW price of (i) imported Equipments/items offered as 'Off the Shelf' or dispatched directly from the Indian Port of disembarkation and/or (ii) bought-out finished Equipments/items as 'Off the Self' items or dispatched directly from the Contractor's works are inclusive of all cost as well as duties and taxes (viz., custom duties & levies, duties, sales tax/VAT etc.) paid or payable and no separate claim on this behalf will be entertained by the Employer. Employer shall, however, issue requisite sales tax declaration form.

For payment/reimbursement of Sales Tax, wherever applicable, in respect of despatches made directly from Contractor's works, invoices raised by the Contractor shall be accepted as documentary evidence and for payment/reimbursement of VAT, VATABLE invoices raised by the Contractor shall be accepted as documentary evidence. Similarly, pre-numbered invoices duly signed by authorized signatory shall be considered as evidence for payment of Excise Duty.

- 10.4 Octroi/entry tax as applicable for destination site/state on all items of supply including bought-out finished items, which shall be dispatched directly from the sub-vendor's works to the Employer's site (sale-in-transit) are not included in the Contract price. The applicable octroi/entry tax in respect of all the items of supply would be reimbursed to the Contractor separately by the Employer subject to furnishing of documentary proof.

- 10.5 Employer would not bear any liability on account of Service Tax. Employer shall, however, deduct such tax at source as per the rules and issue necessary Certificate to the Contractor.
- 10.6 Sales Tax/VAT on Works Contract, Turnover Tax or any other similar taxes under the Sales Tax/VAT Act for services to be performed in India, as applicable is included in Contract Price and Employer would not bear any liability on this account. Employer shall, however, deduct such taxes at source as per the rules and issue Tax Deduction at Source (TDS) Certificate to the Contractor.
- 10.7 For the purpose of the Contract, it is agreed that the Contract Price specified in Article 2(Contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies and charges prevailing at the date seven (07) days prior to the last date of bid submission (hereinafter called "Tax" in this GCC Sub-clause 10.7). If any rates of Tax are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of the Contract, which was or will be assessed on the Contractor in connection with performance of the Contract, an equitable adjustment of the Contract price shall be made to fully take into account any such change by addition to the Contract price or deduction there from, as the case may be, in accordance with GCC Clause 31 (Changes in Laws and Regulations) hereof. However, these adjustments would be restricted to direct transactions between the Employer and the Contractor for which the taxes and duties are reimbursable by the Employer as per the Contract. These adjustments shall not be applicable on procurement of raw materials, intermediary components etc by the Contractor and also not applicable on the bought out items dispatched directly from sub-vendor's works to site.

In respect of raw materials, intermediary components etc and bought out items, neither the Employer nor the Contractor shall be entitled to any claim arising due to increase or decrease in the rate of Tax, introduction of a new Tax or abolition of an existing Tax in the course of the performance of the Contract.

D. Intellectual Property

11. Copy Right

11.1 The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Employer directly or through the Contractor by any third party, including supplies of materials, the copyright in such materials shall remain vested in such third party.

The Employer shall however be free to reproduce all drawings, documents and other material furnished to the Employer for the purpose of the Contract including, if required, for operation and maintenance.

11.2 The copyright in all drawings, documents and other materials containing data and information furnished to the Contractor by the Employer herein shall remain vested in the Employer.

12. Confidential Information

12.1 The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other

information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this GCC Clause 12.

- 12.2 The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement of Plant and Equipment, construction or such other work and services as are required for the performance of the Contract.
- 12.3 The obligation of a party under GCC Sub-Clauses 12.1 and 12.2 above, however, shall not apply to that information which
- (a) now or hereafter enters the public domain through no fault of that party
 - (b) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto
 - (c) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 12.4 The above provisions of this GCC Clause 12 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.
- 12.5 The provisions of this GCC Clause 12 shall survive termination, for whatever reason, of the Contract.

E. Execution of the Facilities

13. Representatives

13.1 If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Employer shall appoint and notify the Contractor in writing of the name of the Project Manager. The Employer may from time to time appoint some other person as the project Manager in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. The Employer shall take all reasonable care to see that no such appointment is made at such a time or in such a manner as to impede the progress of work on the Facilities. The Project Manager shall represent and act for the Employer at all times during the currency of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as herein otherwise provided.

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

13.2 Contractor's Representative & Construction Manager

13.2.1 If the Contractor's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the Contractor's Representative and shall request the Employer in writing to approve the person so appointed. If the Employer makes no objection to the appointment within fourteen (14) days, the Contractor's Representative shall be deemed to have been approved. If the Employer objects to the appointment within fourteen (14) days giving the reason therefore, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 13.2.1 shall apply thereto.

- 13.2.2 The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Project Manager all the Contractor's notices, instructions, information and all other communications under the Contract. All notices, instructions, information and all other communications given by the Employer or the Project Manager to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided. The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in GCC Sub-Clause 13.2.1.
- 13.2.3 The Contractor's Representative may, subject to the approval of the Employer (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Employer and the Project Manager. Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 13.2.3 shall be deemed to be an act or exercise by the Contractor's Representative.
- 13.2.3.1 Notwithstanding anything stated in GCC Sub-Clause 13.1 and 13.2.1 above, for the purpose of execution of Contract, the Employer and the Contractor shall finalize and agree to a Contract Co-ordination Procedure

and all the communication under the Contract shall be in accordance with such Contract Coordination Procedure.

- 13.2.4 From the commencement of installation of the Facilities at the Site until Operational Acceptance, the Contractor's Representative shall appoint a suitable person as the construction manager, (hereinafter referred to as "the Construction Manager"). The Construction Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site through-out normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as his or her deputy.
- 13.2.5 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under GCC Sub-Clause 18.3. The Employer shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities.
- 13.2.6 If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 13.2.5, the Contractor shall, where required, promptly appoint a replacement.

14. Work Program

14.1 Contractor's Organization

The Contractor shall supply to the Employer and the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out work on the Facilities. The chart shall include the identities of the key personnel together with the curricula vitae of such key personnel to be employed within twenty-one (21) days of the Effective

Date. The Contractor shall promptly inform the Employer and the Project Manager in writing of any revision or alteration of such an organization chart.

14.2 Program of Performance

The Contractor shall update and revise the program (in addition to Vol II Section-5) as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion under GCC Sub-Clause 4.2 and any extension granted in accordance with GCC Clause 34, and shall submit all such revisions to the Project Manager.

14.3 Progress Report

The Contractor shall monitor progress of all the activities specified in the program referred to in GCC Sub-Clause 14.2 above, and supply a progress report to the Project Manager every month.

The progress report shall be in a form acceptable to the Project Manager and shall indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.

14.4 Progress of Performance

If at any time the Contractor's actual progress falls behind the program referred to in GCC Sub-Clause 14.2, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Sub-Clause 4.2, any extension thereof entitled under GCC Sub-

Model Bid Document for Appointment of Smart Grid Implementation Agency by <.....Utility.....>

Clause 34.1, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.

14.5 Work Procedures

The Contract shall be executed in accordance with the Contract Documents and the procedures given in the section on Sample Forms and Procedures of the Contract Documents.

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

15. Subcontracting

15.1 The corresponding Appendix (List of Approved Subcontractors) to the Contract Agreement specifies major items of supply or services and a list of approved Subcontractors against each item, including vendors. Insofar as no Subcontractors are listed against any such item, the Contractor shall prepare a list of Subcontractors for such item for inclusion in such list. The Contractor may from time to time propose any addition to or deletion from any such list. The Contractor shall submit any such list or any modification thereto to the Employer for its approval in sufficient time so as not to impede the progress of work on the Facilities. Such approval by the Employer for any of the Subcontractors shall not relieve the Contractor from any of its obligations, duties or responsibilities under the Contract.

15.2 The Contractor shall select and employ its Subcontractors for such major items from those listed in the lists referred to in GCC Sub-Clause 15.1.

15.3 For items or parts of the Facilities not specified in the corresponding Appendix (List of Approved Subcontractors) to the Contract Agreement,

the Contractor may employ such Subcontractors as it may select, at its discretion.

16. Design and Engineering

16.1 Specifications and Drawings

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

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

- 16.1.2 The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Employer, by giving a notice of such disclaimer to the Project Manager.

16.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the Employer and shall be treated in accordance with GCC Clause 33.

16.3 Approval/Review of Technical Documents by Project Manager

- 16.3.1 The Contractor shall prepare (or cause its Subcontractors to prepare) and furnish to the Project Manager the documents listed in Appendix-7 (List of Documents for Approval or Review) to the Contract Agreement for its approval or review as specified and as in accordance with the requirements of GCC Sub-Clause 14.2 (Program of Performance).

Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval thereof.

GCC Sub-Clauses 16.3.2 through 16.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.

- 16.3.2 Within twenty one (21) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Sub-Clause 16.3.1, the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefor and the modifications that the Project Manager proposes.
- 16.3.3 The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good engineering practice.
- 16.3.4 If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Sub-Clause 16.3.2. If the Project Manager approves the document subject to modification(s), the Contractor shall make the required modification(s), and upon resubmission with the

required modifications the document shall be deemed to have been approved.

The procedure for submission of the documents by the Contractor and their approval by the Project Manager shall be discussed and finalized with the Contractor.

- 16.3.5 If any dispute or difference occurs between the Employer and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) thereto that cannot be settled between the parties within a reasonable period, then such dispute or difference may be referred to an Arbitrator for determination in accordance with GCC Sub-Clause 39 hereof. If such dispute or difference is referred to an Arbitrator, the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Contractor shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Arbitrator upholds the Contractor's view on the dispute and if the Employer has not given notice under GCC Sub-Clause 39 hereof, then the Contractor shall be reimbursed by the Employer for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Arbitrator shall decide, and the Time for Completion shall be extended accordingly.
- 16.3.6 The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.

- 16.3.7 The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager's approval thereof, pursuant to the provisions of this GCC Sub-Clause 16.3. If the Project Manager requests any change in any already approved document and/or in any document based thereon, the provisions of GCC Clause 33 shall apply to such request.

17. Plant and Equipment

- 17.1 Subject to GCC Sub-Clause 10.2, the Contractor shall manufacture or procure and transport all the Plant and Equipment (including Hardware & Software also) in an expeditious and orderly manner to the Site.

17.2 Employer-Supplied Plant, Equipment, and Materials

If the corresponding Appendix – 6 (Scope of Works and Supply by the Employer) to the Contract Agreement provides that the Employer shall furnish any specific items of machinery, equipment or materials to the Contractor, the following provisions shall apply:

- 17.2.1 The Employer shall, at its own risk and expense, transport each item to the place on or near the Site as agreed upon by the parties and make such item available to the Contractor at the time specified in the program furnished by the Contractor, pursuant to GCC Sub-Clause 14.2, unless otherwise mutually agreed.
- 17.2.2 The equipment & materials to be furnished by the Employer shall be supplied to the Contractor at the depots established by the Contractor or the Employer. The Lorry Receipts for the materials will be handed over to the Contractor by the representative of the Employer as and when the same are received. The Contractor shall be responsible for taking delivery

of these materials from the railways/road transporter, unloading them from the transporter, carting them to different stores built by him for the purpose, the unloading and cartage being at the cost of the Contractor. However, any octroi or toll tax if legally payable by the Contractor shall be reimbursed to him at actuals, subject to production of documentary evidence. All wharfage and demurrage charges incurred due to delay in taking delivery will be to the Contractor's account, except those due to reasons beyond his control in which case the Contractor shall immediately intimate the Engineer for settling the claims. The Contractor shall be responsible for proper handling and storage of these materials from the time of receipt upto the time of Taking Over of the Facilities by the Employer.

- 17.2.3 Yards and store provided by the Contractor for stacking and storage of materials shall be open for inspection by the Employer as and when required. The cost of handling and storage shall be to the Contractor's account.
- 17.2.4 Upon receipt of such item, the Contractor shall inspect the same visually and notify the Project Manager of any detected shortage, defect or default. For the material being arranged by the Employer and supplied to the Contractor for erection, are received short, broken or damaged, an entry shall be made in the delivery register of the railway authorities/road transporter as far as possible and a report of the same giving full details of shortage and damages along with a copy of report entered in the delivery register of the road transporter/railways shall be submitted by the Contractor to the Project Manager and Employer's consignee immediately. The Employer shall immediately remedy any shortage, defect or default, or the Contractor shall, if practicable and possible, at the request of the Employer, remedy such shortage, defect or default at the Employer's cost and expense. After inspection, such item shall fall under

the care, custody and control of the Contractor. The provision of this GCC Sub-Clause 17.2.4 shall apply to any item supplied to remedy any such shortage or default or to substitute for any defective item, or shall apply to defective items that have been repaired.

- 17.2.5 The foregoing responsibilities of the Contractor and its obligations of care, custody and control shall not relieve the Employer of liability for any undetected shortage, defect or default, nor place the Contractor under any liability for any such shortage, defect or default whether under GCC Clause 22 or under any other provision of Contract.

17.3 Transportation

- 17.3.1 The Contractor shall at its own risk and expense transport all the Plant and Equipment and the Contractor's Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.

- 17.3.2 Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the Plant and Equipment and the Contractor's Equipment.

- 17.3.3 Upon dispatch of each shipment of the Plant and Equipment and the Contractor's Equipment, the Contractor shall notify the Employer by telex, facsimile or Electronic Data Interchange (EDI) of the description of the Plant and Equipment and of the Contractor's Equipment, the point and means of dispatch, and the estimated time and point of arrival in the country where the Site is located, if applicable, and at the Site. The Contractor shall furnish the Employer with relevant shipping documents to be agreed upon between the parties.

- 17.3.4 The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the Plant and Equipment and the Contractor's Equipment to the Site. The Employer shall use its best

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

17.4 Delivery and Documents

17.4.1 Delivery Documents

Upon shipment, the Contractor shall notify the Employer with full details of the dispatch and shall furnish the documents as specified in the corresponding Appendix - 1 (Terms and Procedures of Payment) to the Contract Agreement

17.4.2 Packing

17.4.2.1 The Contractor shall provide such packing of the Goods as it is required to prevent their damage or deterioration during transit to their final destination as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods final destination and the absence of heavy handling facilities at all points in transit.

17.4.2.2 The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract and, subject to any subsequent instruction ordered by the Employer consistent with the requirements of the Contract.

18. Installation

18.1 Setting Out/Supervision/Labor

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

If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by or on behalf of the Employer, the expense of rectifying the same shall be borne by the Employer.

- 18.1.2 Contractor's Supervision: The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

18.1.3 Labor:

- (a) The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labor that has the necessary skills.
- (b) Unless otherwise provided in the Contract, the Contractor at its own expense shall be responsible for the recruitment, transportation, accommodation and catering of all labor, local or expatriate, required

for the execution of the Contract and for all payments in connection therewith.

(c) The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labor of its Subcontractors.

(d) The Contractor shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor.

18.2 Contractor's Equipment

18.2.1 All Contractor's Equipment brought by the Contractor onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Project Manager's consent that such Contractor's Equipment is no longer required for the execution of the Contract.

18.2.2 Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor onto the Site and any surplus materials remaining thereon.

18.2.3 The Employer will, if requested, use its best endeavors to assist the Contractor in obtaining any local, state or national government permission required by the Contractor for the export of the Contractor's Equipment imported by the Contractor for use in the execution of the Contract that is no longer required for the execution of the Contract.

18.3 Site Regulations and Safety

The Employer and the Contractor shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply therewith. The Contractor shall prepare and submit to the Employer, with a copy to the Project Manager, proposed Site regulations for the Employer's approval, which approval shall not be unreasonably withheld.

Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.

18.3.1 Compliance with Labor Regulations

18.3.1.1 During continuance of the contract, the Contractor and his sub-contractors shall abide at all times by all applicable existing labor enactments and rules made thereunder, regulations notifications and byelaws of the State or Central Government or local authority and any other labor law (including rules), regulations bye laws that may be passed or notification that may be issued under any labor law in future either by the State or the Central Government or the local authority. The employees of the Contractor and the Sub-contractor in no case shall be treated as the employees of the Employer at any point of time.

18.3.1.2 The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made thereunder, regulations or notifications including amendments.

18.3.1.3 If the Employer is caused to pay under any law as principal employer such amounts as may be necessary to cause or observe, or for non

observance of the provisions stipulated in the notifications/ byelaws/Acts/ Rules/regulations including amendments, if any, on the part of the Contractor, the Employer shall have the right to deduct any money due to the Contractor under this contract or any other contract with the employer including his amount of performance security for adjusting the aforesaid payment. The Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

Notwithstanding the above, the Contractor shall furnish to the Employer the details/documents evidencing the Contractor's compliance to the laws applicable to establishments engaged in building and other construction works, as may be sought by the Employer. In particular the Contractor shall submit quarterly certificate regarding compliance in respect of provisions of Employees' Provident Fund and Misc. Provisions Act 1952 to the Employer.

18.3.1.4 Salient features of some major laws applicable to establishments engaged in building and other construction works:

- (a) Workmen Compensation Act 1923: The Act provides for compensation in case of injury by accident arising out of and during the course of employment.
- (b) Payment of Gratuity Act 1972: Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years service or more or on death at the rate of 15 days wages for every completed year of service. The Act is applicable to all establishments employing 10 or more employees.

- (c) Employee P.F. and Miscellaneous Provision Act 1952: The Act provides for monthly contribution by the employer plus workers @10% or 8.33%. The benefits under the Act are:
 - (i) Pension or family pension on retirement or death, as the case may be.
 - (ii) Deposit linked insurance on death in harness of the worker.
 - (iii) Payment of P.F. accumulation on retirement/death etc.
- (d) Maternity Benefit Act 1951: The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.
- (e) Contract Labour (Regulation & Abolition) Act 1970: The Act provides for certain welfare measures to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by law. The Principal Employer is required to take Certification of Registration and the Contractor is required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ 20 or more labour contract labour.
- (f) Minimum Wages Act 1948: The Employer is supposed to pay not less than the Minimum Wages fixed by appropriate Government as per provision of the Act if the employment is a scheduled employment. Construction of Buildings, Roads, Runways are scheduled employments.
- (g) Payment of Wages Act 1936: It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.

