



# **Request for Proposal (RFP)**

**For**

**“Design, Engineering, Procurement and Construction of ICCC Building (G+5 floors) including Utility services under Bhagalpur Smart City Mission”, Bhagalpur on EPC basis.**

**Under**

**SMART CITY MISSION (SCM)**

**in**

**Bhagalpur, Bihar**

**Issued By:  
Chief Executive Officer  
Bhagalpur Smart City Limited**

## DISCLAIMER

The information contained in this Request for Proposal (“RFP”) document or subsequently provided to bidders, verbally or in documentary or any other form by or on behalf of the Bhagalpur Smart City Limited (here forth referred to as BSCL in this document) or any of its employees or advisers, is provided to bidders on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is not an invitation by the Employer to the prospective Consultants or any other person. The purpose of this RFP is to provide interested bidders with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Employer in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Employer, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources. Information provided in this RFP to the bidder (consultant/contractor/developer/Manufacturer/Supplier etc.) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Employer accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

The BSCL and its employees and advisers make no representation or warranty and shall have no liability to any person including any bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Selection Process.

The BSCL also accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any bidder upon the statements contained in this RFP. The BSCL may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP. The issue of this RFP does not imply that the Employer is bound to select a bidder or to appoint the selected bidder, as the case may

be, for the Consultancy and the BSCL reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The bidder shall bear all its costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the BSCL or any other costs incurred in connection with or relating to its Proposal.

All such costs and expenses will remain with the bidder and the BSCL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a bidder in preparation or submission of the Proposal, regardless of the conduct or outcome of the Selection Process.

Sd/

Chief Executive Officer  
Bhagalpur Smart City Limited

**INSTRUCTIONS TO BIDDERS  
AND  
QUALIFICATION INFORMATION**

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**VOLUME-I**

**SECTION 1**

**INVITATION FOR BID**

**(IFB)**

<b>NIT No:</b>	<b>BSCL/ICCCB/2019/19</b>
1. (a) Name of the work	<b>Design, Engineering, Procurement &amp; Construction of ICCB Building (G+5 floors) including Utility services under “Bhagalpur Smart City Mission”, Bhagalpur, Bihar on EPC basis.</b>
(b) Scope of Work	Scope of work include Architectural Planning & Design, Engineering, Procurement, preparation of detailed structural design & drawing, Construction of G + 5 Building (total built up area 4332 sqm) after obtaining approval from competent authority including water supply and sanitation, sewer network, Internal & External Electrification works, storm water drainage, rain water harvesting, landscaping, boundary wall with barbed wire fencing, street lighting, Construction of internal roads & parking, 1000 KVA Generator sets in two nos., Firefighting System, HVAC & Office Furniture etc. for ICCB Building on EPC basis (complete in all respect internal and external finish) including two (2) years of defect liability period.
2. Mode of Bid Submission	e-tendering ( <a href="http://www.eproc.bihar.gov.in">http://www.eproc.bihar.gov.in</a> )
3. Estimated Cost (Rs.)	<b>Rs.26.22 Crores</b> (Rupees Twenty Six Crore Twenty Two Lakh only)
4. Online Tender Fee	<a href="https://www.eproc.bihar.gov.in/">https://www.eproc.bihar.gov.in/</a>
5. EMD/Bid Security	As per NIT. (The EMD/Bid Security should be submitted in the form of Demand Draft/Bank Guarantee drawn in favour of “Chief Executive Officer, Bhagalpur Smart City Limited” payable at Bhagalpur.)
6. Tender Document Fee	As per NIT
7. Date / Time of Publication of Tender on e-Proc Website	As per NIT
8. Last Date / Time of for Bid Submission	As per NIT
9. Last Date / Time of Submission of Tender Fee & EMD	As per NIT
10. Date of Bid Opening	As per NIT
11. Bid Submission Address	Bhagalpur Smart City Limited, Municipal Corporation, Court Compound, Bhagalpur – 812001

**Note: Only e-Tenders shall be accepted.**

Further details are available on Bihar Government e-Procurement website and select Bhagalpur Smart City and can be seen on the website <http://www.eproc.bihar.gov.in>

**Sd/-**  
**Chief Executive Officer**  
**BSCL, Bhagalpur**

## Instructions to Bidders for Online Submission of Bids

Detailed instructions & documents to be furnished for online bidding:

1. Guidelines for online submission of bids can be downloaded from the website <http://www.eproc.bihar.gov.in>
2. Bidders in order to participate in the online bidding process have to get 'Digital Signature Certificate (DSC)' as per Information Technology Act-2000. This Certificate will be required for digitally signing the bid. Bidders can get the above mentioned digital signature certificate from any vendor approved by Controller of Certifying Authorities (CCA). Bidders, who already possess valid Digital Certificates, need not procure new Digital Certificate.
3. Bidders should submit their bids online in electronic format with digital signature. Bids without Digital Signature will not be accepted. No proposal will be accepted in physical form.
4. Bids will be opened online as per time schedule mentioned in the Invitation for Bids (IFB).
5. Bidders should be ready with the scanned copies of cost of documents & bid security as specified in the tender document. Before submission of bids online, bidders must ensure that scanned copies of all the necessary documents have been attached with the bid.
6. Bidders should produce original Demand Draft /Bank Guarantee towards tender fee & bid security as mentioned in the Invitation for Bids (IFB) to the BSCL, Bhagalpur office during the period & time as mentioned in the IFB, failing which bid will not be accepted. The details of cost of documents, bid security specified in the tender documents should be the same as submitted online (scanned copies), otherwise bid will summarily be rejected.
7. The Department will not be responsible for delay in online submission of bids due to any reason, whatsoever.
8. All required information for bid must be filled and submitted online.
9. Other details can be seen in the bid documents.
10. Only online withdrawal or modification of bids, if any, in pursuance of relevant clauses of the SBD is acceptable.
11. Details of documents to be furnished for online bidding:

(Scanned copies of the following documents to be up-loaded in pdf format on the website <https://www.eproc.bihar.gov.in> in technical bid folder).