- (h) Equal Remuneration Act 1979: The Act provides for payment of equal wages for work of equal nature to Male and Female workers and for not making discrimination against Female employees in the matters of transfers, training and promotions etc.
- (i) Payment of Bonus Act 1965: The Act is applicable to all establishments employing 20 or more employees. The Act provides for payments of annual bonus subject to a minimum of 8.33% of wages and maximum of 20% of wages to employees drawing Rs. 3500/- per month or less. The bonus is to be paid to employees getting Rs. 2500/- per month or above upto Rs. 3500/- per month shall be worked out by taking wages as Rs. 2500/- per month only. The Act does not apply to certain establishments. The newly set-up establishments are exempted for five years in certain circumstances. Some of the State Governments have reduced the employment size from 20 to 10 for the purpose of applicability of this Act.
- (j) Industrial Dispute Act 1947: the Act lays down the machinery the procedure for resolution of Industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.
- (k) Industrial Employment (Standing Orders) Act 1946: It is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and get the same certified by the designated Authority.
- (l) Trade Unions Act 1926: The Act lays down the procedure for registration of trade unions of workmen and employers. The Trade

Unions registered under the Act have been given certain immunities from civil and criminal liabilities.

- (m) Child Labour (Prohibition & Regulation) Act 1986: The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of children in all other occupations and processes. Employment of Child Labour is prohibited in Building and Construction Industry.

- (n) Inter-State Migrant workmen's (Regulation of Employment & Conditions of Service) Act 1979: The Act is applicable to an establishment which employs 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The Inter-State migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, traveling expenses from home upto the establishment and back, etc.

- (o) The Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996 : All the establishments who carry on any building or other construction work and employ 10 or more workers are covered under this Act. All such establishments are required to pay cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures at the Building or construction work and other welfare measures, such as Canteens, First-Aid facilities, Ambulance, Housing accommodations for workers near the work place etc. The Employer to whom the Act applies has to obtain a

registration certificate from the Registering Officer appointed by the government.

- (p) Factories Act 1948: The Act lays down the procedure for approval at plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrences to designated authorities. It is applicable to premises employing 10 persons or more with aid of power or 20 or more persons without the aid of power engaged in manufacturing process.

18.3.2 Protection of Environment

The Contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as consequence of his methods of operation.

During continuance of the Contract, the Contractor and his Sub-contractors shall abide at all times by all existing enactments on environmental protection and rules made thereunder, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

Salient features of some of the major laws that are applicable are given below:

The Water (Prevention and Control of Pollution) Act, 1974, This provides for the prevention and control of water pollution and the maintaining and restoring of wholesomeness of water. 'Pollution' means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade

effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.

The Air (Prevention and Control of Pollution) Act, 1981, This provides for prevention, control and abatement of air pollution. 'Air Pollution' means the presence in the atmosphere of any 'air pollutant', which means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.

The Environment (Protection) Act, 1986, This provides for the protection and improvement of environment and for matters connected therewith, and the prevention of hazards to human beings, other living creatures, plants and property. 'Environment' includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.

The Public Liability Insurance Act, 1991, This provides for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling hazardous substances and for matters connected herewith or incidental thereto. Hazardous substance means any substance or preparation which is defined as hazardous substance under Environment (Protection) Act, 1986, and exceeding such quantity as may be specified by notification by the Central Government.

18.3.3 Safety Precautions

18.3.3.1 The Contractor shall observe all applicable regulations regarding safety on the Site.

Unless otherwise agreed, the Contractor shall, from the commencement of work on Site until Taking Over, provide:

- a) fencing, lighting, guarding and watching of the Works, and
- b) temporary roadways, footways, guards and fences which may be necessary for the accommodation and protection of Employer / his representatives and occupiers of adjacent property, the public and others.

18.3.3.2 The Contractor shall ensure proper safety of all the workmen, materials, plant and equipment belonging to him or to Employer or to others, working at the Site. The Contractor shall also be responsible for provision of all safety notices and safety equipment required both by the relevant legislations and the Project Manager, as he may deem necessary.

18.3.3.5 All equipment used in construction and erection by Contractor shall meet Indian/International Standards and where such standards do not exist, the Contractor shall ensure these to be absolutely safe. All equipment shall be strictly operated and maintained by the Contractor in accordance with manufacturer's Operation Manual and safety instructions and as per Guidelines/rules of Employer in this regard.

18.3.3.6 Periodical examinations and all tests for all lifting/hoisting equipment & tackles shall be carried-out in accordance with the relevant provisions of Factories Act 1948, Indian Electricity Act 1910 and associated Laws/Rules in force from time to time. A register of such examinations and tests shall be properly maintained by the Contractor and will be promptly produced

as and when desired by the Project Manager or by the person authorised by him.

18.3.3.8 The Contractor shall provide suitable safety equipment of prescribed standard to all employees and workmen according to the need, as may be directed by the Project Manager who will also have right to examine these safety equipment to determine their suitability, reliability, acceptability and adaptability.

18.3.3.10 The Contractor shall provide safe working conditions to all workmen and employees at the Site including safe means of access, railings, stairs, ladders, scaffoldings etc. The scaffoldings shall be erected under the control and supervision of an experienced and competent person. For erection, good and standard quality of material only shall be used by the Contractor.

18.3.3.11 The Contractor shall not interfere or disturb electric fuses, wiring and other electrical equipment belonging to the Employer or other Contractors under any circumstances, whatsoever, unless expressly permitted in writing by Employer to handle such fuses, wiring or electrical equipment

18.3.3.12 Before the Contractor connects any electrical appliances to any plug or socket belonging to the other Contractor or Employer, he shall:

- a. Satisfy the Project Manager that the appliance is in good working condition;
- b. Inform the Project Manager of the maximum current rating, voltage and phases of the appliances;
- c. Obtain permission of the Project Manager detailing the sockets to which the appliances may be connected.

18.3.3.13 The Project Manager will not grant permission to connect until he is satisfied that;

- a. The appliance is in good condition and is fitted with suitable plug;
- b. The appliance is fitted with a suitable cable having two earth conductors, one of which shall be an earthed metal sheath surrounding the cores.

18.3.3.14 No electric cable in use by the Contractor/Employer will be disturbed without prior permission. No weight of any description will be imposed on any cable and no ladder or similar equipment will rest against or attached to it.

18.3.3.15 No repair work shall be carried out on any live equipment. The equipment must be declared safe by the Project Manager and a permit to work shall be issued by the Project Manager before any repair work is carried out by the Contractor. While working on electric lines/equipment, whether live or dead, suitable type and sufficient quantity of tools will have to be provided by the Contractor to electricians/workmen/officers.

18.3.3.16 The Contractors shall employ necessary number of qualified, full time electricians/electrical supervisors to maintain his temporary electrical installation.

18.3.3.17 The Contractor employing more than 250 workmen whether temporary, casual, probationer, regular or permanent or on contract, shall employ at least one full time officer exclusively as safety officer to supervise safety aspects of the equipment and workmen, who will coordinate with the Project Safety Officer. In case of work being carried out through Sub-Contractors, the Sub-Contractor's workmen/employees will also be

considered as the Contractor's employees/workmen for the above purpose.

The name and address of such Safety Officers of the Contractor will be promptly informed in writing to Project Manager with a copy to Safety Officer-In charge before he starts work or immediately after any change of the incumbent is made during currency of the Contract.

18.3.3.18 In case any accident occurs during the construction/ erection or other associated activities undertaken by the Contractor thereby causing any minor or major or fatal injury to his employees due to any reason, whatsoever, it shall be the responsibility of the Contractor to promptly inform the same to the Project Manager in prescribed form and also to all the authorities envisaged under the applicable laws.

18.3.3.19 The Project Manager shall have the right at his sole discretion to stop the work, if in his opinion the work is being carried out in such a way that it may cause accidents and endanger the safety of the persons and/or property, and/or equipment. In such cases, the Contractor shall be informed in writing about the nature of hazards and possible injury/accident and he shall comply to remove shortcomings promptly. The Contractor after stopping the specific work can, if felt necessary, appeal against the order of stoppage of work to the Project Manager within 3 days of such stoppage of work and decision of the Project Manager in this respect shall be conclusive and binding on the Contractor.

18.3.3.20 The Contractor shall not be entitled for any damages/compensation for stoppage of work due to safety reasons as provided in GCC Sub-Clause 18.3.3.19 above and the period of such stoppage of work will not be taken as an extension of time for completion of work and will not be the ground for waiver of levy of liquidated damages.

18.3.3.21 It is mandatory for the Contractor to observe during the execution of the works, requirements of Safety Rules which would generally include but not limited to following:

Safety Rules

- a) Each employee shall be provided with initial indoctrination regarding safety by the Contractor, so as to enable him to conduct his work in a safe manner.
- b) No employee shall be given a new assignment of work unfamiliar to him without proper introduction as to the hazards incident thereto, both to himself and his fellow employees.
- c) Under no circumstances shall an employee hurry or take unnecessary chance when working under hazardous conditions.
- d) Employees must not leave naked fires unattended. Smoking shall not be permitted around fire prone areas and adequate fire fighting equipment shall be provided at crucial location.
- e) Employees under the influence of any intoxicating beverage, even to the slightest degree shall not be permitted to remain at work.
- f) There shall be a suitable arrangement at every work site for rendering prompt and sufficient first aid to the injured.
- g) The staircases and passageways shall be adequately lighted.
- h) The employees when working around moving machinery, must not be permitted to wear loose garments. Safety shoes are recommended when working in shops or places where materials or

tools are likely to fall. Only experienced workers shall be permitted to go behind guard rails or to clean around energized or moving equipment.

- i) The employees must use the standard protection equipment intended for each job. Each piece of equipment shall be inspected before and after it is used.
- j) Requirements of ventilation in underwater working to licensed and experienced divers, use of gum boots for working in slushy or in inundated conditions are essential requirements to be fulfilled.
- k) In case of rock excavation, blasting shall invariably be done through licensed blasters and other precautions during blasting and storage/transport of charge material shall be observed strictly.

18.3.3.22 The Contractor shall follow and comply with all Employer Safety Rules, relevant provisions of applicable laws pertaining to the safety of workmen, employees, plant and equipment as may be prescribed from time to time without any demur, protest or contest or reservations. In case of any discrepancy between statutory requirement and Employer Safety Rules referred above, the latter shall be binding on the Contractor unless the statutory provisions are more stringent.

18.3.3.23 If the Contractor fails in providing safe working environment as per Employer Safety Rules or continues the work even after being instructed to stop work by the Project Manager as provided in GCC Sub-Clause 18.3.3.19 above, the Contractor shall promptly pay to Employer, on demand by the Employer, compensation at the rate of Rs. 5,000/- per day of part thereof till the instructions are complied with and so certified by the Project Manager. However, in case of accident taking place causing injury

to any individual, the provisions contained in GCC Sub-Clause 18.3.3.24 shall also apply in addition to compensation mentioned in this Clause.

18.3.3.24 If the Contractor does not take adequate safety precautions and/or fails to comply with the Safety Rules as prescribed by the Employer or under the applicable law for the safety of the equipment and plant or for the safety of personnel or the Contractor does not prevent hazardous conditions which cause injury to his own employees or employees of other Contractors or Employer's employees or any other person who are at Site or adjacent thereto, then the Contractor shall be responsible for payment of a sum as indicated below to be deposited with the Employer, which will be passed on by the Employer to such person or next to kith and kin of the deceased:

	Fatal injury or accident causing death	Rs. 1,000,000/- per person
b.	Major injuries or accident causing 25% or more permanent disablement	Rs. 100,000/- per person

Permanent disablement shall have same meaning as indicated in Workmen's Compensation Act. The amount to be deposited with Employer and passed on to the person mentioned above shall be in addition to the compensation payable under the relevant provisions of the Workmen's Compensation Act and rules framed there under or any other applicable laws as applicable from time to time. In case the Contractor does not deposit the above mentioned amount with Employer, such amount shall be recovered by Employer from any monies due or

becoming due to the Contractor under the contract or any other on-going contract.

18.3.3.26 The Contractor shall also submit 'Safety Plan' as per proforma specified in Section – Sample Forms and Procedures of the Bidding Documents alongwith all the requisite documents mentioned therein and as per check-list contained therein to the Engineer In-Charge for its approval within 60 days of award of Contract.

18.4 Opportunities for Other Contractors

18.4.1 The Contractor shall, upon written request from the Employer or the Project Manager, give all reasonable opportunities for carrying out the work to any other contractors employed by the Employer on or near the Site.

18.4.2 If the Contractor, upon written request from the Employer or the Project Manager, makes available to other contractors any roads or ways the maintenance for which the Contractor is responsible, permits the use by such other contractors of the Contractor's Equipment, or provides any other service of whatsoever nature for such other contractors, the Employer shall fully compensate the Contractor for any loss or damage caused or occasioned by such other contractors in respect of any such use or service, and shall pay to the Contractor reasonable remuneration for the use of such equipment or the provision of such services.

18.4.3 The Contractor shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other contractors. The Project Manager shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Employer in regard to their work.

18.4.4 The Contractor shall notify the Project Manager promptly of any defects in the other contractors' work that come to its notice, and that could affect

the Contractor's work. The Project Manager shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Project Manager shall be binding on the Contractor.

18.5 Emergency Work

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Contractor shall immediately carry out such work.

If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine is necessary in order to prevent damage to the Facilities. In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefor. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. In case such work is not in the scope of the Contractor, the cost of such remedial work shall be borne by the Employer.

18.6 Site Clearance

18.6.1 Site Clearance in Course of Performance: In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and

remove any Contractor's Equipment no longer required for execution of the Contract.

- 18.6.2 Clearance of Site after Completion: After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities clean and safe.

18.7 Watching and Lighting

The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

18.8 Work at Night and on Holidays

- 18.8.1 Unless otherwise provided in the Contract, no work shall be carried out during the night and on public holidays of the country where the Site is located without prior written consent of the Employer, except where work is necessary or required to ensure safety of the Facilities or for the protection of life, or to prevent loss or damage to property, when the Contractor shall immediately advise the Project Manager, provided that provisions of this GCC Sub-Clause 18.8.1 shall not apply to any work which is customarily carried out by rotary or double-shifts.

- 18.8.2 Notwithstanding GCC Sub-Clauses 18.8.1 or 18.1.3, if and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Employer's consent thereto, the Employer shall not unreasonably withhold such consent.

19. Test and Inspection

- 19.1 The Contractor shall at its own expense carry out at the place of manufacture and/or on the Site all such tests and/or inspections of the Plant and Equipment and any part of the Facilities as are specified in the Contract.
- 19.2 The Employer and the Project Manager or their designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the Employer shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 19.3 Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give four weeks advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Employer and the Project Manager (or their designated representatives) to attend the test and/or inspection.
- 19.4 The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection.
- If the Employer or Project Manager (or their designated representatives) fails to attend the test and/or inspection, or if it is agreed between the parties that such persons shall not do so, then the Contractor may proceed with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the results thereof.
- 19.5 The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price.

Further, if such test and/or inspection impedes the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.

- 19.6 If any Plant and Equipment or any part of the Facilities fails to pass any test and/or inspection, the Contractor shall either rectify or replace such Plant and Equipment or part of the Facilities and shall repeat the test and/or inspection upon giving a notice under GCC Sub-Clause 19.3.
- 19.7 If any dispute or difference of opinion shall arise between the parties in connection with or arising out of the test and/or inspection of the Plant and Equipment or part of the Facilities that cannot be settled between the parties within a reasonable period of time, it may be referred to an Arbitrator for determination in accordance with GCC Sub-Clause 39.
- 19.8 The Contractor shall afford the Employer and the Project Manager, at the Employer's expense, access at any reasonable time to any place where the Plant and Equipment are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Contractor a reasonable prior notice.
- 19.9 The Contractor agrees that neither the execution of a test and/or inspection of Plant and Equipment or any part of the Facilities, nor the attendance by the Employer or the Project Manager, nor the issue of any test certificate pursuant to GCC Sub-Clause 19.4, shall release the Contractor from any other responsibilities under the Contract.

19.10 No part of the Facilities or foundations shall be covered up on the Site without the Contractor carrying out any test and/or inspection required under the Contract. The Contractor shall give a reasonable notice to the Project Manager whenever any such part of the Facilities or foundations is ready or about to be ready for test and/or inspection; such test and/or inspection and notice thereof shall be subject to the requirements of the Contract.

19.11 The Contractor shall uncover any part of the Facilities or foundations, or shall make openings in or through the same as the Project Manager may from time to time require at the Site, and shall reinstate and make good such part or parts.

If any parts of the Facilities or foundations have been covered up at the Site after compliance with the requirement of GCC Sub-Clause 19.10 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Employer, and the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

20. Completion of the Facilities and Operational Acceptance

20.1 Completion of the Facilities

20.1.1 Physical Completion

20.1.1.1 As soon as the Facilities or any part thereof has, in the opinion of the Contractor, been completed operationally and structurally and put in a tight and clean condition as specified in the Technical Specifications, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer in writing.

20.1.2 Pre-Commissioning

20.1.2.1 Within seven (7) days after receipt of the notice from the Contractor under GCC Sub-Clause 20.1.1.1, the Project Manager shall deploy the operating and maintenance personnel and other material if so specified in the corresponding Appendix – 6 (Scope of Works and Supply by the Employer) to the Contract Agreement for Precommissioning of the Facilities or any part thereof.

20.1.2.2 As soon as reasonably practicable after the operating and maintenance personnel have been deployed by the Employer and other materials have been provided by the Employer in accordance with GCC Sub-Clause 20.1.2.1, the Contractor shall commence Precommissioning of the Facilities or the relevant part thereof, in presence of the Employer's representatives, as per procedures detailed in Technical Specifications in preparation for Commissioning.