- i. Demand Draft towards Tender fee.

- ii. Bid security (Bank Guarantee) in the form specified in Section-10 of SBD.
  - iii. Qualification information and supporting documents, as specified in Section-3 of SBD.
  - iv. Certificates, undertakings, affidavits as specified in Section-3 of SBD.
  - v. Any other information pursuant to Clause-4.3 of Section-2 ITB.
  - vi. Undertakings that the bid shall remain valid for the period specified in Clause-15.1 of Section-2 ITB.
12. Scanned copies of the following documents are required to be uploaded on the website <http://www.eproc.bihar.gov.in> in financial bid folder:
- i. Form of bid as specified in Section-8 of SBD in pdf format.
  - ii. Duly filled Price Bid.
13. Uploaded documents of successful bidder will be verified with the original before signing of the agreement. The successful bidder should provide the originals to the concerned authority on receipt of such a letter in this regard, which will be sent through registered post or speed post or by e-mail or delivered by hand.
14. Each uploading shall be digitally signed by the bidder.

**Sd/-**  
**Chief Executive Officer**  
**BSCL, Bhagalpur**

**INVITATION FOR BIDS (IFB)****NATIONAL COMPETITIVE BIDDING****NIT No. BSCL/ICCCB/2019/19**

The undersigned, on behalf of the BSCL, Bhagalpur invites lump sum bids for the work mentioned in table below through e-Procurement from eligible Contractors, registered in appropriate class with Central/State Govt. Departments/CPSU/CPSE/State PSU's/Autonomous Bodies, Govt. of Bihar/Govt. of India or an entity incorporated under Indian Companies act or any appropriate law engaged in the construction of Building projects or any public sector undertaking either of central or of state engaged in construction activities specially building works can also participate. The bid shall be submitted online in the website <http://www.eproc.bihar.gov.in>. The bidder(s) should have necessary portal enrolment with their own Digital Signature Certificate:

Sl. No.	Name of the work	Approximate value of work (Rs.)	Bid Security* (Rs.)	Cost of Document	Period of Completion
1	2	3	4	5	6
1	Architectural Planning & Design, Engineering, Procurement, preparation of detailed structural design & drawing, Construction of G + 5 Building (total built up area 4332 sqm) after obtaining approval from competent authority including water supply and sanitation, sewer network, Internal & External Electrification works, storm water drainage, rain water harvesting, landscaping, boundary wall with barbed wire fencing, street lighting, Construction of internal roads & parking, 1000 KVA Generator sets in two nos., Firefighting System, HVAC & Office Furniture etc. for ICCB Building on EPC basis (complete in all respect internal and external finish) including two (2) years of defect liability period.	Rs 26.22 Crores (Rupees Twenty Six Crore Twenty Two Lakh only)	As per NIT	As per NIT	15 Months (Including Monsoon & Mobilization)

## 2. Scope of work:

The Broad scope of work to be carried out by the agency/contractor will include; Preparation of Architectural Designs and Plans, Preparation of Structural Design of the proposed Construction Building (G+5) floors and getting them vetted from IIT or NIT, Govt. Engineering College (As per the direction of the Client), Preparation of Good for Construction (GFC) drawing as per PWD/CPWD approved specifications and relevant IS codes; getting required statutory approvals from concerned authority at each stage, including carrying out of the following associated works:

1. Construction of G + 5 Building
2. Water Supply and sanitation (internal as well as external) including overhead water tanks over roof top and sump at the ground level
3. Storm water drainage
4. Rainwater harvesting structures
5. Internal roads
6. Landscaping with provision of park etc.
7. Development of vehicle parking area
8. Boundary wall with barbed wire fencing
9. HVAC & Firefighting works
10. 1000 Kva of 2 No's of Generator Sets
11. Office Furnitures.
12. Complete in all respect internal and external finish etc.

## 1.0 INTRODUCTION

### 1.1 About BSCL

Bhagalpur Smart City Limited (BSCL) is the special purpose vehicle created under the Bhagalpur Municipal Corporation to deliver several Pan City and Area Based Development initiatives with a focus on both infrastructure and ICT advancements in the city and at strategic locations.

### 1.2 Introduction to Bhagalpur Smart City Project

The Ministry of Housing and Urban Affairs (MoHUA), Government of India (GoI) has initiated Smart Cities Mission (SCM), under which selected cities will be developed as smart cities with a focus on improving citizen services with ICT intervention. Smart Cities Mission is an urban renewal and retrofitting programme by the Government of India with a mission to develop 100 cities all over the country making them citizen friendly, sustainable and investment destination. Under the Smart City Scheme, Government has emphasized to improve the basic civic amenities of the cities on one hand and the provision of modern technological advances for ease of living on the other hand.

The Smart City Proposal for Bhagalpur envisions to implementing a number of projects categorized into Area Based Development (ABD) projects and Pan City components. The ABD projects focuses on physical infrastructure components, whereas the Pan City components focuses on the

ICT interventions in the city. To achieve Bhagalpur 's vision for a smart city, large numbers of measures are required to be implemented. Considering the priorities echoed by city stakeholders during the consultative process and practical feasibility, the main project umbrella initiatives shortlisted are:

- SUSHAASIT BHAGALPUR (Smart and Quality Governance)
- SAMRUDH BHAGALPUR (Promoting Tourism in Silk City of India)
- GATIMAAN BHAGALPUR (Enhanced public transport)
- SUDRID BHAGALPUR (A well-functioning, smart, and efficient city)
- SARVABHOUMIKVIKAS (Socially Inclusive Growth)

To bridge the gap and provide a society in line with the vision of inclusive growth the Smart City mission has been launched in India. The purpose of the Smart Cities Mission is to drive economic growth and improve the quality of life of people by enabling local area development and harnessing technology, especially technology that leads to Smart outcomes. Area based development will transform existing areas (retrofitting and redevelopment), including slums into better planned ones, thereby improving liveability of the whole City. New areas (Greenfield) will be developed around city to accommodate the expanding population in urban areas. Pan-city development is oriented towards application of selected Smart Solutions to the existing city-wide infrastructure. Application of Smart Solutions will involve the use of technology, information and data to make infrastructure and services better and befitting with demand coming up in the next decades.

### **SUSHAASIT BHAGALPUR**

Bhagalpur Municipal Corporation recognizes the importance of addressing the needs of a growing population and an expanding city. It would strive to make Bhagalpur 'a city for people' where continuous engagement of local government with citizens is institutionalized in the decision making architecture. It would provide safe, accessible, and lively public spaces the city living experience and the river bank. Bhagalpur Municipal Corporation is committed to excellence in every sector, providing its staff opportunities of growth by learning and adopting state of the art technologies and methods to better their performance in every way. Its goal is to become financially self-sufficient and sustainable moving towards increased private investments and partnerships.

### **SAMRUDH BHAGALPUR**

Promoting Tourism in Silk City of India: A historically and culturally significant city with ever-growing number of visitors, Bhagalpur Municipal Corporation is committed to preserve and promote its multi-faceted built heritage ranging from ancient Hindu rock-cut sculptures to Jain pilgrimage sites to archaeological remains of one of the biggest universities of Buddhist times to architecture from Mughal and British periods. Bhagalpur's identity and image as a culturally and historically significant place will be promoted on regional, national and international level. The city will support regular religious festivals and celebrations and also design new city level events for residents and tourists. Bhagalpur will be the most visited place in Bihar in the years to come.

## GATIMAAN BHAGALPUR

A well-connected city with enhanced public transport, BMC will develop multi-modal transport system and provide more intra and inter-city roadways and buses to ease people's arrival to the city. It will improve vehicular movement and decongest roads. It will encourage NMT and pedestrian safety. Intelligent Transport System to be adopted to improve mobility especially of public transport and IPT. The city will have greens links connecting places of different land use to enhance walk-ability.

## SUDRID BHAGALPUR

A well-functioning, smart, and efficient city: Bhagalpur Municipal Corporation recognizes the current gaps in services especially Water supply, sanitation, SWM, and public transport. For a smoothly functioning city, new technology and ICT will be adopted. The power infrastructure will be robust and promote energy efficiency and use of renewable energy. The sub-goals are – (i) Bhagalpur will not stop moving due to traffic jams; (ii) every resident and visitor to Bhagalpur will have access to clean drinking water; (iii) All streets will be clean and municipal waste will be treated and disposed scientifically; (iv) Every household will be connected to a functional sanitation system; (v) city will have robust IT enabled infrastructure; (vi) All power cables to be underground.

## SARVABHOUMIKVIKAS

Socially Inclusive Growth: Bhagalpur will be more sensitive towards social infrastructure by improving quality of Health, Education, and Safety. All sections of society of Bhagalpur especially the old, children and differently-abled will be taken care of in design and development of projects. The city will put in efforts to alleviate urban poverty and increase livelihood opportunities. The city will provide liveable conditions for slum dwellers by up gradation of physical infrastructure. The informal sector will be regularized by providing basic infrastructure and facilities and formal vending zones.

**2.** Period of availability of tenders online/date & time of bidding on-line/last date of seeking clarification/date of opening of tender papers are as given below –

Sl. No.	Procurement Officer	Place of Opening	Availability of tender on-line for bidding		Date & Time of opening of technical bid
			From	To	
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
1	Chief Executive Officer, BSCL, Bhagalpur	Bhagalpur Smart City Limited, Municipal Corporation, Court Compound, Bhagalpur -812001	As per NIT	As per NIT	As per NIT