- 20.1.2.3 As soon as all works in respect of Precommissioning are successfully completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall notify the Project Manager in writing.
- 20.1.2.4 The Project Manager shall, within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 20.1.2.3, notify the Contractor in writing of any defects and/or deficiencies.
- 20.1.2.5 If the Project Manager notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies, and shall repeat the procedure described in GCC Sub-Clause 20.1.2.2. If in the opinion of the Contractor, the Facilities or any part thereof is now ready for Commissioning, the Contractor shall again notify the Project Manager in writing. If further defects and/or deficiencies are not notified by the Project Manager and if the Project Manager is satisfied that the Precommissioning of Facilities or that part thereof have been successfully completed, the Project Manager shall, within seven (7) days after receipt of the Contractor's such notice, advise the Contractor to proceed with the Commissioning of the Facilities or part thereof.
- 20.1.2.6 If the Project Manager fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 20.1.2.4 or within seven (7) days after receipt of the Contractor's notice on completion of repeat procedure under GCC Sub-Clause 20.1.2.5, then the Precommissioning of the Facilities or

that part thereof shall be considered to have been successfully completed as of the date of the Contractor's notice.

20.1.2.7 As soon as possible after Precommissioning, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Employer will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.

20.1.2.8 In the event that the Contractor is unable to proceed with the Precommissioning of the Facilities pursuant to Sub-Clause 20.1.2 for reasons attributable to the Employer either on account of non-availability of other facilities under the responsibilities of other contractor(s), or for reasons beyond the Employer's control, the following provisions shall apply:

When the Contractor is notified by the Project Manager that he will be unable to proceed with the activities and obligations pursuant to above GCC Sub-Clause 20.1.2.8, the Contractor shall be entitled to the following:

- a) the Time of Completion shall be extended for the period of suspension without imposition of liquidated damages pursuant to GCC Sub-Clause 21.2.

- b) payments due to the Contractor in accordance with the provisions specified in Appendix I (Terms and Procedures of Payment) to the Contract Agreement, which would have not been payable in normal circumstances due to non-completion of the said activities and obligations, shall be released to the Contractor against submission of a security in the form of a bank guarantee of equivalent amount acceptable to the Employer, and which shall become null and void when the Contractor will have complied with its obligations regarding these payments, subject to the provisions of GCC Sub-Clause 21.2.9 below.
- c) the expenses payable by the Contractor to the Bankers toward the extension of above security and extension of other securities under the Contract, of which validity need to be extended, shall be reimbursed to the Contractor by the Employer against documentary evidence.
- d) the additional charges toward the care of the Facilities pursuant to GCC Sub-Clause 28.1 shall be reimbursed to the Contractor by the Employer for the period between the notification mentioned above and the notification mentioned in GCC Sub-Clause 20.1.2.10 below. The provisions of GCC Sub-Clause 29.2 shall apply to the Facilities during the same period.

20.1.2.9 In the event that the period of suspension under GCC Sub-Clause 20.1.2.8 actually exceeds one hundred eighty (180) days, the Employer and the Contractor shall mutually agree to any additional compensation payable to the Contractor.

20.1.2.10 As and when, after the period of suspension under GCC Sub-Clause 20.1.2.8, the Contractor is notified by the Project Manager that the Facilities are ready for Precommissioning, the Contractor shall proceed without delay in performing all activities and obligations under the Contract.

20.1.3 Commissioning

20.1.3.1 Commissioning of the Facilities or any part thereof shall be commenced by the Contractor immediately after being advised by the Project Manager, pursuant to GCC Sub-Clause 20.1.2.5 or immediately after the Precommissioning is considered to be completed under GCC Sub-Clause 20.1.2.6.

20.1.3.1.1 Commissioning of the Facilities or any part thereof shall be completed by the Contractor as per procedures detailed in Technical Specifications.

20.1.3.2 The Employer shall, to the extend specified in Appendix – 6 (Scope of works and supply by the Employer), deploy the operating and maintenance personnel and supply all raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other materials required for commissioning.

20.1.3.3 In the event that the Contractor is unable to proceed with the Commissioning of the Facilities pursuant to Sub-Clause 20.1.3 for reasons attributable to the Employer either on account of non-availability of other facilities under the responsibilities of other contractor(s), or for reasons beyond the Employer's control, the provisions of GCC Sub-Clause 20.1.2.8 to 20.1.2.9 shall apply.

20.1.3.4 As and when, after the period of suspension under GCC Sub-Clause 20.1.2.8, the Contractor is notified by the Project Manager that the Facilities are ready for Commissioning, the Contractor shall proceed without delay in performing all activities and obligations under the Contract.

20.1.4 Trial – Operation

20.1.4.1 Trial – Operation of the Facilities or any part thereof shall be commenced by the Contractor immediately after the Commissioning is completed pursuant to GCC Sub-Clause 20.1.3.1.1.

20.1.4.2 Trial – Operation of the Facilities or any part thereof shall be completed by the Contractor for the period specified in Technical Specification (or for a continuous period of 24 hours where such period is not specified in Technical Specification) and as per procedures detailed in Technical Specifications.

20.1.4.3 At any time after the events set out in GCC Sub-Clause 20.1.4.2 have occurred, the Contractor may give a notice to the Project Manager

requesting the issue of an Taking Over Certificate in the form provided in the Bidding Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as of the date of such notice.

20.1.4.4 The Project Manager shall within twenty-one (21) days after receipt of the Contractor's notice, issue an Taking Over Certificate.

20.1.5 Taking Over

20.1.5.1 Upon successful Trial – Operation of the Facilities or any part thereof, pursuant to GCC Sub-Clause 20.1.4, the Project Manager shall issue to the Contractor a Taking Over Certificate as a proof of the acceptance of the Facilities or any part thereof. Such certificate shall not relieve the Contractor of any of his obligations which otherwise survive, by the terms and conditions of Contract after issue of such certificate.

20.1.5.2 If within twenty one (21) days after receipt of the Contractor's notice, the Project Manager fails to issue the Taking Over Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Taking Over Certificate, the Facilities or the relevant part thereof shall be deemed to have been Taken Over as at the date of the Contractor's said notice.

20.1.5.3 Upon Taking Over of the Facilities or any part thereof, the Employer shall be responsible for the care and custody of the Facilities or the relevant

part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.

20.2 Operational Acceptance

20.2.1 Guarantee Test

20.2.1.1 The Guarantee Test (and repeats thereof), if any specified in the SCC and/or the Technical Specification, shall be conducted by the Contractor after successful Trial – Operation of the Facilities or the relevant part thereof to ascertain whether the Facilities or the relevant part can attain the Functional Guarantees specified in the Contract Documents or if otherwise required as per the Technical Specifications. The Contractor's and Project Manager's advisory personnel may witness the Guarantee Test. The Contractor shall promptly provide the Employer with such information as the Employer may reasonably require in relation to the conduct and results of the Guarantee Test (and any repeats thereof).

20.2.1.2 If for reasons not attributable to the Contractor, the Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within the time stipulated in the Technical Specifications the period for completing the same shall be as agreed upon by the Employer and the Contractor.

20.2.2 Operational Acceptance

20.2.2.1 Operational Acceptance shall occur in respect of the Facilities or any part thereof as mentioned below:

- (I) In case no Functional Guarantees are applicable, Operational Acceptance shall occur when the Facilities or part thereof have been successfully Commissioned and Trial – Operation for the specified period have been successfully completed
- (II) In case Functional Guarantees are applicable, Operational Acceptance shall occur when the Functional Guarantees are met or the Contractor has paid liquidated damages specified in GCC Sub-Clause 23.3 hereof; or

20.2.2.2 At any time after any of the events set out in GCC Sub-Clause 20.2.2.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Bidding Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as of the date of such notice.

20.2.2.3 The Project Manager shall within twenty-one (21) days after receipt of the Contractor's notice, issue an Operational Acceptance Certificate.

20.2.2.4 Upon Operational Acceptance, pursuant to GCC Sub-Clause 20.2.2.2, the Project Manager shall issue to the Contractor a Operational Acceptance Certificate as a proof of the final acceptance of the Plant and Equipment. Such certificate shall not relieve the Contractor of any of his obligations which otherwise survive, by the terms and conditions of Contract after issue of such certificate.

20.2.2.5 If within twenty one (21) days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have been accepted as at the date of the Contractor's said notice.

20.3 Partial Acceptance

20.3.1 If the Contract specifies that Commissioning shall be carried out in respect of parts of the Facilities, the provisions relating to Commissioning including the Trial – Operation and Guarantee Test shall apply to each such part of the Facilities individually, and the Operational Acceptance Certificate shall be issued accordingly for each such part of the Facilities.

F. Guarantees and Liabilities

21. Completion Time Guarantee

21.1 The Contractor guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for completion is specified in the SCC) within the Time for Completion specified in the **SCC** pursuant to GCC Sub-Clause 4.2, or within such extended time to which the Contractor shall be entitled under GCC Clause 34 hereof.

21.2 If the Contractor fails to comply with the Time for Completion in accordance with Clause GCC 21 for the whole of the facilities, (or a part for which a separate time for completion is agreed) then the Contractor shall pay to the Employer a sum equivalent to half percent (0.5%) of the Contract Price as liquidated damages for such default and not as a penalty, without prejudice to the Employer's other remedies under the Contract, for each week or part thereof which shall elapse between the relevant Time for Completion and the date stated in Taking Over Certificate of the whole of the Works (or a part for which a separate time for completion is agreed) subject to the limit of five percent (5%) of Contract Price. The Employer may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies due or to become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract.

21.3 No bonus will be given for earlier Completion of the Facilities or part thereof.

22. Defect Liability

22.1 The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant and Equipment supplied and of the work executed.

22.2 The Defect Liability Period shall be twelve (12) months from the date of Taking Over /Completion of Facilities (or any part thereof).

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant and Equipment (includes hardware and software) supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good (as the Contractor shall, at its discretion, determine) such defect as well as any damage to the Facilities caused by such defect. The Contractor shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:

- (a) improper operation or maintenance of the Facilities by the Employer

- (b) operation of the Facilities outside specifications provided in the Contract

- (c) normal wear and tear.

22.3 The Contractor's obligations under this GCC Clause 22 shall not apply to

- (a) any materials that are supplied by the Employer under GCC Sub-Clause 17.2, are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein

(b) any designs, specifications or other data designed, supplied or specified by or on behalf of the Employer or any matters for which the Contractor has disclaimed responsibility herein

(c) any other materials supplied or any other work executed by or on behalf of the Employer, except for the work executed by the Employer under GCC Sub-Clause 22.7.

22.4 The Employer shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Employer shall afford all reasonable opportunity for the Contractor to inspect any such defect.

22.5 The Employer shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this GCC Clause 22. The Contractor may, with the consent of the Employer, remove from the Site any Plant and Equipment or any part of the Facilities that are defective if the nature of the defect, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

22.6 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the Employer may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon

completion of such remedial work, whereupon the Contractor shall carry out such tests.

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

22.7 If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the Employer may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Employer in connection therewith shall be paid to the Employer by the Contractor or may be deducted by the Employer from any monies due the Contractor or claimed under the Performance Security.

22.8 If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons.

Upon correction of the defects in the Facilities or any part thereof by repair/replacement, such repair/replacement shall have the Defect Liability Period extended by a period mentioned in GCC Sub-Clause 22.2 from the time of such replacement/repair of the facilities or any part thereof.

22.8.1 At the end of the Defect Liability Period, the Contractor's Liability ceases except for latent defects. The Contractor's liability for latent defects warranty shall be limited to period of ten (10) years from the end of Defect Liability Period. For the purpose of this clause, the latent defects shall be the defects inherently lying within the material or arising out of design deficiency, which do not manifest themselves during the Defect Liability Period defined in this GCC Clause 22, but later.

22.9 Except as provided in GCC Clauses 22 and 29, the Contractor shall be under no liability whatsoever and howsoever arising, and whether under the Contract or at law, in respect of defects in the Facilities or any part thereof, the Plant and Equipment, design or engineering or work executed that appear after Defect Liability Period except for the liability towards obligations that may survive in terms of the Contract after Defect Liability Period, except where such defects are the result of the gross negligence, fraud, criminal or willful action of the Contractor.

23. Functional Guarantees

23.1 The Contractor guarantees that the Facilities and all parts thereof shall attain the Functional Guarantees specified in the Technical Specifications, subject to and upon the conditions therein specified.

23.2 If, for reasons attributable to the Contractor, the minimum level of the Functional Guarantees specified in the Technical Specifications are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the Plant or any

part thereof as may be necessary to meet at least the minimum level of such Guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and / or additions, and shall request the Employer to repeat the Guarantee Test until the minimum level of the Guarantees has been met. If the Contractor eventually fails to meet the minimum level of Functional Guarantees, the Employer may consider termination of the Contract pursuant to GCC Sub-Clause 36.2.2 and recover the payments already made to the Contractor.

23.3 If, for reasons attributable to the Contractor, the Functional Guarantees specified in the Technical Specifications are not attained either in whole or in part, but the minimum level of the Functional Guarantees specified in the Technical Specifications is met, the Contractor shall, at the Contractor's option, either

- (a) make such changes, modifications and/or additions to the Facilities or any part thereof that are necessary to attain the Functional Guarantees at its cost and expense within a mutually agreed time and shall request the Employer to repeat the Guarantee Test, or
- (b) pay liquidated damages to the Employer in respect of the failure to meet the Functional Guarantees in accordance with the provisions in the **SCC**.

23.4 In case the Employer exercises its option to accept the equipment after levy of liquidated damages, the payment of liquidated damages under GCC Sub-Clause 23.3, upto the limitation of liability specified in the **SCC**,

shall completely satisfy the Contractor's guarantees under GCC Sub-Clause 23.3, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.

24. Equipment Performance Guarantees

24.1 The Contractor guarantees that the Equipments, named in the **SCC**, shall attain the rating and performance requirements specified in Appendix – 8 (Guarantees, Liquidated Damages for Non – Performance) to the Contract Agreement, subject to and upon the conditions therein specified.

24.2 If the guarantees specified in Appendix – 8 (Guarantees, Liquidated Damages for Non – Performance) to the Contract Agreement are not established, then the Employer shall, at the Employer's discretion either

(a) reject the equipment, or

(b) accept the equipment after assessing liquidated damages in accordance with the provision in the **SCC** against the Contractor and such amounts shall be deducted from the Contract Price or otherwise recovered from the Contractor.

24.3 In case the Employer exercises its option to reject the equipment, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the equipment or any part thereof as may be necessary to meet the specified guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall request the Employer to repeat the Test until the level of the specified guarantee has been met.

24.4 Whenever the Employer exercises its option to accept the equipment after levy of liquidated damages, the payment of liquidated damages under GCC Sub-Clause 24.2, upto the limitation of liability specified in the **SCC**, shall completely satisfy the Contractor's guarantees under GCC Sub-Clause 24.2, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof.

25. Patent Indemnity

25.1 The Contractor shall, subject to the Employer's compliance with GCC Sub-Clause 25.2, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in

the country where the Site is located; and (b) the sale of the products produced by the Facilities in any country.

Such indemnity shall not cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Contractor, pursuant to the Contract Agreement.

- 25.2 If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in GCC Sub-Clause 25.1, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

25.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Employer.

26. Limitation of Liability

- 26.1 Except in cases of gross negligence or willful misconduct,
- (a) the Contractor and the Employer shall not be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and
 - (b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of

the Contractor to indemnify the Employer with respect to patent infringement.

G. Risk Distribution

27. Transfer of Ownership

27.1 Ownership of the Plant and Equipment (including spare parts) to be imported into India shall be transferred to the Employer upon loading on to the mode of transport to be used to convey the Plant and Equipment from the country of origin to that country and upon endorsement of the dispatch documents in favour of the Employer.

27.2 Ownership of the Plant and Equipment (including spare parts) procured in India, shall be transferred to the Employer upon loading on to the mode of transport to be used to carry the Plant and Equipment from the works to the site and upon endorsement of the despatch documents in favour of the Employer.

27.3 Ownership of the Contractor's Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.

27.4 Ownership of any Plant and Equipment in excess of the requirements for the Facilities shall revert to the Contractor upon Completion of the

Facilities or at such earlier time when the Employer and the Contractor agree that the Plant and Equipment in question are no longer required for the Facilities provided quantity of any Plant and Equipment specifically stipulated in the Contract shall be the property of the Employer whether or not incorporated in the Facilities.

- 27.5 Notwithstanding the transfer of ownership of the Plant and Equipment, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to GCC Clause 28 (Care of Facilities) hereof until Completion of the Facilities and Taking Over pursuant to GCC Clause 20 or the part thereof, if any, as per GCC Sub-Clause 1.1(e) in which such Plant and Equipment are incorporated.

28. Care of Facilities

- 28.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Taking Over Certificate pursuant to GCC Clause 20 or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to GCC Clause 22. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by any use or occupation by the Employer or any third party (other than a Subcontractor) authorized by the Employer of any part of the Facilities.

29. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification

29.1 The Contractor shall indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property (other than the Facilities whether accepted or not), arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of the Employer, its contractors, employees, officers or agents.

29.2 If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under GCC Sub-Clause 29.1, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within

the twenty-eight (28) day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

- 29.3 Notwithstanding anything in this Contract to the contrary, it is agreed that neither the Contractor nor the Employer shall be liable to the other party for loss of production, loss of profit, loss of use or any other indirect or consequential damages.

30. Insurance

- 30.1 To the extent specified in the corresponding Appendix-3 (Insurance Requirements) to the Contract Agreement, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the said Appendix. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, who should not unreasonably withhold such approval.