3. Cost of bidding document for a non-refundable fee as indicated shall be in the form of Demand Draft of any **Nationalized or Scheduled Indian Bank**, payable at Bhagalpur in favour of “Chief Executive Officer”, Bhagalpur Smart City Limited.
4. Bids must be accompanied by Security amount specified for the work in the table, payable at Bhagalpur and drawn in favour of “Chief Executive Officer”, Bhagalpur Smart City Limited. Bid Security will have to be in any one of the forms as specified in the bidding document and shall have to be valid for 45 days beyond the validity of the bid.
5. Cost of bidding document and Bid Security shall be deposited in the office of the Chief Executive Officer, **BSCL, Municipal Corporation, Court compound, Bhagalpur, Bihar - 812001, on the time & date mentioned as per NIT by post / hand**. Only those applications will be entertained whose cost of bidding document and bid security is received on or before time & date mentioned as per NIT. BSCL will not be held responsible for postal delay, if any, in the delivery of the document or non-receipt of the same in BSCL.
6. Tenderer(s) shall upload Scanned copy in pdf format/Digitally Signed copy of his/her Valid DD, Bid Security, Credit Facility, GST, PAN, Five Years Audited Turnover, Character Certificate, Work Experience, Partnership Deed or Article of Association / Memorandum, Undertakings, Affidavits, E.P.F failing which the bid shall be rejected. Bidder has to submit Demand Draft/Bank Guarantee, JV, Power of Attorney, Undertaking & Solvency Certificate in Original.
7. Uploaded documents of successful bidder will be verified with the original before signing the agreement. The successful bidder has to provide the originals to the concerned authority on receipt of such a letter, which can be sent though registered post or speed post or can be delivered by hand or email.
8. Bidders in order to participate in the bidding process have to get ‘Digital Signature Certificate (DSC)’ as per Information Technology Act-2000 to participate in online bidding. This certificate will be required for digitally signing the bid. Bidders can get the above mentioned digital Signature certificate from any approved vendors (CCA). Bidders, who already possess valid Digital Certificates, need not procure new Digital Certificate.
9. Bidders have to submit their bids online in electronic format with Digital Signature. Bids without Digital Signature will not be accepted. No proposal will be accepted in Physical Form.
10. The work shall have to be completed in time, failing which penalty for non– completion of work in time shall be imposed, as stated in the Bid Document. Please note that there is a provision of Bonus for early completion of work.
11. Bidders who have rescind work in any department / PSU shall not be eligible to participate in the bidding process.
12. Bidders shall provide their Banker’s contact details, so that BSCL can contact the Bank, if required.

13. If any work is awarded to a bidder after submission of bid to BSCL, his bid capacity shall be reduced by that bid amount as indicated in Para 1.4 of Qualification Information & Other Forms (Section-3 of ITB).

14. Successful bidder will have to submit “As Built Layout Plan” in color print showing building details, water supply and drainage details, external electrical supply, water harvesting details etc. after completion of the work in 5 hard (coloured) and 1 soft copy for reference in future, failing which the amount to be withheld from the final payment to supply "as built" drawings by the date required is Rs 10.00 lakhs for projects up to Rs 50 crores, and additional Rs 0.15 lakhs for every 1 crore increment in project cost thereafter, with upper limit of Rs 50 lakhs.

15. Other details can be seen in the bidding documents.

**Sd/-**  
**Chief Executive Officer**  
**BSCL, Bhagalpur**

## **SECTION 2**

### **INSTRUCTIONS TO BIDDERS**

**(ITB)**

## Instructions to Bidders

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## **A. GENERAL**

### **1. Scope of Bid**

1.1 The Employer (named in appendix to ITB) invites bids for the construction of works (as defined in these documents and referred to as “the works”) detailed in the table given in IFB. The bidders need to submit bids for entire work detailed in the table given in IFB as the work is to be executed in Engineering Procurement and Construction (EPC) Mode.

1.2 In this EPC project, cost of the project given in the documents is only indicative and bidders should submit their bid amount with regard to the entire work including survey, investigation, collection of data, planning, design & drawing and Construction of ICCB Building (G+5 Floors) inclusive of Water Supply, Sewerage Networks, Storm Water Drains, Rain water Harvesting structures, Internal Roads, Development of Vehicle parking Area, Landscaping works, Boundary wall with barbed wire fencing, HVAC, Firefighting works, 2No’s of 1000 Kva Generator sets, Office Furnitures, complete in all respect internal and external finish etc., approval of the same from competent authorities (BSCL) for the entire project and construction of the project according to approved design & drawing of buildings and associated premises.

1.3 The successful bidder will be expected to complete the works by the intended completion date specified in the Contract data.

1.4 Throughout these bidding documents, the terms ‘bid’ and ‘tender’ and their derivatives (bidder/ tenderer, bidding/tendering, etc.) are synonymous.

### **2. Source of Funds**

The expenditure on this project will be met from fund allocated to Bhagalpur Smart City Limited from Govt. of Bihar & Govt. of India under Smart City Mission.

### **3. Eligible Bidders**

3.1 This invitation for Bids is open to all bidders as mentioned in IFB.

3.2 All bidders shall provide in Section 3, Forms of Bid and Qualification Information, a statement in para 1.12, that the Bidder is neither associated, nor has been associated, directly or indirectly, with the Consultant or any other entity that has prepared the tender design, specifications and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Employer to provide consulting services for the preparation or supervision of the works, and any of its affiliates, shall not be eligible to bid.

#### 4. Qualification of the Bidder

4.1 All bidders shall provide in Section 3, Forms of Bid and Qualification Information, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary. The proposed methodology should include programme of construction along with equipment planning and deployment duly supported with broad calculations and quality assurance procedures proposed to be adopted justifying their capability of execution and completion of work as per technical specifications, within stipulated period of completion.

4.2 Deleted.

4.3 All bidders shall include the following information and documents with their bids in Section 3:

- a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder;
- b) total monetary value of construction work performed for each of the last five years.
- c) experience in similar works (which means any housing project or building works which consists of minimum G+3 building) for each of the last five completed financial years and the current financial year till date and details of works underway or contractually committed; and clients who may be contacted for further information on these contracts;
- d) major items of construction equipment proposed to carry out the Contract;
- e) qualifications and experience of key site management and technical personal proposed for Contract;
- f) reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past five years;
- g) evidence of access to line (s) of credit and availability of other financial resources facilities (10% of contract value), certified by the approved Bankers (not more than 3 months old)
- h) undertaking that the bidder will be able to invest a minimum cash upto 25% of contract value of work, during implementation of work.
- i) authority to seek references from the Bidders' bankers;
- j) self-attested copy of information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties' concerned, and disputed amount;
- k) proposals for subcontracting components of the works amounting to more than 10 percent of the Bid Price shall not be permitted, except for specialized nature of work in which new emerging engineering methodology is

proposed to be used with the prior approval of implementing agency. Use of such New technologies should be indicated while submitting the bid.

- 1) the proposed methodology and programme of construction, along with equipment planning and deployment, duly supported with broad calculations and quality control procedures proposed to be adopted, justifying their capability of execution and completion of the work as per technical specifications within the stipulated period of completion as per milestones.

#### **4.4 Joint ventures is acceptable.**

4.4.1 Joint Venture partners would be limited to **three** (including the lead partner)

4.4.2 One of the partners, who is responsible for performing a key in contract management (Lead Partner of the JV) or is executing a major component of the proposed contract, shall be nominated as being in charge during Bidding periods and in the event of successful Bid, during contract execution. The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of the partner(s) of the Joint Venture. This authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all partners.

4.4.3 Both the partners of Joint Ventures shall be, jointly and severally liable, during the Bidding process and for the execution of the contract in accordance with the contract terms, and a statement of this affect shall be included in the authorization. The Bid shall be signed so as to legally bind all the partners, jointly and severally. Bid security and performance guarantee, as required, will be furnished by the Lead Partner OR jointly.

4.4.4 Qualifying criteria for Joint Venture – Joint venture will be permitted for projects costing any amount.

Joint Venture must comply with the following requirements: -

- a) **The Joint Venture must satisfy collectively the criteria for this purpose. The following data of each member of the Joint Venture may be added together to meet the collective qualifying criteria.**

- I. Annual Turnover (Cl. 4.5 (A) (a) of ITB Section-2)
- II. Particular Construction Experience. (Cl. 4.5 (A) (b) of ITB Section-2)
- III. Equipment Capabilities. (Annexure I of Section-2)
- IV. Personal Capabilities. (Annexure II of Section-2)

V. Financial Capabilities [Cl.4.3(g) & Cl.4.3(h) of ITB Section-2]

**b) The Lead partner shall meet the following qualifying criteria in proportion to the partnership in JV but not less than 51%.**

- (i) Annual Turnover. (Cl. 4.5 (A) (a) of ITB Section-2)
- (ii) Particular Construction Experience. (Cl. 4.5 (A) (b) of ITB Section 2)
- (iii) Financial Capabilities. [Cl. 4.3 (g) & 4.3 (h) of ITB Section 2]

**c) Other partner shall meet the following qualifying criteria in proportion to the partnership in JV but not less than 25%.**

I. Annual Turnover. (Cl. 4.5 (A) (a) of ITB Section 2)

II. Particular Construction Experience. (Cl. 4.5 (A) (b) of ITB Section 2)

III. Financial Capabilities. [Cl. 4.3 (g) & 4.3 (h) of ITB Section 2]

4.4.5 A copy of the Joint Venture Agreement (JVA) entered into between the partner shall be submitted with the application. Alternatively, a letter of Intent to execute a JVA in the event of successful Bid shall be signed by all partner(s) and submitted with the application together with a copy of the proposed agreement. The JVA shall include among other things a Joint Venture's objectives and proposed management structure, the contribution of each partner to the Joint Venture operation, the commitment of the partner to Joint Venture in the event of the default or withdrawal of any partner an arrangement for providing the required indemnities:

I. Stepping into the shoes of the existing partner(s) of JV with all liabilities of the existing partners from the beginning of the contract.

II. With the prior approval of the employer.

III. Notwithstanding demarcation or allotment of work between two JV partner(s), JV shall be liable for non-performance of the whole contract irrespective of their demarcation or shared of work.

In case of successful Bid being accepted by employer the payments under the contract will only be made to the JV not to the individual partner(s).

4.4.6 Joint Venture Agreement shall contain a Clause to the effect that there shall be a separate JV Bank Account (distinct from the Bank Account of the individual partners) to which the individual partner shall contribute their share / or working capital.

Joint Venture Agreement shall also contain a Clause to the effect that the financial obligations of the JV shall be discharged through the said JV Bank Account only and

also all the payments received or paid by the employer by the JV shall be through that Account alone.

**4.5 A. To qualify for award of the contract, each bidder in its name must have in the last five years as referred to in Appendix.**

a) The contractor/ firm must have achieved a minimum annual financial turnover equal to **50% of estimated cost** (in all classes of Civil engineering construction works only) in any one financial year during last five completed financial years (presently between 2014-2015 and 2018-2019) and up to the time of submission of bid in the current financial year.

b) The contractor/firm must have satisfactorily completed as a prime contractor at least one similar work of value not less than **50% of estimated value of contract during last five completed financial years** between 2014-15 and 2018-19 (work of 90% or more of contract value executed will be taken as completed work) and up to the time of submission of bid in the current financial year.

*Similar works means any housing project or building works which consists of minimum G+3 building.*

**Even though the bidder meets the above qualifying criteria, he is subject to be disqualified, if he has made a misleading or false representation(s) in the forms, statements and attachments in proof of the qualifying requirements.**

(c) The contractor or his identified sub-contractor should possess required valid electrical license for executing the building electrification works and should have executed similar electrical works for a minimum amount (6% of total civil work) as indicated in Appendix to ITB (Section-2) in any one year.

(d) The contractor or his identified sub-contractor should have executed similar water supply/sanitary Engineering works for a minimum amount (6% of total civil work) as indicated in Appendix to ITB (Section-2) in any one year.

(e) If the work is of specialized nature of work or if a new type of Engineering methodology is proposed to be adopted, the contractor or his identified sub- contractor or Experienced Vendor of that particular field shall produce Experience Certificate for executing the similar nature of work for the minimum amount as indicated in Appendix to ITB in any one year.