- (a) Marine Cargo Policy/Transit Insurance Policy:

(I)(i) Marine Cargo policy for imported equipment

The Contractor shall take the Marine Cargo Policy for Plant and Equipment including Mandatory Spares to be supplied from abroad wherein export/import including inland transit is involved for the movement of the Plant and Equipment including mandatory Spares. The policy shall cover movement of Plant and Equipment including mandatory Spares from the manufacturer's works to the project's warehouse at final destination site. The policy shall cover all risk for loss or damage that may occur during transit of Plant and Equipment including mandatory Spares from the Contractor/sub-Contractor's works or stores until arrival at project's warehouse/ store at final destination. Institute Cargo Clause (ICC) 'A' along with war & Strike Riots & Civil Commotion (SRCC) cover shall be taken.

(I)(ii) Transit Insurance Policy for indigenous equipment

Similarly, Transit Insurance Policy shall be taken wherein only inland transit is involved for the movement of Plant and Equipment including mandatory Spares supplied from within India. The policy shall cover movement of Plant and Equipment including mandatory Spares from the manufacturer's works to the project's warehouse at final destination site. Inland Transit Clause (ITC) 'A' along with war

& Strike Riots & Civil Commotion (SRCC) extension cover shall be taken.

- (II) If during the execution of Contract, the Employer requests the Contractor to take any other add-on cover(s)/ supplementary cover(s) in aforesaid insurance, in such a case, the Contractor shall promptly take such add-on cover(s)/ supplementary cover(s) and the charges towards such premium for such add-on cover(s)/ supplementary cover(s) shall be reimbursed to the Contractor on submission documentary evidence of payment to the Insurance company. Therefore, charges towards premium for such add-on cover(s)/ supplementary cover(s) are not included in the Contract Price.
- (III) The Contractor shall take the policy in the joint names of Employer and the Contractor. The policy shall indicate the Employer as the beneficiary. However, if the Contractor is having an open policy for its line of business, it should obtain an endorsement of the open cover policy from the insurance company indicating that the dispatches against this Contract are duly covered under its open policy and include the name of the Employer as jointly Insured in the endorsements to the open policy.

(b) Erection All Risk Policy/Contractor All Risk Policy:

(I) The policy should cover all physical loss or damage to the facility at site during storage, erection and commissioning covering all the perils as provided in the policy as a basic cover and the add on covers as mentioned at Sl. No. (III) below.

(II) The Contractor shall take the policy in the joint name of Employer and the Contractor. All these policies shall indicate Employer as the beneficiary. The policy shall be kept valid till the date of the Operational Acceptance of the project and the period of the coverage shall be determined with the approval of the Employer.

If the work is completed earlier than the period of policy considered, the Contractor shall obtain the refund as per provisions of the policy and pass on the benefit to Employer. In case no refund is payable by the insurance company then the certificate to that effect shall be submitted to Employer at the completion of the project.

(III) The following add-on covers shall also be taken by the Contractor:

- i) Earthquake
- ii) Terrorism

- iii) Escalation cost (approximately @10% of sum insured on annual basis)
 - iv) Extended Maintenance cover for Defect Liability Period
 - v) Design Defect
 - vi) Other add-on covers viz., 50-50 clause, 72 hours clause, loss minimization clause, waiver of subrogation clause (for projects of more than 100 crores, cover for offsite storage/fabrication (over 100 crores).
- (IV) Third Party Liability cover with cross Liability within Geographical limits of India as on ADD-on cover to the basic EAR cover:
- The third party liability add-on cover shall cover bodily injury or death suffered by third parties (including the Employer's personnel) and loss of or damage to property (including the Employer's property and any parts of the Facilities which have been accepted by the Employer) occurring in connection with supply and installation of the Facilities.
- (V) As per para 30.8 below, the cost of insurance premium is to be reimbursed to the Contractor for Owner Supplied Materials (OSM) for which the insurer is to be finalized by the Contractor as detailed therein. Alternatively, the Contractor may take a single policy covering the entire cost of the project including the cost of OSM. For this purpose, the Contractor shall submit documentary evidence for the premium paid for the entire project to the Employer and Employer shall

reimburse to the Contractor the proportion of premium equal to value of OSM to total sum insured.

- (VI) If during the execution of Contract, the Employer requests the Contractor to take any other add-on cover(s)/ supplementary cover(s) in aforesaid insurance, in such a case, the Contractor shall promptly take such add-on cover(s)/ supplementary cover(s) and the charges towards such premium for such add-on cover(s)/ supplementary cover(s) shall be reimbursed to the Contractor on submission documentary evidence of payment to the Insurance company. Therefore, charges towards premium for such add-on cover(s)/ supplementary cover(s) are not included in the Contract Price.

(c) Automobile Liability Insurance

The Contractor shall ensure that all the vehicles deployed by the Contractor or its Subcontractors (whether or not owned by them) in connection with the supply and installation of the Facilities in the project are duly insured as per RTA act. Further the Contractor or its Subcontractors may also take comprehensive policy (own damage plus third party liability) of each individual vehicles deployed in the project on their own discretion in their own name to protect their own interest.

(d) Workmen Compensation Policy:

- (I) Workmen Compensation Policy shall be taken by the Contractor in accordance with the statutory requirement applicable in India. The Contractor shall ensure that all the workmen employed by the Contractor or its Subcontractors for the project are adequately covered under the policy.
- (II) The policy may either be project specific covering all men of the Contractor and its Subcontractors. The policy shall be kept valid till the date of Operational Acceptance of the project.

Alternatively, if the Contractor has an existing 'Workmen Compensation Policy' for all its employees including that of the Subcontractor(s), the Contractor must include the interest of the Employer for this specific Project in its existing 'Workmen Compensation Policy'.

- (III) Without relieving the Contractor of its obligations and responsibilities under this Contract, before commencing work the Contractor shall insure against liability for death of or injury to persons employed by the Contractor including liability by statute and at common law. The insurance cover shall be maintained until all work including remedial work is completed including the Defect Liability Period. The insurance shall be extended to indemnify the Principal for the Principal's statutory liability to persons employed by the Contractor.

The Contractor shall also ensure that each of its Subcontractors shall effect and maintain insurance on the same basis as the 'Workmen Compensation Policy' effected by the Contractor.

(e) Contractor's Plant and Machinery (CPM) Insurance

The Employer (including without limitation any consultant, servant, agent or employee of the Employer) shall not in any circumstances be liable to the Contractor for any loss of or damage to any of the Contractor's Equipment or for any losses, liabilities, costs, claims, actions or demands which the Contractor may incur or which may be made against it as a result of or in connection with any such loss or damage.

30.2 The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 30.1, except for the Third Party Liability, Workmen Compensation Policy Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 30.1 except for the Cargo Insurance During Transport, Workmen Compensation Policy Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.

30.3 The Contractor shall, in accordance with the provisions of the corresponding Appendix – 3 (Insurance Requirements) to the Contract

Agreement, deliver to the Employer certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect. The certificates shall provide that no less than twenty-one (21) days' notice shall be given to the Employer by insurers prior to cancellation or material modification of a policy.

- 30.4 The Contractor shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Contractor.
- 30.5 The Employer shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in the corresponding Appendix – 3 (Insurance Requirements) to the Contract Agreement, in the sums and with the deductibles and other conditions specified in the said Appendix. The Contractor and the Contractor's Subcontractors shall be named as co-insureds under all such policies. All insurers' rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies. The Employer shall deliver to the Contractor satisfactory evidence that the required insurances are in full force and effect. The policies shall provide that not less than twenty-one (21) days' notice shall be given to the Contractor by all insurers prior to any cancellation or material modification of the policies. If so requested by the Contractor, the Employer shall provide copies of the policies taken out by the Employer under this GCC Sub-Clause 30.5.

- 30.6 If the Contractor fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause 30.1, the Employer may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Employer shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor. If the Employer fails to take out and/or maintain in effect the insurances referred to in GCC 30.5, the Contractor may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Employer under the Contract any premium that the Contractor shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Employer.
- 30.7 Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 30, and the monies payable by any insurers under all the insurance except Third Party Liability Insurance and Workmen Compensation Policy, shall be paid to the joint account of the Employer and the Contractor as mutually agreed and such amounts paid shall be apportioned between the Employer and the Contractor in accordance with the respective responsibilities under the Contract. The Employer shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Employer's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Employer. With respect to insurance claims in which the Contractor's interest is involved, the Employer shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.

- 30.8 Further all equipment and materials being supplied by Employer for the erection (as per Technical Specification) shall be kept insured by the Contractor against any loss, damage, pilferage, theft, fire, etc. from the point of unloading up to the time of taking over by Employer including handling, transportation, storage, erection, testing and commissioning etc. The premium paid to the Insurance company by the Contractor for such insurance shall be reimbursed by Employer to the Contractor. The Contractor shall obtain competitive quotation for such insurance and shall take prior approval from Employer before taking the insurance. The insurable value of the equipment being supplied by Employer shall be intimated to the Contractor for arranging the insurance.
- 30.9 It will be the responsibility of the Contractor to lodge, pursue and settle all claims with the insurance company in case of any damage, loss, theft, pilferage or fire during execution of Contract and Employer shall be kept informed about it. The Contractor shall replace the lost/damaged materials promptly irrespective of the settlement of the claims by the underwriters and ensure that the work progress is as per agreed schedules. The losses, if any, in such replacement will have to be borne by the Contractor.

31. Change in Laws and Regulations

- 31.1 If, after the date seven (07) days prior to the date of Bid Opening, any law, regulation, ordinance, order or by-law having the force of law is enacted,

promulgated, abrogated or changed in India (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Contractor and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. However, these adjustments would be restricted to direct transactions between the Employer and the Contractor and not on procurement of raw materials, intermediary components etc. by the Contractor for which the Employer shall be the sole judge. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the Appendix-2 to the Contract Agreement.

32. Force Majeure

32.1 “Force Majeure” shall mean any event beyond the reasonable control of the Employer or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected, and shall include, without limitation, the following:

- (a) war, hostilities or warlike operations (whether war be declared or not), invasion, act of foreign enemy and civil war,

(b) rebellion, revolution, insurrection, mutiny, usurpation of government, conspiracy, riot and civil commotion,

(c) earthquake, landslide, volcanic activity, flood or cyclone, or other inclement weather condition, nuclear and pressure waves or other natural or physical disaster,

32.2 Neither party shall be considered to be in default or in breach of his obligations under the Contract to the extent that performance of such obligation is prevented by any circumstances of Force majeure, which arises after date of Notification of Award.

32.3 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within fourteen (14) days after the occurrence of such event.

32.4 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with GCC Clause 34.

H. Change in Contract Elements

33. Change in the Facilities

33.1 Introducing a Change

33.1.1 Subject to GCC Sub-Clause 33.2.5, the Employer shall have the right to propose, and subsequently require, that the Project Manager order the Contractor from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities (hereinafter called “Change”), provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract.

33.1.2 The Contractor may from time to time during its performance of the Contract propose to the Employer (with a copy to the Project Manager) any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The Employer may at its discretion approve or reject any Change proposed by the Contractor, provided that the Employer shall approve any Change proposed by the Contractor to ensure the safety of the Facilities.

33.1.3 Changes made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be not be deemed

to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

33.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Sub-Clauses 33.2 and 33.3.

33.2 Changes Originating from Employer

33.2.1 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the parties thereto shall agree on specific rates for the valuation of the Change.

33.2.2 The Contract Price for (i) the items for which quantities have been indicated as lumpsum or lot or set and/or (ii) where the quantities are to be estimated by the Contractor shall remain constant unless there is change made in the Scope of Work by Employer. The quantities and unit prices (i) subsequently arrived while approving the Bill of Quantities (BOQ)/Billing breakup of lumpsum quantities/lot/Set and/or (ii) estimated by the Contractor shall be for on account payment purpose only. In case additional quantities, over and above the quantities in BOQ/billing breakup and /or estimated by the Contractor, are required for successful completion of the scope of work as per Technical Specification, the Contractor shall execute additional quantities of these items for which no additional payment shall be made over and above the lumpsum Contract Price. In case quantities of these items supplied at site are in excess of that required for successful completion of scope of work, such additional

quantities shall be the property of the Contractor and they shall be allowed to take back the same from the site for which no deduction from the lumpsum Contract Price shall be made. Further, in case actual requirement of quantities for successful completion of scope of work is less than the quantities identified in the approved BOQ /billing breakup and/or estimated by the Contractor, the lumpsum contract price shall remain unchanged and no deduction shall be made from the lumpsum price due to such reduction of quantities.

It shall be the responsibility of the Contractor to pay all statutory taxes, duties and levies to the concerned authorities for such surplus material which would otherwise have been, lawfully payable in case of non-deemed export contracts. The Contractor shall submit an indemnity bond to keep Employer harmless from any liability, before release of such material to the Contractor by Employer.

Set/Lot/Lumpsum shall be governed as per the requirement of the corresponding item description read in conjunction with relevant provisions of Technical Specifications and the Billing breakup referred to above shall be issued by the Employer based on Contractor's request, if and as may be required during the currency of the Contract.

- 33.2.3 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 33 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement by more than the

percentage specified in **SCC**, the Employer and the Contractor shall mutually agree on specific rates for valuation of the Change beyond the specified percentage.

33.2.4 If rates and prices of any change are not available in the Contract, the parties thereto shall agree on specific rates for the valuation of the change and all matters therein related to the change. Based on the same, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.

33.2.5 The Employer shall issue the Contractor with a Change Order pursuant to GCC Sub-Clause 33.2 by way of amendment to the Contract or in any other manner deemed appropriate. Even if the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters related to the Change Proposal, the Employer may nevertheless instruct the Contractor to proceed with the Change by issue of a “Pending Agreement Change Order” (“Pending Agreement Amendment”).

Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.

If the parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be

referred to the Arbitrator in accordance with the provisions of GCC Clause 38 & 39.

33.3 Changes Originating from Contractor

33.3.1 If the Contractor proposes a Change pursuant to GCC Sub-Clause 33.1.2, the Contractor shall submit to the Project Manager a written “Request for Change Proposal”, giving reasons for the proposed Change and which shall include the following:

- (a) brief description of the Change
- (b) effect on the Time for Completion
- (c) estimated cost of the Change
- (d) effect on Functional Guarantees (if any)
- (e) effect on any other provisions of the Contract.

Upon receipt of the Request for Change Proposal, the parties shall follow the procedures outlined in GCC Sub-Clauses 33.2.1 and 33.2.5. However, should the Employer choose not to proceed, the Contractor shall not be entitled to recover the costs of preparing the Request for Change Proposal.

34. Extension of Time for Completion

34.1 The Time(s) for Completion specified in the SCC shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

- (a) any Change in the Facilities as provided in GCC Clause 33
- (b) any occurrence of Force Majeure as provided in GCC Clause 32
- (c) any suspension order given by the Employer under GCC Clause 35 hereof or reduction in the rate of progress pursuant to GCC Sub-Clause 35.2 or
- (d) any changes in laws and regulations as provided in GCC Clause 31 or
- (e) any other matter specifically mentioned in the Contract

by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

34.2 Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Employer and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Employer's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to Arbitration, pursuant to GCC Sub-Clause 39.

34.3 The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

35. Suspension

35.1 The Employer may request the Project Manager, by notice to the Contractor, to order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the effective date of the suspension and the reasons therefor. The Contractor shall thereupon suspend performance of such obligation (except those obligations necessary for the care or preservation of the Facilities) until ordered in writing to resume such performance by the Project Manager.

If, by virtue of a suspension order given by the Project Manager, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may give a notice to the Project Manager requiring that the Employer shall, within twenty-eight (28) days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC Clause 33, excluding the performance of the suspended obligations from the Contract.

If the Employer fails to do so within such period, the Contractor may, by a further notice to the Project Manager, elect to treat the suspension, where it affects a part only of the Facilities, as a deletion of such part in accordance with GCC Clause 33 or, where it affects the whole of the Facilities, as termination of the Contract under GCC Sub-Clause 36.1.

- 35.2 If the Contractor's performance of its obligations is suspended or the rate of progress is reduced pursuant to this GCC Clause 35, then the Time for Completion shall be extended in accordance with GCC Sub-Clause 34.1, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension or reduction shall be paid by the Employer to the Contractor in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Contractor's default or breach of the Contract.

- 35.3 During the period of suspension, the Contractor shall not remove from the Site any Plant and Equipment, any part of the Facilities or any Contractor's Equipment, without the prior written consent of the Employer.

36. Termination

36.1 Termination for Employer's Convenience

- 36.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 36.1.

- 36.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 36.1.1, the Contractor shall either immediately or upon the date specified in the notice of termination

(a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition

(b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii) below

- (c) remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition

- (d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 36.1.3, shall
 - (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination

 - (ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors

 - (iii) deliver to the Employer all non-proprietary drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

36.1.3 In the event of termination of the Contract under GCC Sub-Clause 36.1.1, the Employer shall pay to the Contractor the following amounts:

- (a) the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination
- (b) the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the Site and in the repatriation of the Contractor's and its Subcontractors' personnel
- (c) any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges
- (d) costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 36.1.2
- (e) the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.

36.2 Termination for Contractor's Default

36.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following

circumstances by giving a notice of termination and its reasons therefor to the Contractor, referring to this GCC Sub-Clause 36.2:

- (a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt
- (b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 37.
- (c) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Sub-Clause:

“corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

“fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

“collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

“coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

“obstructive practice” is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Employer’s investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation;

or

(bb) acts intended to materially impede the exercise of the Employer's inspection and audit rights.

In persuasions of its policy, the Employer will sanction a firm or individual, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a contract.

36.2.2 If the Contractor

- (a) has abandoned or repudiated the Contract
- (b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 35.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed
- (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause

- (d) refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Sub-Clause 14.2 at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended,

then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 36.2.