**B. Each bidder should further demonstrate**

a) availability (either owned or leased or by procurement against mobilization advances) of the key and critical equipment for this work given in Annexure-I of section-2 which is indicated for this EPC work based on the studies, carried out by

client equipment to attain the completion of works in accordance with the prescribed construction schedule.

The bidders should, however, undertake their own studies and furnish with their bid, a detailed construction planning and methodology supported with layout and necessary drawings and calculations (detailed) as per their experience provided in clause 4.3(C) above in order to allow the employer to review their proposals. The numbers, types and capacities of each plant/equipment shall be shown in the proposals along with the cycle time for each operation for the given production capacity to match the requirements.

- b) Availability of personnel for this work with adequate experience as required; as per Annexure-II of Section-2.
- c) liquid assets and/or availability of credit facilities of no less than amount indicated in para 5 of Appendix to ITB (Section-2) (credit lines/letter of credit/certificates from Banks for meeting the funds requirements etc.-usually the equivalent of the estimated cash flow for 3 months in peak construction period.)

**C.** To qualify for a package of contracts made up of this and other contracts for which bids are invited in the IFB, **the bidder must demonstrate having experience and resources sufficient to meet the aggregate of the qualifying criteria for the individual contracts.**

4.6 Sub-contractors' experience and resources shall not be taken into account in determining the bidder's compliance with the qualifying criteria.

4.7 Bidders who meet the minimum qualification criteria will be qualified only if their available bid capacity is more than the total bid value. The available bid capacity will be calculated as under:

**Available Bid capacity = (A\*M\*N - B)**

where,

A = Maximum value of civil engineering works executed in any one year during the last five financial years between 2014-15 and 2018-19 (updated to the price level of the year indicated in para 17 of Appendix to ITB) taking into account the completed as well as works in progress.

M = Multiplication Factor (usually 1.5)

N = Number of years prescribed for completion of the works for which bids are invited up to two place of decimals.

B = Value (updated to the price level of the year as indicated in para 17 of Appendix to ITB) of existing commitments and ongoing works to be completed during the next 15 months (period of completion of the works for which bids are invited)

**Note:**

1. The statements showing the value of existing commitments and on-going works as well as the stipulate period of completion remaining for each of the works listed should be countersigned by the Engineer in charge, not below the rank of Executive Engineer or equivalent.
2. Escalation factor (for computing common base value for works completed) is given in para 17 of Appendix to ITB.

4.8 Even though the bidders meet the above qualifying criteria, they are subject to be disqualified, if they have:

- made misleading or false representations in the forms, statements and attachments in proof of the qualification requirements; and/or
- record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.

## **5. One Bid per Bidder**

5.1. Each bidder shall submit only one bid for one package. A bidder who submits or participates in more than one Bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the Bidder's participation to be disqualified.

## **6. Cost of Bidding**

6.1 The bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible and liable for those costs.

## **7. Site Visit**

7.1 The Bidder, at the Bidder's own responsibility and risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the works. The costs of visiting the Site shall be at the Bidder's own expense.

**7.2 General Terms and Conditions for E-tendering:**

- a) The detail tender notice and Tender Document can be seen on website: <https://www.eproc.bihar.gov.in> and downloaded online from the Portal: <https://www.eproc.bihar.gov.in> by the Firms / Individual registered on the Portal.
- b) As the proposals are to be submitted online and are required to be encrypted and digitally signed, the Bidders are advised to obtain Digital Signature Certificate (DSC) at the earliest.
- c) The payment for Tender Document Fee shall be made by the bidder in the mode of Demand Draft in favour of “Chief Executive Officer, BSCL” and EMD shall be submitted in the form of DD/Bank Guarantee drawn in favour as mentioned above through the Nationalized/Scheduled bank only.
- d) The undersigned reserves the right to reject any or all the tenders without assigning any reason what so ever and no conditional and postal tenders will be accepted.
- e) If the date on which the tenders are to be received is declared a public holiday, the tender will be received on the next working day.
- f) The offer will remain valid up to 120 days from the due date of submission of tenders.
- g) Any amendment to a tender after opening of tender made by the tenderer according to his own will is liable to be ignored altogether and such tenderer will be debarred from tendering for a period of six months

**Chief Executive Officer**  
**Bhagalpur Smart City Limited**  
**Bhagalpur (Bihar)**

## B. BIDDING DOCUMENTS

### 8. Content of Bidding Documents

8.1 The set of bidding documents comprises the documents listed below and addenda issued in accordance with Clause 10:

Section	Particulars	Volume No.
1	Invitation for Bids (IFB) including Instructions to Bidders for Online Submission of Bids	
2	Instruction to Bidders	I
3	Qualification Information and other forms	
4	General Conditions of contract – General and Special Conditions of Contract	
5	Special Conditions of Contract & Additional Conditions of Contract	
6	Contract Data	
7	Technical Specifications	II
8	Form of bid	III
9	Price Bid	
10	Securities and other forms	
11	Drawings (Concept or otherwise)	IV
12	Documents to be furnished by bidder	V

8.2. Documents to be furnished by the bidder in compliance to Section 2 will be prepared by him in two parts viz Part 1 – Technical Bid, Part 2- Financial Bid and furnished as Volume- V in two parts (refer clause 12).

8.3 The bidder is expected to examine carefully all instructions, conditions of contract, contract data, forms/ terms, technical specifications, price bid form, Annexes and drawings in the Bid Document. Failure to comply with the requirements of Bid Documents shall be at the bidder's own risk. Pursuant to clause 26 hereof, bids which are not substantially responsive to the requirements of the Bid Documents shall be rejected.

### 9. Clarification of Bidding Documents

#### 9.1 Clarification of Bidding Refer to sub Clause 9.2 of IFB

#### 9.2 Pre-bid meeting

9.2.1 The bidder or his official representative is invited to attend a pre-bid meeting which will take place at the address, venue, time and date as mentioned in NIT.

9.2.2 The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

9.2.3 The bidder may request a clarification on any clause of the RFP documents up to the Prebid query submission date and time indicated in the NIT. Clarification should be

submitted in the following table in excel format otherwise the queries shall not be entertained:

Sr. No.	RFP Page No.	Clause No.	Description as per RFP	Queries/ Suggestions

9.2.4 Minutes of the meeting, including the text of the questions raised (without identifying the source of enquiry) and the responses given will be transmitted without delay to all purchasers of the bidding documents. Any modification of the bidding documents listed in sub-Clause 8.1 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 Clause 10 and not through the minutes of the pre-bid meeting.

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

#### **10. Amendment of Bidding Documents**

10.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by issuing addenda/corrigenda.

10.2 Any addendum/corrigendum thus issued shall form part of the bidding documents and shall be communicated in writing or by cable to all the purchasers of the bidding documents. Prospective bidders shall acknowledge receipt of each addendum in writing or by cable to the Employer. The Employer will assume no responsibility for postal delays.

10.3 To give prospective bidders reasonable time to take appropriate action in accordance to the addendum/corrigendum while preparing their bids, the Employer may, at his discretion, extend as necessary the deadline for submission of bids, in accordance with Sub-Clause 20.2 below.

## C. PREPARATION OF BIDS

### 11. Language of the Bid

11.1 All documents relating to the bid shall be in English language.

### 12. Documents Comprising the Bid

12.1 The bid to be submitted by the bidder will be as Volume V of the bid document (refer Clause 8.1) and shall be in two separate parts viz part I and part II detailed below:

#### Part I shall be “Technical Bid” and shall comprise

- i. Bid security (Bank Guarantee etc.) in the form specified in Section 10.
- ii. Qualification Information and supporting documents as specified in Section 3.
- iii. Certificates, undertaking, affidavits as specified in Section 3.
- iv. Any other information pursuant to Clause 4.3 of these instructions.
- v. Undertakings that the bid shall remain valid for the period specified in Clause 15.1 of section -2
- vi. Form of Bid as specified in Section 8.

#### Part II shall be “Financial Bid” and shall comprise

12.2 Priced Bid for whole work as specified in Section 9, read together with clause 19. The bidder shall submit bid online in the correct slot prescribed in the e-Procurement website by using digital signature.

12.3 Following documents, which are not submitted with the bid, will be deemed to be part of the bid.

Section	Particulars		Volume No.
1.	Invitation for Bids(IFB)		
2.	Instruction to Bidders		
3.	Qualification Information and other forms		
4 & 5.	Conditions of Contract (General and Special Conditions of Contract)	Special	I
6.	Contract Data		
7.	Technical Specifications		II
8.	Form of Bid		III
9.	Price Bid		
10.	Securities and other forms		
11.	Drawings		IV
12.	Documents to be furnished by bidder		V

All the content of documents must be submitted as per below instructions otherwise it may result in the rejection of the Bid

<b>Name of Documents</b>	<b>Content</b>	<b>Mode of Submission</b>
RFP Document fee & Bid Security/ Earnest Money Deposit (EMD)	RFP Document Fee receipt Bid Security/Earnest Money Deposit (EMD) receipt in Original.	Both in Online and Hard Copy
All Declarations / Affidavit / Agreements / Authorisation	All Declarations / Affidavit / Agreements / Authorisation in Original.	Both in Online and Hard Copy
Qualification Bid	All the documents for Submission of the Qualification Bid, its sub sections and any other applicable documents as per RFP.	Online Only
Technical Bid	All the documents for Submission of the Technical Bid, its sub sections and any other applicable documents as per RFP.	Online Only
Financial Bid	All the formats for Submission of the Commercial Bid, its sub sections and any other applicable documents as per RFP.	Online Only

### **13. Bid Prices**

13.1 The contract shall be for the whole works as described in Sub-Clause 1.1.and table given in IFB (Section-1) as per the price bid.

13.2 The bidder shall fill in rates both in figure and words. In case of any difference, the rate quoted in words will be taken as the quoted rate.

13.3 All taxes and including GST payable by the contractor under the contract, or for any other cause shall be included in the rates/ prices and total Bid Price submitted by the Bidder.

13.4 The rates and prices quoted by the bidder shall be fixed for the entire duration of the Contract and shall not be subject to adjustment on any account as this is a lump sum contract to be completed in a time bound manner.

### **14. Currencies of Bid and Payment**

14.1 The unit rates and the prices shall be quoted by the bidder entirely in Indian Rupees. All payment shall be made in Indian Rupees.

## 15. Bid Validity

15.1 Bids shall remain valid for a period not less than 120 days after the deadline date for bid submission specified in Clause 20. A bid valid for a shorter period shall be rejected by the Employer as non-responsive. In case of discrepancy in bid validity period between that given in the undertaking pursuant to clause 12.1 (indicated as sl.no v of Part 1- Technical Bid) and the Form of Bid submitted by the bidder, the latter shall be deemed to stand corrected in accordance with the former and the bidder has to provide for any additional security that is required.

15.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the bidders may extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing or by cable. A bidder may refuse the request without forfeiting his bid security. A bidder agreeing to the request will not be required or permitted to modify his bid, but will be required to extend the validity of his bid security for a period of the extension, and in compliance with Clause 16 in all respects.