36.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 36.2.1 or 36.2.2, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,

- (a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
- (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below

- (c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
- (d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors
- (e) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

36.2.4 The Employer may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third party. The Employer may, to the exclusion of any right of the Contractor over the same, take over and use with the payment of a fair rental rate to the Contractor, with all the maintenance costs to the account of the Employer and with an indemnification by the Employer for all liability including damage or injury to persons arising out of the Employer's use of such equipment, any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the Employer considers expedient for the supply and installation of the Facilities.

Upon completion of the Facilities or at such earlier date as the Employer thinks appropriate, the Employer shall give notice to the Contractor that

such Contractor's Equipment will be returned to the Contractor at or near the Site and shall return such Contractor's Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.

- 36.2.5 Subject to GCC Sub-Clause 36.2.6, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities executed as of the date of termination, the value of any unused or partially used Plant and Equipment on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 36.2.3. Any sums due to the Employer from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.
- 36.2.6 If the Employer completes the Facilities, the cost of completing the Facilities by the Employer shall be determined.

If the sum that the Contractor is entitled to be paid, pursuant to GCC Sub-Clause 36.2.5, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price or the entire Facilities if entire Facilities have been completed or the price for part of the Facilities if part of the Facilities have been completed, the Contractor shall be liable for such excess.

If such excess is greater than the sums due the Contractor under GCC Sub-Clause 36.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due the Contractor under GCC

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Sub-Clause 36.2.5, the Employer shall pay the balance to the Contractor. For facilitating such payment the Employer shall encash the Bank Guarantees of the Contractor available with the Employer and retain such other payments due to the Contractor under the Contract in question or any other Contract that the Employer may have with the Contractor.

The Employer and the Contractor shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

36.3 In this GCC Clause 36, the expression “Facilities executed” shall include all work executed, Installation Services provided, and all Plant and Equipment acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.

36.4 In this GCC Clause 36, in calculating any monies due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to the corresponding Appendix (Terms and Procedures of Payment) to the Contract Agreement.

37. Assignment

37.1 Neither the Employer nor the Contractor shall, without the express prior written consent of the other party (which consent shall not be

unreasonably withheld), assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or thereunder, except that the Contractor shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

I. Resolution of Disputes

38. Settlement of Disputes

38.1 If any dispute of any kind whatsoever shall arise between the Employer and the Contractor in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Facilities, whether during the progress of the Facilities or after their completion and whether before or after the termination, abandonment or breach of the Contract, the parties shall seek to resolve any such dispute or difference, to the extent possible, amicably by mutual consultation.

38.2 If the parties fail to resolve such a dispute or difference by mutual consultation at the execution site level, then the dispute shall be referred by the Contractor to the Project Manager, who, within a period of thirty (30) days after being requested by Contractor to do so, shall give written notice of his decision.

- 38.2.1 The decision/instruction of the Project Manager shall be deemed to have been accepted by the Contractor unless notified by the Contractor of his intention to refer the matter for Arbitration within thirty (30) days of such decision/instruction.
- 38.2.2 In the event the Project Manager fails to notify his decision as aforesaid within thirty (30) days, the Contractor, if he intends to go for Arbitration, shall notify his intention to the Project Manager within 30 days of expiry of the first mentioned period of thirty days failing which it shall be deemed that there are no dispute or difference between the Employer and the Contractor.
- 38.3 In case of dispute or difference between the Employer and the Contractor, if the Employer intends to go for Arbitration, he shall notify such intention to the Contractor.

39. Arbitration

- 39.1 All disputes or differences in respect of which the decision, if any, of the Project Manager and/or the Head of the Implementing Authority has not become final or binding as aforesaid shall be settled by arbitration in the manner provided herein below:
- 39.2 The arbitration shall be conducted by three arbitrators, one each to be nominated by the Contractor and the Employer and the third to be appointed by both the arbitrators in accordance with the Indian Arbitration

Act. If either of the parties fails to appoint its arbitrator within sixty (60) days after receipt of a notice from the other party invoking the Arbitration clause, the arbitrator appointed by the party invoking the arbitration clause shall become the sole arbitrator to conduct the arbitration.

- 39.3 The language of the arbitration proceedings and that of the documents and communications between the parties shall be English. The arbitration shall be conducted in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 or any statutory modification thereof. The venue of arbitration shall be the state capital.
- 39.4 The decision of the majority of the arbitrators shall be final and binding upon the parties. In the event of any of the aforesaid arbitrators dying, neglecting, resigning or being unable to act for any reason, it will be lawful for the party concerned to nominate another arbitrator in place of the outgoing arbitrator.
- 39.5 During settlement of disputes and arbitration proceedings, both parties shall be obliged to carry out their respective obligations under the Contract.

Section-5

Section 5: Special Conditions of Contract (SCC)

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC						
1.	GCC 1.1(o)	Supplementing Sub-Clause GCC 1.1(o) The Employer is:						
2.	GCC 1.1(w)	Supplementing Sub-Clause GCC 1.1(w) The Owner is:						
3.	GCC 1.1 (ee)	Supplementing Sub-Clause GCC 1.1(ee) Time for Completion: <table border="1"> <thead> <tr> <th>Sl. No.</th><th>Activities</th><th>Duration in months from the effective date of Contract</th></tr> </thead> <tbody> <tr> <td>1.</td><td>Smart Grid Elements Implementation</td><td>18 months</td></tr> </tbody> </table>	Sl. No.	Activities	Duration in months from the effective date of Contract	1.	Smart Grid Elements Implementation	18 months
Sl. No.	Activities	Duration in months from the effective date of Contract						
1.	Smart Grid Elements Implementation	18 months						

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		.
4.	GCC 2.1	<p>Addition of following new Sub-Clauses after GCC 2.1</p> <p>GCC 2.1.1 The Contracts to be entered into with the successful Bidder shall be as under :</p> <p>For Foreign Bidder:</p> <ul style="list-style-type: none"> - First Contract: For CIF Indian Port of Entry supply of all equipment and materials including mandatory spares to be supplied from abroad and Type Test to be conducted abroad (Off-Shore Contract) - Second Contract: For Supply of equipment & materials including mandatory spares to be supplied from within India and Type Test to be conducted in India (On-Shore Supply Contract) - Third Contract: For providing all services i.e., port handling and custom clearance of imported goods and loading, inland transportation for delivery at site, insurance, unloading, storage, handling at site, installation, testing and commissioning including Performance Testing in respect of all Plant & Equipment supplied under both 'First Contract' and 'Second Contract', Training to be imparted in India, Maintenance during and after Defect Liability Period and any other services specified in the Contract Documents (On-Shore Services Contract).

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		<p>For Indian Bidder:</p> <p>-First Contract: For Ex-Works supply of all equipment and materials (whether in India or abroad) including mandatory spares and Type Test to be conducted (whether in India or abroad) (Ex-Works Supply Contract)</p> <p>- Second Contract: For providing all services i.e. port handling and custom clearance of imported goods and loading, inland transportation for delivery at site, insurance, unloading, storage, handling at site, installation, Testing and Commissioning including performance testing in respect of all the equipment supplied under the "First Contract", Training to be imparted (whether in India or abroad), Maintenance during and after Defect Liability Period and any other services specified in the Contract Documents (Services Contract).</p> <p>GCC 2.1.2 The award of two/three separate Contracts (in case of foreign bidder)/two separate contracts (in case of domestic bidder) shall not in any way dilute the responsibility of the Contractor for the successful completion of the facilities as per Specification and a breach in one Contract shall automatically be construed as a breach of the other Contract(s) which will confer a right on the Employer to terminate the other Contract(s) also at the risk and the cost of the Contractor.</p> <p>GCC 2.1.3 If the foreign bidder has proposed an Associate in his bid to execute the Second and/or Third Contract and has also furnished written unequivocal consent of the proposed Associate to work as independent Contractor on the terms offered by the bidder and the Employer is satisfied</p>

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		<p>with experience/qualification of the proposed Associate, the Employer will enter into the ‘Second Contract’ and/or ‘Third Contract’ with the said Associate. Further, the said Associate, in addition to the Contract Performance Security to be provided by the Contractor for Ten percent (10%) of the value of all the three Contracts i.e. First Contract, Second Contract and Third Contract, shall provide within twenty-eight (28) days of the notification of Contract award, Contract Performance Security equivalent to Ten (10%) of the value of the Second Contract and/or Third Contract for the due performance of Contract with a validity upto ninety (90) days beyond the AMC Period. The value of Performance security shall be reduced by 80% after actual Defect Liability Period.</p> <p>It is expressly understood that in case of breach of the Second and/or Third Contract by the Associate, the Contractor shall be liable for all the consequences breach thereof notwithstanding that the contract is awarded to the Associate. The contractor shall submit an undertaking to this effect in favour of the employer. It is expressly understood and agreed that all the three contracts shall contain the aforesaid cross fall breach clause.</p> <p>GCC 2.1.4 It is further expressly understood and agreed that in case the option is not exercised by the Bidder or the Associate fails to enter into the Second Contract and/or Third Contract with the Employer or if the Employer in its judgment does not find acceptance of the proposed Associate as its Contractor, then the bidder shall be obliged to enter into and execute all the three contracts with the Employer and all the three Contracts shall contain the aforesaid crossfall breach clause.</p> <p>GCC 2.1.5 The Contract will be signed in two originals and the</p>

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		<p>Contractor shall be provided with one signed original and the rest will be retained by the Employer.</p> <p>GCC 2.1.6 The Contractor shall provide free of cost to the Employer all the engineering data, drawing and descriptive materials submitted with the bid, in at least two (2) copies to form a part of the Contract immediately after Notification of Award.</p> <p>GCC 2.1.7 Subsequent to signing of the Contract, the Contractor at his own cost shall provide the Employer with at least Thirty (30) true copies of Contract Agreement within fifteen (15) days after signing of the Contract.</p>
5.	GCC 3.3	<p>Replacing Sub-Clause GCC 3.3</p> <p>The supply of Mandatory Spares Parts, if any, shall be included in the Contract. Beside the aforesaid Mandatory Spares parts, the Contractor shall ensure the availability of spare parts required for the operation and maintenance of the Facilities by the Employer for a minimum period of seven (7) years from Operational Acceptance of the Facilities by the Employer. However, in the event of that a equipment/component is declared to be withdrawn from production, Contractor shall ensure the availability of spare parts for the supplied items for a minimum period of 2 years from the date of withdrawal from production or 7 years from Operational Acceptance of the Facilities by the Employer, whichever is greater, however, not exceeding overall period of 7 years from Operational Acceptance by the Employer. For balance of the period, if any, up to 7 years from Operational Acceptance by Employer, Contractor shall ensure that functionally</p>

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		<p>equivalent hardware is available which is compatible with all software delivered with the system. If Employer chooses to purchase from the Contractor said functionally equivalent hardware, any software modifications necessary to maintain complete functional compatibility with all software delivered by Contractor shall be made at no cost to Employer. In the event, the modified software is not found compatible with functionally equivalent hardware, the contractor shall make suitable corrections to this modified software and install this corrected software at no cost to Employer.</p> <p>If so desired by the Employer, the Contractor shall submit the specifications, price and the terms and conditions relating to the supply thereof for such spares identified by the Employer with validity period of 6 months within 30 days of receipt of request from Employer for its consideration and placement of order.</p>
6.	GCC 6.6	<p>Replacing Sub-Clause GCC 6.6</p> <p>The Employer shall be responsible for the continued operation of the Facilities after Taking Over, in accordance with GCC Sub-Clause 20.1.5. However, the Contractor shall be responsible for Maintenance during Defect Liability Period and during AMC thereafter in accordance with provisions of Technical Specifications.</p>
7.	GCC 8.2	<p>Replacing Sub-Clause GCC 8.2</p> <p>GCC 8.2 Except otherwise stated in Appendix-1 (Terms and Procedure of Payment) to the Contract Agreement, the payments under the Contract shall be made in the currency or currencies in which the Contract</p>

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		Price has been stated in Contract Agreement, subject to the general principle that payments will be made in the currency or currencies in which the Contract Price has been stated in the Contractor's bid.
8.	GCC 9.3.1	<p>Replacing Sub-Clause GCC 9.3.1</p> <p>The Contractor shall, within twenty-eight (28) days of the notification of award, provide a performance security for the due performance of the Contract in the amount equivalent to Ten percent (10%) of the Contract Price(including Maintenance charges during Defect Liability Period and AMC charges after Defect Liability Period), with a validity upto ninety (90) days beyond the AMC Period. The same shall be extended by the Contractor time to time till ninety (90) days beyond the actual AMC Period, as may be required under the Contract. The value of Performance security shall be reduced by 80% after actual Defect Liability Period.</p>
9.	GCC 9.4(c)	<p>Replacing Sub-Clause GCC 9.4(c)</p> <p>GCC 9.4(c) by a foreign bank or a subsidiary of a foreign bank, acceptable to the Employer, with overall international corporate rating or rating of long term debt not less than A- (A minus) or equivalent by a reputed rating agency. Further, the Bank Guarantee should be confirmed by either its corresponding bank located in India or a Public Sector Bank located in India.</p>
10.	GCC 10.1	<p>Replacing Sub-Clause GCC 10.1</p> <p>GCC 10.1 For CIF Contract, the Contractor shall be entirely responsible for payment of all taxes, stamp duties, licence fees and other</p>

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		<p>such levies imposed out-side India.</p> <p>In case of Contract for domestic supplies and services, the Contractor shall be entirely responsible for payment of all taxes, duties, licence fees and other such levies legally payable/incurred until delivery of the contracted supplies to the Employer.</p> <p>If it is statutory requirement to make deductions towards such taxes and duties or any other applicable taxes and duties, the same shall be made by the Employer and a certificate for the same shall be issued to the Contractor.</p>
11.	GCC 10.3	<p>Replacing Sub-Clause GCC 10.3</p> <p><u>For CIF Contract:</u></p> <p>In case of CIF Contracts, any Indian Customs duties or levies including the Stamp Duty and Import Licence Fee levied by the Government of India or any State Government in India on the equipment and materials covered in the Contract to be imported into India against Employer's Import Licence and which will become the property of the Employer under the Contract, shall be to the Employer's account and shall be paid directly by the Employer to Government of India or concerned authorities. In the event a Contractor is required by law to pay such levies in India, the same shall be reimbursed by the Employer to the Contractor in Indian Rupees, upon presentation of satisfactory documentary evidence for having made such payments. The Contractor shall submit a comprehensive list of all the goods to be imported into India under the Contract to enable the Employer to obtain the Import Licence endorsement of Project Imports for availing</p>

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		<p>concessional rate of customs and import duties. Any additional liabilities of custom and import duties or penalty thereon, due to discrepancy in the said list of goods or any other lapse of the Contractor shall be to the account of the Contractor.</p> <p>The Contractor shall arrange to get equipment assessed under 'Project Rate' or 'merit rate' of custom duty whichever is less as permitted under relevant notification for the type of Project.</p> <p>As of now, there is no sales tax or excise duty applicable in respect of the transaction between the Employer and the Contractor in respect of supplies from abroad.</p> <p><u>For local Supplies:</u></p> <p>In case of local supplies, in respect of direct transaction between the Employer and the Contractor, the EXW price is inclusive of all cost as well as duties and tax (viz., custom duties & levies, duties, sales tax/VAT etc.) paid or payable on components, raw materials and any other items used for their consumption incorporated or to be incorporated in the Plant & Equipment.</p> <p>Sales tax/VAT, excise duty, local tax and other levies for the Equipment/items under 'direct transaction' including octroi/entry tax as applicable for destination site/state are not included in the EXW price. These amounts will be payable (along with subsequent variation if any), by the Employer on the supplies made by the Contractor but limited to the tax</p>

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		<p>liability on the transaction between the Employer and the Contractor. Employer shall, however, issue requisite sales tax declaration form.</p> <p>In respect of bought-out finished items, which shall be dispatched directly from the sub-vendor's works to the Employer's site (sale-in-transit), the EXW price is inclusive of all cost as well as duties and taxes (viz., custom duties & levies, duties, sales tax/VAT etc.) paid or payable and any such taxes, duties, levies additionally payable will be to Contractor's account and no separate claim on this behalf will be entertained by the Employer. Employer, shall, however, issue requisite sales tax declaration forms.</p> <p>Further, the EXW price of (i) imported Equipment/items offered as 'Off the Shelf' or dispatched directly from the Indian Port of disembarkation and/or (ii) bought-out finished Equipment/items as 'Off the Self' items or dispatched directly from the Contractor's works are inclusive of all cost as well as duties and taxes (viz., custom duties & levies, duties, sales tax/VAT etc.) paid or payable and no separate claim on this behalf will be entertained by the Employer. Employer shall, however, issue requisite sales tax declaration form.</p> <p>For payment/reimbursement of Sales Tax, wherever applicable, in respect of despatches made directly from Contractor's works, invoices raised by the Contractor shall be accepted as documentary evidence and for payment/reimbursement of VAT, VATABLE invoices raised by the Contractor shall be accepted as documentary evidence. Similarly, pre-numbered invoices duly signed by authorized signatory shall be considered as evidence for payment of Excise Duty.</p>

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
12.	GCC 17.3.2	Supplementing Sub-Clause GCC 17.3.2 <p>It is obligatory that the Contractor shall avail centralized shipping arrangement through the 'Chartering Wing' viz., 'TRANSHART' of Ministry of Surface Transport, Government of India or otherwise the Contractor shall obtain on their own 'No Objection Certificate' from Ministry of Surface Transport, Government of India well in advance. Employer, however, shall not be responsible for any delay whatsoever on this account.</p>
13.	GCC 17.3.5	Addition of new Sub-Clause after GCC 17.3.4 <p>GCC 17.3.5 Customs Clearance</p> <p>The Contractor shall, at its own expense, handle all imported Plant and Equipment and Contractor's Equipment at the point(s) of import and shall handle any formalities for customs clearance including liabilities for port charges if any, provided that if applicable laws or regulations require any application or act to be made by or in the name of the Employer, the Employer shall take all necessary steps to comply with such laws or regulations.</p>
14.	GCC 20.2.1	Deleted as Guarantee Tests are not applicable
15.	GCC 20.2.2.1 (II)	Delete as Functional Guarantees are not applicable

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
16.	GCC 22.10	<p>Addition of new Sub-Clause after GCC 22.9</p> <p>GCC 22.10 System Availability</p> <p>The bidder shall guarantee that the system offered shall meet the availability requirement as specified in the Technical Specification commencing from the date of Taking Over/Completion of Facilities by the Employer/Owner. In case the actual availability falls short of the above said guaranteed availability under the conditions specified in Technical Specifications, Employer/Owner shall have rights and remedies specified in the said clause.</p>
17	GCC 22.10	<p>Addition of new Sub-Clause after GCC 22.9</p> <p>GCC 22.10 Maintenance Period</p> <p>In case the quarterly average availability for the system fall short of stipulated criteria of % , the Contractor shall be liable to the penalties as mention at section 5.8.9 of Section -5, Volume-II of the Technical Specification.</p>
18.	GCC 23	Deleted as Functional Guarantees are not applicable
19.	GCC 24.1	Supplementing Clause GCC 24.1

Sl. No.	GCC Clause Ref. No.	Amendment/Supplement to GCC
		Bidder shall confirm the guaranteed performance or efficiency of the equipments in response to the Technical Specifications.
20.	GCC 33.2.3	Supplementing Clause GCC 33.2.3 Percentage for the Change Proposal under this Clause shall be limited to Thirty (30) percent of the Contract Price.

Section-6

Section 6: Sample Forms & Procedures

BID FORM FOR FIRST STAGE BID UNDER TWO STAGE BIDDING

Bid Proposal Ref. No.:.....

Date:.....

Name of Package: Smart Grid Elements Implementation

(Specification No. _____)

To

Gentlemen and Ladies,

1.0 Having examined the Bidding Documents, including Amendment Nos. (*Insert Numbers*) dated, the receipt of which is hereby acknowledged, we the undersigned, offer to design, manufacture, test, deliver, install and commission (including carrying out Trial Operation, Performance & Guarantee Test as per provision of Technical Specification) the Facilities under the above-named package in full conformity with the said Bidding Documents.

2.0 **ATTACHMENTS TO THE BID FORM**

In line with the requirement of the Bidding Documents, we enclose herewith the following Attachments to the Bid Form:

(a) Attachment 1: A power of attorney duly authorized by a Notary Public indicating that the person(s) signing the bid have the authority to sign the bid and thus that the bid is binding upon us.

(b) Attachment 2: The documentary evidence that we are eligible to bid in accordance with ITB Clause 2. Further, in terms of ITB Clause 2.9.3 (b) & (c) of BDS, the qualification data has been furnished as per your format enclosed with the bidding documents [Attachment – 2(QR)]. *Further the required deed of Joint Undertaking signed by us and our Collaborator has also been furnished as per your format.

** Delete if not applicable.*

(c) Attachment 3: The documentary evidence establishing in accordance with ITB Clause 3, Vol.-I of the Bidding Documents that the facility offered by us are eligible facilities and conform to the Bidding Documents has been furnished as Attachment 3. Moreover, a list of Special Tools & Tackles to be furnished by us in case of award, is also enclosed as per your format as Attachment 3A.

(d) Attachment 4: The details of all major items of services or supply which we propose subletting in case of award, giving details of the name and nationality of the proposed subcontractor/sub-vendor for each item.

(e) Attachment 5: The variation and deviations from the requirements of the Conditions of Contract, Bid Data Sheet and other commercial conditions, Technical Specification and Drawings in your format enclosed with the Bidding Documents.

(f) Attachment 6: The details of Alternative Bid made by us indicating the complete Technical Specifications, the Bid price for the Alternative Bid and the deviation to contractual and commercial conditions.

(g) Attachment 7: Answers to Questionnaire, as per technical specifications.

(h) Attachment 8: Work Completion Schedule.

(i) Attachment 9: Guarantee Declaration.

(j) Attachment 10: Information regarding ex-employees of “**Employer**” in our firm.

(k) Attachment 11: Declaration regarding Social Accountability

(l) Attachment 12: Integrity Pact, in a separate envelope, duly signed on each page by the person signing the bid.

(m) Attachment 13: Information for E-payment, PF details and declaration regarding Micro/Small & Medium Enterprises

(n) Attachment 14: Additional Information

3.0 **SCHEDULES**

3.1 **Bill of Quantities (unpriced):** In line with the requirements of the Bidding documents, we enclose herewith the unpriced Bill of Quantity indicating itemwise break-down for each constituent and the item description, quantity etc. duly filled-in as per the proformae given in Schedule-1, Section-I of Bid Form & Price Schedule, Volume-III of the Bidding Documents.

3.2 We are aware that the Price Schedules and the Bill of Quantities given in the Bidding Documents do not generally give a full description of the Work to be performed under each item and we shall be deemed to have read the Technical Specifications and other sections of the Bidding Documents and Drawings to ascertain the full scope of Work included in each item while filling-in the rates and prices in Second Stage (Price) Bid. We agree that the rates and prices to be quoted in Second Stage Bid shall be deemed to include and account for the full scope as aforesaid, including overheads and profit.

3.3 We declare that as specified in the ITB Clause 22.5, Volume-I of the Bidding Documents, prices to be quoted by us in the Price Schedules in Second Stage Bid shall be **on FIRM price basis** during the execution of Contract.

4.0 **TAXES AND DUTIES**

4.0 We confirm that except as otherwise specifically provided our Bid Prices in Second Stage Bid shall include all taxes, duties, levies and charges as may be

assessed on us, our Sub-Contractor/Sub-Vendor or their employees by all municipal, state or national government authorities in connection with the Facilities, in and outside of India.

4.1 100% of applicable Taxes and Duties (*for direct transaction between Employer and us*), which are payable by the Employer under the Contract, shall be reimbursed by the Employer after despatch of equipment on production of satisfactory documentary evidence by the Contractor in accordance with the provisions of the bidding documents.

4.2 We further understand that notwithstanding 4.0 above, in case of award on us, you shall also bear and pay/reimburse to us, Excise Duty, Sales Tax/VAT (but not the surcharge in lieu of Sales Tax/VAT), local tax and other levies in respect of direct transaction between you and us, imposed on the Plant & Equipment including Mandatory Spare Parts specified in Schedule No. 1 (**of Second stage bid**) to be incorporated into the Facilities; by the Indian Laws.

4.3 We also understand that, in case of award on us, you shall reimburse to us octroi/entry tax as applicable to destination site/state on all items of supply including bought-out finished items, which shall be dispatched directly from the sub-vendor's works to the Employer's site (sale-in-transit). Further, Service Tax, if applicable, for the services to be rendered by us, the same is included in our bid price in Second Stage Bid.

4.4 We confirm that we shall also get registered with the concerned Sales Tax Authorities, in all the states where the project is located.

4.5 We confirm that no Sales Tax/VAT in any form shall be payable by you for the bought out items which shall be dispatched directly by us under the First Contract (as referred in para 5.1 below) to the project site. However, you will issue requisite Sales Tax declaration/Vatable forms in respect of such bought out items, on production of documentary evidence of registration with the concerned Sales Tax Authorities.

5.0 CONSTRUCTION OF THE CONTRACT

5.1 We declare that we have studied GCC Sub-Clause 2.1 relating to mode of contracting for Domestic Bidders and we are making this proposal with a stipulation that you shall award us two separate Contracts viz. 'First Contract' for ex-works supply of all equipment and materials including mandatory spares and 'Second Contract' for providing all the services i.e. inland transportation for delivery at site, unloading, storage, handling at site, installation, testing and commissioning including Trial Operation in respect of all the equipment supplied under the 'First Contract' and other services specified in the Contract Documents. We declare that the award of two contracts will not in any way dilute our responsibility for successful operation of plant/equipment and fulfillment of all obligations as per Bidding Documents and that both the Contracts will have a cross-fall breach clause i.e. a breach in one contract will automatically be classified as a breach of other contract which will confer on you the right to terminate the other Contract at our risk and cost.

6.0 @ We have read the provisions of following clauses and confirm that the specified stipulations of these clauses are acceptable to us:

- | | | |
|-----|----------|---------------|
| (a) | ITB 24 | Bid Security |
| (b) | GCC 2.14 | Governing Law |

(c)	GCC 8	Terms of Payment
(d)	GCC 9.3	Performance Security
(e)	GCC 10	Taxes and Duties
(f)	GCC 21.2	Completion Time Guarantee
(g)	GCC 22	Defect Liability
(h)	GCC 23	Functional Guarantee
(i)	GCC 25	Patent Indemnity
(j)	GCC 26	Limitation of Liability
(k)	GCC 38	Settlement of Disputes
(l)	GCC 39	Arbitration
(m)	Appendix 2 to Form of Contract Agreement	Price Adjustment

OR

@ We have read the provisions of following clauses and confirm that the specified stipulations of these clauses are acceptable to us except for the deviations as listed in Attachment-5. The cost of withdrawal of deviations from above mentioned critical provisions, if remained unresolved during First Stage Bid evaluation, shall be indicated in our Second Stage (Price) Bid.

(a)	ITB 24	Bid Security
(b)	GCC 2.14	Governing Law
(c)	GCC 8	Terms of Payment

(d)	GCC 9.3	Performance Security
(e)	GCC 10	Taxes and Duties
(f)	GCC 21.2	Completion Time Guarantee
(g)	GCC 22	Defect Liability
(h)	GCC 23	Functional Guarantee
(i)	GCC 25	Patent Indemnity
(j)	GCC 26	Limitation of Liability
(k)	GCC 38	Settlement of Disputes
(l)	GCC 39	Arbitration
(m)	Appendix 2 to Form of Contract Agreement	Price Adjustment

@ *Bidders to strike off whichever is not applicable.*

7.0 We undertake, if our Second Stage Bid is accepted, to commence the work on Facilities immediately upon your Notification of Award to us, and to achieve Completion within the time stated in the Bidding Documents.

8.0 If our Second Stage Bid is accepted, we undertake to provide Advance Payment Security and a Performance Security(ies) in the form and amounts, and within the times specified in the Bidding Documents.

9.0 We further undertake, if invited to do so by you and at our own cost, to attend a clarification meeting at a place of your choice for the purposes of reviewing our

First Stage Bid and duly noting all amendments and additions thereof and noting omissions therefrom that you may require.

10.0 We further undertake, upon receiving your written invitation, to proceed with the preparation of our Second Stage Bid, updating our First Stage Bid in accordance with the requirements from the Memorandum of the clarification meeting and completing our commercial bid for performing the Facilities in accordance with our updated technical bid.

11.0 Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution, if we are awarded the contract, are listed below:

12.0

Name and address of agent	Amount and Currency	Purpose of Commission or gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____

(If none, state "none")

13.0 We, hereby, declare that only the persons or firms interested in this proposal as principals are named here and that no other persons or firms other than those

mentioned herein have any interest in this proposal or in the Contract to be entered into, if the award is made on us, that this proposal is made without any connection with any other person, firm or party likewise submitting a proposal is in all respects for and in good faith, without collusion or fraud.

Dated this __ day of _____20__.

Thanking you, we remain,

Yours faithfully,

(Signature).....

(Printed Name).....

(Designation).....

(Common Seal).....

Date:

Place:

Business Address:

Country of Incorporation:

(State or Province to be indicated)

Name of the Principal Officer:

Address of the Principal Officer:

Note: Bidders may note that no prescribed proforma has been enclosed for:

(a) Attachment 1: Power of Attorney.

(b) Attachment 6: The details of Alternative Bid

(For Attachments 1, and 6, Bidders may use their own proforma for furnishing the required information with the bid).

6.1 Attachment 2 – JV First Stage

Smart Grid Elements Implementation

(Joint Venture Agreement and Power of Attorney for Joint Venture*)

Bidder's Name and Address: To: < Employer Address >

Dear Sir,

The Joint Venture Agreement (as per the proforma attached at no. 15 in Section-VI, Sample Forms and Procedures, Conditions of Contract, Vol.-I of the Bidding Documents) and Power of Attorney for Joint Venture (as per the proforma attached at no. 14 in Section-VI, Sample Forms and Procedures, Conditions of Contract, Vol.-I of the Bidding Documents) are enclosed herewith.

* Applicable for Joint Venture.

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

6.2 Attachment 3:

Smart Grid Elements Implementation **(List of Special Maintenance Tools & Tackles)**

Bidder's Name and Address: To: < Employer Address >

Dear Sir,

We are furnishing below the list of special maintenance tools & tackles for various equipment under the subject package. In Second Stage (Price) Bid, the prices for these tools & tackles shall be included in our lumpsum bid price. We further confirm that the list of special maintenance tools & tackles includes all the items specifically identified in your bidding documents as brought out below:

S.No.	For Equipment	Item Description	Unit	Quantity
<hr/>				
--				
<hr/>				

Notwithstanding what is stated above, we further confirm that any additional special maintenance tools and tackles, required for the equipment under this package shall be furnished by us at no extra cost to the employer.

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

6.3 Attachment 4:

Smart Grid Elements Implementation

(Bought-out & Sub-contracted Items)

Bidder's Name and Address:

To: < Employer Address >

Dear Sir,

We hereby furnish the details of the items/ sub-assemblies, we propose to buy for the purpose of furnishing and installation of the subject Package:

Sl. No.	Item Description	Quantity proposed to be bought/sub- contracted	Details of the proposed sub- contractor/sub-vendor	
			Name	Nationality

1.				
2.				
3.				
4.				
5.				
6.				

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

6.4 Attachment 5:

Smart Grid Elements Implementation

(Alternative, Deviations and Exceptions to the Provisions)

Bidder's Name and Address:

To: < Employer Address >

Dear Sir,

We hereby enclose the list of variation and deviations from the requirements of the Conditions of Contract (Vol.-I), Technical Specifications (Vol.-II) for the subject package in the following format.

Sl. No.	Clause Reference No.	Provision as per the bidding document	Status as per technical specifications (alternative/ deviation or exception)	Detailed description of alternative/ deviation or exception	Reason for the change
Conditions of Contract, Vol.-I					
Technical Specifications, Vol.-II					

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

6.5 Attachment 7:

Smart Grid Elements Implementation

(Answers to Questionnaire, as per technical specifications)

Bidder's Name and Address:

To: < Employer Address >

Dear Sir,

With reference to the relevant Section(s) of Technical Specification, the answers to the Questionnaire(s) are provided below:

Sl. No.	Description of the Question	Answer

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

6.6 Attachment 8

Smart Grid Elements Implementation

(Work Completion Schedule)

Bidder's Name and Address:

To: < Employer Address >

Dear Sir,

We hereby declare that the following Work Completion Schedule shall be followed by us in furnishing and installation of the subject Package i.e., Smart Grid Implementation for the period commencing from the effective date of Contract to us:

Sl. No.	Description Work	Period in months from the effective date of Contract
1.	Detailed Engineering and drawing submission a) commencement b) completion	
2.	Equipment Design and Specification	

Sl. No.	Description Work	Period in months from the effective date of Contract
	a) commencement b) completion	
3.	Procurement of raw materials commencement b) completion	
4.	Type Tests commencement b) completion	
5.	Manufacturing a) commencement b) completion	
6.	Factory Test a) commencement b) completion	
7.	Shipment & Delivery at site a) commencement b) completion	
8.	Establishment of Site Office	

Sl. No.	Description Work	Period in months from the effective date of Contract
	commencement b) completion	
9.	Installation at Site a) commencement b) completion	
10.	Testing & Commissioning a) commencement b) completion	
11.	Trial Operation a) commencement b) completion	

Date:..... (Signature).....

Place:..... (Printed Name).....

(Designation).....

(Common Seal).....

Note: Bidders to enclose a detailed network covering all the activities to be undertaken for completion of the project indicating key dates for various milestones for each phase constituent-wise.

6.7 Attachment 9:

Smart Grid Elements Implementation

(Guarantee Declaration)

Bidder's Name and Address:

To: < Employer Address >

Dear Sir,

We conform that the equipments offered shall have minimum performance specified in Technical Specification. We further guarantee the performance/efficiency of the equipments in response to the Technical Specifications.

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

6.8 Attachment 10:

Smart Grid Elements Implementation

(Information regarding Ex-employees of “Employer” in our Organisation)

Bidder’s Name and Address:

To: < Employer Address >

Dear Sir,

We hereby furnish the details of ex-employees of “Employer” who had retired/ resigned at the level of General Manager and above from the “Employer” and subsequently have been employed by us:

Sl. No.	Name of the person with designation in “Employer”	Date of Retirement/ resignation from “Employer”	Date of joining and designation in our Organisation
---------	---	---	---

1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

Note: The information in similar format should be furnished for each partner of joint venture in case of joint venture bid.

6.9 Attachment 11:

Smart Grid Elements Implementation

(Declaration regarding Social Accountability)

Bidder's Name and Address:

To: < Employer Address >

Dear Sir,

We conform that we stand committed to comply to all requirements of Social Accountability Standards i.e., SA8000 (latest Standard available at www.sa-intl.org) and maintain the necessary records.

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

6.10 Attachment 13:

Smart Grid Elements Implementation

(Information for E – payment, PF details and declaration for Micro/Small and Medium Enterprise)

Bidder's Name and Address:

To: < Employer Address >

Dear Sir,

We are furnishing the following details of Statutory Registration Numbers and details of Bank for electronic payment.

1.	Name of the Supplier/ Contractor in whose favour payment is to be made	
2.	Address with PIN Code and State	Registered Office: Branch Office: Correspondence Address:
3.	Status – Company/others [Declaration of Micro/ Small/ Medium Enterprise under Micro/ Small & Medium Enterprises Development Act 2006, if applicable]	
4.	Permanent Account (PAN) No.	
5.	Central Sales Tax (CST) No.	
6.	State Sales Tax No.	
7.	Work Contract Tax No.	
8.	Service Tax Registration No.	
9.	PF Registration No. of the Company	
10.	PF Regional Office covered (with Address)	
11.	Name of Contact Person	

12.	Telephone No(s). Email	Landline(s): Mobile(s): Email ID :
13.	Bank Details for Electronic Payment	Name of the Bank: Address of Branch: Account No.: Type of Account: <input type="checkbox"/> Saving <input type="checkbox"/> Current
14.	9 digit MICR code printed at bottom in middle, next to cheque no.	
15.	IFSC (for RTGS)/NEFT Code (<i>to be obtained from the Bank</i>)	

	<i>Sample Cancelled Cheque to be enclosed</i>	
--	--	--

We hereby declare that the above information are true and correct and we agree that the payment on account of this Contract, in the event of award, be made in the above account maintained in the above mentioned Bank.

Date:.....

(Signature).....

Place:.....

(Printed Name).....

(Designation).....

(Common Seal).....

6.11 Attachment 14:

**Smart Grid Elements Implementation
(Additional Information)**

Bidder's Name and Address:

To: < Employer Address >

Dear Sir,

In support of the additional information required as per ITB Sub-Clause 9.3 (o) of the Bidding Documents, we furnish herewith our data/details/documents etc., along with other information, as follows (the stipulations have been reproduced in italics for ready reference):

1.0 *The Bidder shall furnish*

A certificate from their Banker(s) (as per prescribed formats in Form 16, Section-VI: Sample Forms and Procedures) indicating various fund based/non fund based limits sanctioned to the Bidder and the extent of utilization as on date. Such certificate should have been issued not earlier than three months prior to the date of bid opening. Wherever necessary the Employer may make queries with the Bidders' Bankers. [Reference ITB clause 9.3(o)(i)]

- 1.1** In accordance with 1.0, certificate(s) from banker as per requisite format, indicating various fund based/non fund based limits sanctioned to the bidder

and the extent of utilization as on date is/are enclosed, as per the following details:

Name of the Bidder	
Name of the Banker by whom certificate issued	
Date of certificate (should not be earlier than 3 months prior to date of bid opening)	
Whether fund based/non fund based limits are indicated in the certificate	
Whether extent of utilization is indicated in the certificate	

1.2 *The Bidder should accordingly also provide the following information/documents:*

(i) Details of Banker:

Name of Banker	
Address of Banker	<div></div> <div></div> <div></div>
Telephone No.	<div></div>
Contact Name and Title	<div></div>

Fax No.	_____
E-mail ID	_____

- (ii) As per para 1.0, Authorization Letter(s) from the bidder addressed to the Banker(s), authorizing “Employer” to seek queries about the bidder with the Banker(s) and advising the Banker(s) to reply the same promptly, is/are enclosed as per following details:

Sl. No.	Letter Ref.	Date	Addressed to (name of the Bank)

2.0 Litigation History

The bidder should provide detailed information on any litigation or arbitration arising out of contracts completed or under execution by it over the last five years. A consistent history of awards involving litigation against the Bidder may result in rejection of Bid. [Reference ITB clause 9.3(o)(ii)]

- 2.1 Details of litigation history resulting from Contracts completed or under execution by the bidder over the last five years

Year	Name of client, cause of litigation/arbitration and matter in dispute	Details of Contract and date	Award for or against the bidder	Disputed amount

--	--	--	--	--

3.0 **OTHER INFORMATION**

3.1 Current Contract Commitments of works in progress

Bidders should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Details of Contract	Value of outstanding work (in INR)	Estimated completion date

Section-7

Scope of Work

Please refer Vol.II of Technical Specifications Clause 1.5

Section-8

Guidelines for Technical Proposal

The proposal should cover all the aspects of this bid document. Any bid not found responsive to this bid document shall be rejected. Material deficiencies in providing the information requested may also result in rejection of the proposal. While preparing the technical proposal, bidders must give particular attention that the technical proposal does not include any financial information. The document being submitted shall be in accordance to ITB (section 2.0 of this document) and will be accordingly judged for the completeness of proposal.

8.1 Approach and Methodology

- Understanding of Employer System and impact of proposed solution with clear mention of the deliverables
- Details of proposed Implementation activities
- Project Team Structure and responsibility matrix
- Proposed Resources list, estimation and deployment planning
- Risk planning
- Detailed work plan with timelines

8.2 Project Experience

Bidder shall provide details of projects of similar nature with application modules and other subsystems (Field systems, network and communication equipments as well as central systems supplied) which have been successfully completed during the last 5 financial years. In case the system has already been replaced please do not include the project as part of description. The details of the same should include with supporting documents:

- Name of the Project
- Utility
- Date of Commissioning
- Total cost of the Project
- Indicate the functions implemented in the project
- Whether Integration performed with IT/any other system
- List type and quantity of field equipments supplied e.g.
 - FRTUs
 - Meters
 - DCUs
 - FPIs
 - RTUs
 - DCs etc
- Communication Media and protocols deployed e.g.
 - PLC
 - SDH
 - GPRS
 - RFMesh
 - Zigbee
 - IEC-61850
 - IEC 608705-5-104 or any other

8.3 Team details (CVs)

The following information shall be provided for the team leader of project implementation team.

- Name of Staff
- Position Assigned
- International or Domestic
- Firm
- Employment status with the firm (Full time/ Associate)
- Education (Degree, Year, Institution)
- Languages (Written, spoken, both)
- Number of years of experience
- Area of Expertise
- Role in the project

8.4 Firm Detail

Bidder shall provide details of net-worth and turnover for the past three audited financial years. Past history of litigation with Employer/utility if any shall be detailed separately. The experience of the firm in area similar to the proposed project shall be clearly outlined and supporting document e.g. LOA etc shall be enclosed.

8.5 Compliance checklist

< Part of Section-2: Information to Bidders (ITB)>

Section-9

Evaluation Methodology

Evaluation Criteria: Evaluation and Comparison of bids

(a) Technical Evaluation

The Evaluation Criteria for technical bids has been given at Appendix-I

(b) Determination of Technical Scores

The evaluation of bids will be graded according to the point scale.

Only first five Bidders in Technical Score will be asked to participate in 2nd stage Bid.

The technical Scores will also count for 2nd Stage bid evaluation. The weightage of technical score to commercial score will be 50-50%

F X 1 X Highest Point

Point scored by bidder

APPENDIX-I

EVALUATION CRITERIA FOR SELECTION OF SMART GRID IMPLEMENTING AGENCY

TABLE OF CONTENTS

1. Overall Experience (200Marks)
2. Direct Experience in Implementing Smart Grid Functionalities (100 Marks)
3. Solution and Approach Proposed by the Vendor (500 Marks)
4. Key Personnel (200 Marks)

Guidance Notes

Summary

This document details out the evaluation criteria proposed to be adopted for selection of Smart Grid Implementing Agency (SGIA). As far as possible, the document provides for an objective and quantitative evaluation along with guidance notes for evaluating various parameters.

The four key sub-sections that comprise the evaluation criteria (**total of 1000 Marks**) include:

1. **Overall experience of the Vendor (200 Marks)**- evaluates the overall experience of the vendor on various aspects such as IT aspects, SCADA/Communication, Utility Management, AMI/Smart Metering, Application Integration and Project Management, and Security.
2. **Direct Experience on Smart Grid Functionalities (100 Marks)** - evaluates direct experience of the vendor in implementing various smart grid functionalities nationally and internationally.
3. **Solution and Approach Proposed by the Vendor (500 Marks)**- evaluations the overall vendor response, the methodology and solution architecture proposed, additional functions proposed (other than the functionalities covered under the pilot), the work plan/program, plan for performance and quality assurance, plan for knowledge transfer and capacity building etc.
4. **Key Personnel Proposed (200 Marks)**- evaluates the strength of the team proposed for undertaking the assignment including the qualification, experience and time proposed on field.

Evaluation of Technical Proposals: The evaluation committee nominated by the Employer evaluates the technical proposals' responsiveness to the RfP, applying the evaluation criteria, as specified in the RfP. Each responsive proposal receives a technical score. A proposal is rejected at this stage if it does not meet the minimum marks for each section above (*50% of the total score for each sub-section*) or if it fails to achieve the minimum technical score of 500 marks.

Evaluation of Proposals: The successful bidder will be selected on Quality and Cost Basis (QCBS). Financial Bids of only those bidders shall be opened who score a minimum of 500 marks in the evaluation of Technical proposal/bid.

Financial Proposals will be evaluated following completion of the Technical Evaluation. Financial Proposals will receive pro-rated points based on the relationship of each financial proposal to that of the lowest evaluated price.

50% weightage will be given to scores obtained in the Technical Proposal and the remaining 50% to scores obtained in the evaluation of Financial Bid. The resultant sum of the scores shall decide the final rating of the bidder.

1. Overall Experience (200 Marks)

This maps out the key areas of expertise that the vendor must possess. The experience claimed in each case must be justified through submission of completion certificates indicating successful completion of the project from the Client. No marks shall be allotted for a cited credential if the requisite completion certificates are not submitted.

1.1. Experience in IT Solution Implementation (30 Marks)

10 marks for each assignment with a maximum of 30 marks of which at least one assignment should be in India

Eligible Assignment: Assistance to utilities *(Power / Gas / Water / Telecom Sectors) or Infrastructure (Rail / Road / Port / Airport) companies in providing IT consulting (Strategy, Advisory, Efficiency Improvements, Implementation, program management engagement. Also includes DPR assistance or procurement assistance or implementation or program management engagement for IT software / network / hardware solutions.

1.2. SCADA/Communication (30 Marks)

10 marks for each assignment with a maximum of 30marks of which at least one assignment should be in India

Eligible Assignment: Experience in the design, engineering, supply, installation, testing and commissioning of SCADA & DMS (Supervisory Control and Data Acquisition System & Distribution Management System) Project for Power Distribution Systems (11KV or above).

1.3. Utility Management (30 Marks)

10 marks for each assignment with a maximum of 30marks of which at least two assignments should be in India

Eligible Assignment: Experience in assisting national and international power utilities in the area of business process improvement, change management, utility process diagnostic (As-Is analysis), business process re-engineering of technical and commercial processes, process design and implementation, communication strategy, organizational structuring etc.

1.4. AMI/Smart Metering (60 Marks)

20 marks for each assignment with a maximum of 60 marks

Eligible Assignment: Experience in the planning and execution of AMI projects which include installation and management of smart meters, DCU/ modems, last mile connectivity, head end system and MDMS.

1.5.Applications Integration & Project Management (30 marks)

10 marks for each assignment with a maximum of 30 marks of which at least two assignments should be in India

Eligible Assignment: Experience in developing utility specific IT applications, developing enterprise wide detailed system requirement definition, development of solution architecture, integration design and developments, and interfaces with appropriate levels of security, managing large projects including subcontractors and selected vendors, supervision of vendor installations, configuration, coding and deliverables, and testing to ensure smooth integration with the legacy and new applications. It will also include monitoring project status, budget deviations, assessment of outcomes and communicating risks and adjustments on a timely basis.

1.6.Security (20 Marks)

10 marks for each assignment with a maximum of 20marks

Eligible Assignment: Experience in planning and implementing high level security requirement through established methodologies and framework that ensure the security of the system against threats. The vendor must have delivered solutions that provide due consideration to data privacy, confidentiality and prescribed cyber security guidelines; and other aspects such as information flow enforcement through adequate authorizations, flagging of alerts, automated information labeling, isolated security functions, protection of sensitive data, encryption and decryption, cryptographic certification, threat modeling and security testing etc.

2. Direct Experience in Implementing Smart Grid Functionalities (100 Marks)

Utility may modify this based on the combination of smart grid functionalities considered in the pilot project. The detailed definition of various functionalities have been explained in the RfP.

(Marks to be allotted based on combination of functionalities considered in the pilot. For instance, if a pilot covers 4 functionalities, maximum 25 marks could be allotted to each functionality. Within each functionality the number of assignment that will lead to full 25 marks can be decided by the Utility)

Smart Grid Functionality	Scoring Criteria
AMI	
Outage Management System	
Power Quality	
Peak Load Management (PLM)	
Micro Grid	
Decentralized Distributed Generation (DDG)	
RE Integration	
Visualization and Analytics	

An assignment where the vendor has implemented multiple functionalities in a single assignment shall qualify for respective functional categories. For instance, an AMI related assignment with an additional Peak Load Management module shall be counted 1 assignment for AMI and 1 assignment for PLM.

The experience claimed in each functionality must be justified through submission of completion certificates indicating successful completion of the project from the Client. No marks shall be allotted if the requisite completion certificates for a cited credential are not submitted.

3. Solution and Approach Proposed by the Vendor (500 Marks)

The overall approach proposed by the vendor shall be rated on the basis of the following criteria:

3.1. Proposal Presentation and Understanding of Objectives (20 Marks)

The vendor shall present a detailed approach and methodology for the respective assignment. This would capture the vendor's understanding of the scope of work. The vendor shall identify the needs/requirements of the utility with respect to the functionalities proposed as a part of the pilot project and prepare a well-structured and cogent approach for addressing the requirements.

3.2. Quality of Methodology / Solution Proposed (205 Marks)¹

The action plan proposed by the vendor shall comprise solution architecture that is compatible with utility requirements and local conditions. For this purpose the vendor may extensively survey the pilot area to understand the geographic conditions and propose a best fit strategy. The approach shall also identify various interface points among different functionalities and utility systems/ processes.

The quality of approach proposed by the vendor shall be evaluated under each of the following headings:

a. TECHNOLOGY PROPOSED (45 MARKS)

- Is the vendor's technology proven and accepted? **(10 Marks)**
- Is the vendor authorized to use the proposed technology? **(15 marks)**
- Does the vendor's technology provide requisite data warehousing capabilities (including Visual Engineering Environment)? **(10 Marks)**
- Does the vendor's track record indicate that its technology can be easily integrated with other systems including the critical legacy systems? **(10 Marks)**

¹A detailed set of **Guidance Notes** have been provided as endnotes in this document for the evaluation parameters listed out under this section to make the evaluation of these questions objective to the extent possible. The guidance notes provide further detail on the relevance of the questions and provide a list of indicators/factors that would aid evaluation of the answers. Provided in Annexure 1

b. HARDWARE AND SOFTWARE REQUIREMENTS (30 MARKS)

- Does the proposed system provide information requisite hardware and operating system requirements for system integration; and also tools required for managing applications? **(10 Marks)**
- Does the proposed system clearly indicate programming language/platform to be used in the system integration? **(10 Marks)**
- Does the proposed system cover Preventive Maintenance Activity (performance monitoring, system backup& restore, patch management, updates and troubleshooting) as well as spare parts for maintenance? **(10 Marks)**

c. SECURITY AND SYSTEM STABILITY (70MARKS)

The following aspects shall be evaluated:

- Does the proposed system enforce assigned authorizations for controlling the flow of information within the Smart Grid information system and between interconnected Smart Grid information systems in accordance with applicable policy? **(10 Marks)**
- Does the proposed system have the ability to execute an appropriate fail-safe procedure upon the loss of communications with other Smart Grid information systems or the loss of the Smart Grid information system itself? **(10 Marks)**
- Does the proposed system documentation include system security manual containing functional properties of the security controls, configuration checklist, patch management, and firewall security setups for system vulnerability management against viruses? **(10 Marks)**
- Are all external Smart Grid information system and communication connections identified and protected from intrusion, tampering or damage? **(10 Marks)**
- Does the proposed system monitor and detect unauthorized changes to software and information? Does the proposed system notify the management authority when anomalies are discovered? **(10 Marks)**
- If some part of the product or its operation (e.g., hardware, software, command and control, data) will remain outside the system operator's direct control (e.g., in a remote data center, as part of a SaaS offering, and so on), does the proposal describe the parts outside the

operator's control and describe the security practices applied to keeping those parts both safe and compliant with all applicable regulatory needs? **(10 Marks)**

- Does the proposal include threat model(s) used to decide on the appropriate security features, security configuration controls, security designs, and software security approaches present in the proposed system. Does the proposal cover in details all types of security testing applied to the proposed system and list any current security testing artifacts available for review as per the RFP. **(10 Marks)**

d. COMMUNICATION AND INTER-OPERABILITY (35 Marks)

Communication (20 Marks)

- Does the proposed system clearly specify all makes/manufacturers, models, capacity, throughput, power rating, and standards/protocols for the equipment used in communication network? **(5 Marks)**
- Does the proposed system include a detail description on receiving, storing and presenting data from non-meter sources, automation devices, RE sources, Network components configurable for different pricing plans (e.g., Time of Use/ Critical Peak Pricing) as per RFP requirement? **(5 Marks)**
- Does the proposed system provide necessary description of the head end system/ Data concentrator functionality; and does it support all functionality required by the utility? **(5 Marks)**
- Does the proposed system include adequate interface with already existing IT systems of the utility– GIS, IT-applications? **(5 Marks)**

Inter-operability (15 Marks)

- Does the proposed system contain requisite details on the integration of new equipment (e.g., field devices, central systems, communication & networking

systems) and integration of a new or existing central system Processor(if exists) as per requirement in the RFP?(5 Marks)

- Does the proposed system provide description of integration system database to be used and plan to be adopted to ensure inter-operability with equipment and applications?(5 Marks)
- Does the proposed system provide listing of required/desired standards (e.g., IEC, BIS, IEEE, etc.) complied with, and their areas of application? (5 Marks)

e. ARCHITECTURE FLEXIBILITY AND SCALABILITY (25 Marks)

- Is the vendor's technology offering capable of upgrade and scaling up with minimum impact through changes in technology? (10 Marks)
- Does the proposed system provide distributed architecture that includes available technology options, criteria for selecting the proposed technology, technical specifications of the products and the functional description of IT applications?(10 Marks)
- Does the proposed system describe in detail (with critical/non-critical classification) the interoperability, evolvability and scalability in order to accommodate new features and functions in future?(5 Marks)

3.3.Additional Smart Grid Functionalities beyond those already proposed for respective Pilot (Innovation) / Comments or Deviations on TOR (80 Marks)

The vendor may propose additional functionalities to be taken up as a part of the smart grid project in that area. These would be out of the scope of work for the project. However, the vendor may be given additional marks for any such functionality which would provide significant advantages to the utility. Similarly, the vendor may also point out any deviations from the ToR that might not be achievable either in the stipulated time or otherwise. These comments can then, as per the requirement of the utility, added to the ToR.

(20 Marks for each functionality delivered with a maximum of 80 marks)

In case deviations are proposed, the vendor must provide reason for such deviation. The Utility during the evaluation has to find/confirm the deviations acceptable in view of the new/alternative features proposed.

3.4.Work Program (including estimated duration of implementation) and approach to Project Management- (40 Marks)

This will include the overall work plan with critical interim milestones and overall time for delivering the complete solution. In addition the vendor's smart grid project management plan shall be evaluated on the following aspects:

- Does the vendor have a plan for managing the activities of the team and collaborative deployment of solutions to be delivered by subcontractors and selected sub-vendors? **(10 Marks)**
- Does the vendor have an adequate plan for timely completion of deliverables/roll-out of solution and adherence to the overall project schedule? **(10 Marks)**
- Does the plan provide a framework for monitoring the project status including hot spots, progress and bottlenecks during the system implementation? **(10 Marks)**
- Does the approach have a plan for foreseeing and mitigating risks including appropriate contingency plans? **(10 Marks)**

3.5. Performance Assurance (115marks)²

The vendor shall provide the factory level performance quality of the proposed solution, along with certification/self-declarations for factory acceptance tests. In addition, the vendor should also provide expected field level performance and any deviations from the factory level performance tests.

The utility may stipulate a certain percentage of allowable deviation and the vendor would be graded accordingly. Key attributes that shall be monitored by the utility include:

- **Reliability of the system** (measure by success rate of the system to deliver data, signals, from the field level equipment to head end system) - **(50 Marks - based on factory acceptance tests)**
 - 98-100% reliability - 50 Marks
 - 96-98% reliability - 40 Marks
 - 94-96% reliability - 30 Marks
 - Below 94% - 0 Marks
- **System response time and data reading acquisition speed**(in Minutes) - **(50 Marks - based on factory acceptance tests)**
 - < 5 minutes - 50 Marks
 - 5 -10 minutes - 40 Marks
 - 10-15 minutes - 30 Marks
 - >15 minutes - 0 Marks
- **Submission of Detailed Quality Assurance Plan** by the vendor including monitoring quality standards of sub-contractors and sub-vendors - **(15 Marks)**

² Warranty of the system has not been mentioned as part of the evaluation. It is presumed that this must be covered in the eligibility requirement or necessary conditions to be met by all vendors.

3.6. Plan for Knowledge Transfer, Capacity Building in the Utility and Customer Outreach - (40 Marks)

The vendor shall prepare a capacity building plan for the utility personnel. Knowledge transfer shall be initiated through field level training, operation manuals, reading materials, simulations etc. The vendor may also propose a sunset period after the completion of the project during which online and offline support would be provided to the utility.

a) Training (10 Marks)

- Has the vendor proposed a comprehensive and robust training and capacity building plan for the utility personnel? **(10 Marks)**

b) Knowledge Transfer (20 Marks)

- **Has the vendor provided a plan for handholding the utility post the commissioning of the solution? (20 Marks)³**

c) Customer Outreach and Impact(10 Marks)

- Does the proposed system describe how the customer data will be acquired and used to design suitable outreach programs to create maximum impact on business operations?**(10 Marks)**

³ This is measured through number and level of experience of people proposed to be deployed on field post commissioning of the solution; and whether documented operational guidelines (including those for reconfiguring the system in case of market changes) are proposed to be provided to the Utility by the vendor.

4. Key Personnel (200 Marks)

The core team shall comprise of the following five experts:

- **Expert 1 (60 Marks)** - Team Leader/Project Manager - Expert in Project Management, and System Integration covering application software, hardware and network installation, integration design, and ability to manage multiple partners with different skill sets in different technology domains.
- **Expert 2 (35 Marks)** - Expert in Utility Management with experience in business process engineering, distribution automation, SCADA and DMS etc
- **Expert 3 (35 Marks):** Expert in cyber security related aspects covering planning and implementing high level system security requirements, managing data privacy and confidentiality, information flow through adequate authorizations, threat modeling and security testing.
- **Expert 4 (35 Marks):** Expert in metering and related aspects covering installation and management of smart meters, DCU/modems, last mile connectivity, head end system and MDMS
- **Expert 5 (35 Marks):** Expert in implementing communication protocols, implementing applications using different communication technologies and ensuring communication interoperability across applications/functionalities.

Within each CV, the following evaluation metric will be followed:

- General qualifications (Relevant education and training and experience): (25% weightage)
- Adequacy for the Assignment (Experience evaluated through number of completed assignments, with full marks for 5 completed assignments. For assignments less than 5, marks to be prorated accordingly): (50% weightage)
- Percentage time proposed in the field: (25% weightage)

The Team Leader/Project Manager should be dedicated for the duration of the project. The above team can further be strengthened with support team across various disciplines necessary to implement the solution in a time bound manner.

(Please Note: In case of pilots with functionalities such as Renewable Energy Integration or Distributed Generation, the Employer may specify additional personnel (1 no.) with expertise in Grid Integration of Renewable Energy or Distributed Generation respectively.)

Further, except as the Employer may otherwise agree, no changes shall be made in the core team of above five experts. If, for any reason beyond the reasonable control of the SGIA, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the core team

members, the SGIA shall provide as a replacement a person of equivalent or better qualifications. Such replacement will be subject to approval of the Employer.

Guidance Notes

Parameter	Why is it Important?	How will it be Measured?
Technology Proposed (45 Marks)		
Is the vendor's technology proven and accepted? (10 Marks)	<ul style="list-style-type: none"> Proven technology implies lower risk and higher reliability Acceptability provides confidence of using a particular technology Untested functionality may affect time required for system readiness and longer term reliability 	<ul style="list-style-type: none"> References where the technology has been deployed - through successful completion certificates from the Vendor's Client. For instance in case of deployment of communication technology references of use of PLC/ RF Mesh and the success rate achieved can be shared through appropriate certification from the client. Demonstration of Utilities/Field Locations where technology has been deployed (including contact details of nodal officers.)
Is the vendor authorized to use proposed technology? (15 marks)	<ul style="list-style-type: none"> This might lead to IPR issues due to which might lead to delay in implementation 	<ul style="list-style-type: none"> The vendor must submit authorization certificates from the entity owning the proposed technology
Does the vendor's technology provide requisite data warehousing capabilities (including Visual Engineering Environment)? (10 Marks)	<ul style="list-style-type: none"> Important since scaling up would require dealing with larger volumes of data Data analytics functionality can be used for power quality assessment, theft detection, load profile analyses, and market settlement calculations 	<ul style="list-style-type: none"> Vendor to specific data storage across the solution in gigabytes. Marks to be allotted accordingly
Does the vendor's track record show that its technology can be easily integrated with other systems including the critical legacy systems? (10 Marks)	<ul style="list-style-type: none"> Technology compatibility with multiple applications and systems is necessary for successful operation in the real life utility situations Demonstration of experience results in reducing risk and increasing the probability of success 	<ul style="list-style-type: none"> Demonstrated experience of integrated solution implementation - through successful completion certificates from the client Factory acceptance test results where inter-operability between sub-vendor equipment and multiple functionalities should be demonstrated - Should be open to independent testing by the Utility.
Hardware and Software requirements (30 Marks)		
Does the proposed system provide information on minimum hardware and operating system requirements for system integration; and also tools required for managing applications? (10 Marks)	<ul style="list-style-type: none"> To ensure necessary hardware and software required for integration is covered under vendor's scope No separate cost implications are imposed on the Utility 	<ul style="list-style-type: none"> List of hardware and software proposed to be deployed on the field along with its complete specification by the vendor as part of the solution Defining the integration points with the Utility systems

Parameter	Why is it Important?	How will it be Measured?
Does the proposed programming language/platform facilitate system integration? (10 Marks)	<ul style="list-style-type: none"> Necessary to ensure compatibility and understanding by the utility IT personnel Necessary for equipment and application inter-operability 	<ul style="list-style-type: none"> Language and platform proposed to be adopted specified clearly in the RfP response Outputs from the system at various interfaces must be in a format that can be used in multiple ecosystems. e.g. XML, API (Application Program Interface)
Does the proposed system cover Preventive Maintenance Activity (performance monitoring, system backup & restore, patch management, updates and troubleshooting) as well as spare parts for maintenance? (10 Marks)	<ul style="list-style-type: none"> Necessary for preventing system failure Necessary for restoration in case of system failures Promotes Upgradation Necessary for change control and system maintenance 	<ul style="list-style-type: none"> Vendor has rated the equipment and software proposed to be provided based on their vulnerability Provides provision for replacement of parts with high vulnerability (during warranty period) Provides unit rates for such parts post the warranty period up to a specified period Vendor has described the patch management mechanism
SECURITY AND SYSTEM STABILITY (70 Marks) <i>*(to be refined further through discussions with ISGTF and select technical experts)</i>		
Does the proposed system enforce assigned authorizations for controlling the flow of information within the Smart Grid information system and between interconnected Smart Grid information systems in accordance with applicable policy? (10 Marks)	<ul style="list-style-type: none"> Permits only authorized user to access the system Reduces vulnerability to attacks on the proposed and linked systems 	<ul style="list-style-type: none"> Provision of authorized access (in layers) and warning messages Features related to Grant of rights and privileges (modify, update etc.) etc. built up in the solution
Does the proposed system have the ability to execute an appropriate fail-safe procedure upon the loss of communications with other Smart Grid information systems or the loss of the Smart Grid information system itself? (10 Marks)	<ul style="list-style-type: none"> Provides self-healing features Enables easy system restoration in case of partial failures Prevents loss of critical information 	<ul style="list-style-type: none"> Vendor to demonstrate self-healing capabilities of the system during the factor acceptance test Vendor to provide certification from previous system testing

Parameter	Why is it Important?	How will it be Measured?
Does the proposed system documentation include system security manual containing functional properties of the security controls, configuration checklist, patch management, and firewall security setups for system vulnerability management against viruses? (10 Marks)	<ul style="list-style-type: none"> Ensures guidance to system users Provides ability to restore the security process in case of corruptions/attacks/partial faults 	<ul style="list-style-type: none"> Requisite documentation provided or not Relevant set-up/installation files and briefing on their features provided or not
Are all external Smart Grid information system and communication connections identified and protected from intrusion, tampering or damage? (10 Marks)	<ul style="list-style-type: none"> Need to protect system from cascade failures through adequate protection at interface levels Need to avoid compromising data integrity, confidentiality, and hacking 	<ul style="list-style-type: none"> Demonstrated Islanding features that isolate the system in case of intrusions, partial failures etc. Features for reconnection post system restoration Capabilities such as cryptography/data encryption, system, identification and authentication control <p>The above can be demonstrated during the factor acceptance test.</p>
Does the proposed system monitor and detect unauthorized changes to software and information? Does the proposed system notify the management authority when anomalies are discovered? (10 Marks)	<ul style="list-style-type: none"> Provides warning signals in case of systemic intrusions and failures Provides alerts to authorized officers and management Records anomalies for security checks and appropriate action 	<ul style="list-style-type: none"> Capabilities and features to be demonstrated during the factory acceptance test Commitment to provide detailed manual of features provided along with the solution Availability of security audit features Certificates from previous system testing
If some part of the product or its operation (e.g., hardware, software, command and control, data) will remain outside the system operator's direct control (e.g., in a remote data center, as part of a SaaS offering, and so on), does the proposal describe the parts outside the operator's control and describe the security practices applied to keeping those parts both safe and compliant with all applicable regulatory needs? (10 Marks)	<ul style="list-style-type: none"> Necessary to keep the system secure Need to protect the system's core Define all vulnerable points in the system and security measures for protection 	<ul style="list-style-type: none"> High security hardware and software that are not required to be accessed on day to day basis is identified separately (serves as core of the solution) Maintenance practices provided to keep this core secure and well-functioning are defined in a separate manual Tenure for Offline/Onsite support committed by the vendor in case the core is required to be rectified Security documentation

Parameter	Why is it Important?	How will it be Measured?
Does the proposal include any threat model used to decide on the appropriate security features, security configuration controls, security designs, and software security approaches present in the proposed system. Does the proposal cover in details all types of security testing applied to the proposed system and list any current security testing artifacts available for review as per the RFP. (10 Marks)	<ul style="list-style-type: none"> To ensure secure and well-functioning system at all time To inculcate behaviour of preventive maintenance 	<ul style="list-style-type: none"> Security procedures, layers and testing procedures to be demonstrated in the factory acceptance test Frequency of such testing Debugging mechanism proposed
COMMUNICATION AND INTER-OPERABILITY (35 Marks)		
Communication		
Does the proposed system clearly specify all makes/manufacturers, models, capacity, throughput, power rating, and standards/protocols for the equipment used in communication network? (5 Marks)	<ul style="list-style-type: none"> To ensure equipment used is of reputed make and of requisite configuration Ensure compliance with internationally and nationally accepted standards 	<ul style="list-style-type: none"> List of equipment, makes/manufacturers, models, capacity, throughput, power rating, and standards/protocols for the equipment to be provided by the vendor as part of the solution. Utility to assess: <ul style="list-style-type: none"> Make/Manufacturer (Reputed or not) Adequacy of specification of the equipment Standards/Protocols complied with
Does the proposed system include detailed description on receiving, storing and presenting data from non-meter sources, automation devices, RE sources, Network components configurable for different pricing plans (e.g., Time of Use/ Critical Peak Pricing) as per RFP requirement? (5 Marks)	<ul style="list-style-type: none"> Data/information from non-meter sources may be of use in specific cases Necessary to ensure that the Utility requirement are met completely Necessary to ensure compatibility with existing and emerging pricing regimes 	<ul style="list-style-type: none"> Adequate description is provided by the Vendor based on the functionalities required by the Utility Ability of network components to be configured to existing and emerging pricing regimes through time slots available, data recording capabilities etc.

Parameter	Why is it Important?	How will it be Measured?
Does the proposed system provide requisite description of the head end system/ Data concentrator functionality; and does it support all functionality required by the utility? (5 Marks)	<ul style="list-style-type: none"> Important to understand operational aspects of head end system Necessary to assess that required functionalities exist 	<ul style="list-style-type: none"> Detailed description and functionalities of the head end system and DCU provided - these functionalities meet Utility the minimum requirement (based on the functionalities proposed) Additional functionalities (than the minimum expected) could also be provided that seek higher marks
Does the proposed system include adequate interface with already existing IT systems of the utility– GIS, IT-applications? (5 Marks)	<ul style="list-style-type: none"> Minimizes data duplicity Provides way for seamless integration Promotes consistency 	<ul style="list-style-type: none"> Identification of clear interface points by the Vendor, which includes the existing utility applications/equipment Inputs from these applications integrate with the proposed solutions
Inter-operability		
Does the proposed system contain requisite details on the integration of new equipment (e.g., field devices, central systems, communication & networking systems) and integration of a new or existing central system Processor (if exists) as per requirement in the RFP? (5 Marks)	<ul style="list-style-type: none"> To ensure inter-operability among new vendor (lead bidder) and its sub-vendors Ensure seamless integration and functioning 	<ul style="list-style-type: none"> Adequate details to ensure integration provided in the vendor's response References provided by the vendor indicate satisfactory functioning and integration Factory acceptance test to demonstrates inter-operability between equipment/field division and central systems and processors
Does the proposed system provide required description of integration system database to be used and plan to be adopted to ensure inter-operability with equipment and applications? (5 Marks)	<ul style="list-style-type: none"> To ensure integration of solution with the Utility applications and system 	<ul style="list-style-type: none"> Detailed plan that identifies interface points; provides strategy to ensure inter-operability by proposing outputs in a format that can be used in multiple ecosystems. e.g. XML, API (Application Program Interface)

Parameter	Why is it Important?	How will it be Measured?
Does the proposed system provide listing of required/desired standards (e.g., IEC, BIS, IEEE, etc.) complied with, and their areas of application? (5 Marks)	<ul style="list-style-type: none"> Ensures that the system provided complies to industry standard (national/international) 	<ul style="list-style-type: none"> List of equipment and standards complied with. Utility to assess the adequacy of the standard adopted - i.e. whether the standards is in line with Industry practice.
ARCHITECTURE FLEXIBILITY AND SCALABILITY (25 Marks)		
Is the vendor's technology offering capable of upgrade and scaling up with minimum impact through changes in technology? (10 Marks)	<ul style="list-style-type: none"> Necessary for scaling up the pilots Understanding the new requirements that may come up during scale up 	<ul style="list-style-type: none"> Demonstrated during factory acceptance test through scalability test undertaken through use of simulations. Vendor should also specify expansion multiples of the solution (example 10X/100X/1000X, X being the customer coverage of the solution)
Does the proposed system provide distributed architecture that includes available technology options, criteria for selecting the proposed technology, technical specifications of the products and the functional description of IT applications? (10 Marks)	<ul style="list-style-type: none"> Provides for up-gradation of discrete modules incase part of the technology becomes obsolete or new technology comes up 	<ul style="list-style-type: none"> Architecture proposed by vendor is modular, wherein multiple solutions function together through identified interface points where the information flows happen in interoperable formats
Does the proposed system describe in detail (with critical/non-critical classification) the interoperability, evolvability and scalability in order to accommodate new features and functions in future? (5 Marks)	<ul style="list-style-type: none"> Permits reconfiguration of existing modules to accommodate new features, new developments, changes in regulations etc. 	<ul style="list-style-type: none"> Architecture proposed by vendor is modular that permits reconfiguration the system by authorized users to accommodate market changes

5.