15.3 Bid evaluation will be based on the bid prices.

## 16. Bid Security

16.1 The Bidder shall furnish, as part of his Bid, a Bid security in the amount as shown in column 4 of the table of IFB for this particular work. This bid security shall be in favour of Employer as named in Appendix and may be in one of the following forms:

- a) Receipt in challan of cash deposit in the Government Treasury in India.
- b) Deposit-at-call receipt from any Nationalized/ Scheduled Indian Bank from any of the branches Nationalized / Scheduled Bank situated **within India, approved by the Reserve Bank of India.**
- c) Indian Post Office/Fixed Deposit/National Savings Certificates duly endorsed by the competent Postal Authority in India.
- d) Bank Guarantee from any from any Scheduled Indian Bank from any of the branches Nationalized / Scheduled Bank situated **within the territory of India** in the form given in Section 9.

- e) Fixed deposit receipt, a certified cheque or an irrevocable letter of credit, issued by any Nationalized/ Scheduled Indian Bank approved by the Reserve Bank of India.

16.2 Bank guarantees (and other instruments having fixed validity) issued as surety for the bid shall **be valid for 45 days beyond the validity of the bid.**

16.3 Any bid not accompanied by an acceptable Bid Security and not secured as indicated in Sub-Clauses 16.1 and 16.2 above shall be rejected by the Employer as non-responsive.

16.4 The Bid security of unsuccessful bidders will be returned within 28 days of the end validity period specified in sub-Clause 15.1.

16.5 The Bid security of the successful bidder will be discharged when the bidder has signed the Agreement and furnished the required Performance Security.

16.6 The Bid security may be forfeited

- a) if the Bidder withdraws the Bid after Bid opening during the period of Bid validity;
- b) if the Bidder does not accept the correction of the Bid Price, pursuant to Clause 27; or
- c) in the case of a successful Bidder, if the Bidder fails within the specified time limit to
  - i) sign the Agreement; or
  - ii) Furnish the required Performance Security.

## **17. Alternative Proposals by Bidders**

17.1 Bidders shall submit offers that fully comply with the requirements of the bidding documents, including the conditions of contract (including mobilization advance or time for completion), basic technical design as indicated in the drawing and specifications. **Conditional offer or alternative offers will not be considered further in the process of tender evaluation.**

## **18. Format and Signing of Bid**

18.1 The bidder shall submit the bids as per “Instructions to Bidders for Online Submission of Bids”.

18.2 Instruction to Bidders to be followed. Bids submitted online should be digitally signed by the bidder.

18.3 Bidders shall follow the Method of submission of bid as mentioned in Instruction to Bidders and Instructions to Bidders for Online Submission of Bids.

#### **D. SUBMISSION OF BIDS**

19. Bidders shall follow the Method of submission as per Instructions to Bidders for Online Submission of Bids given in Section-1 (IFB) in so far this bid is considered whose identification is given in item no. 10 Appendix to ITB.

#### **20. Deadline for Submission of the Bids**

20.1 Bidders shall follow the Method of online submission of bid as mentioned in Instruction to Bidders (for EPC contract) in section-1 and the bid should be submitted online latest by the date and time given also at item 13 Appendix to ITB.

20.2 The Employer may extend the deadline for submission of bids by issuing an amendment in accordance with Clause 10, in which case all rights and obligations of the employer and the bidders previously subject to the original deadline will then be subject to the new deadline.

#### **21. Late Bids**

21.1 Any Bid received by the Employer after the deadline prescribed in Clause 20 will be returned to the bidder.

#### **22. Modification and Withdrawal of Bids**

22.1.1 Bidders may modify or withdraw their bid(s) before the deadline prescribed in Clause 20 or pursuant to Clause 23.

22.1.2 Bidders shall follow the Method of submission modification & withdrawal of bid as mentioned in Instruction to Bidders (for SBD contract).

22.1.3 No bid may be modified after the deadline for submission of Bids except in pursuance of Clause 23.

22.1.4 Withdrawal or modification of a Bid between the deadline for submission of bids and the expiration of the original period of bid validity specified in Clause 15.1 above or as extended pursuant to clause 15.2 may result in the forfeiture of the Bid security pursuant to Clause 16.

## **E. BID OPENING AND EVALUATION**

### **23. Bid Opening**

23.1 The Employer will open all the Technical Bids submitted online including modification made pursuant to Clause 22, in the manner specified in Clause 20 and 23.3. In the event of the specified date of Bid opening being declared a holiday for the Employer, the Bids will be opened at the appointed time and location on the next working day. A notice for the same shall be posted on the website.

### **23.2 Evaluation of Bid**

- i. Subject to confirmation of the bid security by the issuing bank, the bids accompanied with valid security will be taken up for evaluation with respect to the Qualification Information and other information furnished in Part I of the bid pursuant to ITB clause 12.1.
- ii. After receipt of confirmation of the bid security, the bidder will be asked in writing/ e-mail (usually within 10 days of opening of the Technical Bid) to clarify his technical bid, if necessary, with respect to any rectifiable defects.
- iii. The bidders will respond by e-mail in not more than 7 days of issue of the clarification letter, which will also indicate the date, time and venue of opening of the Financial Bid (usually on the 21st day of opening of the Technical bid)
- iv. Immediately (usually within 3 or 4 days), on receipt of these clarifications the Evaluation Committee will finalize the list of responsive bidders whose financial bids are eligible for consideration.

23.3 After the technical evaluation, these will be put to the Employer, which will find technically responsive bids. The financial of those bids will be opened who are found technically responsive. The financial bids of remaining bidders will remain unopen.

23.4 In case bids are invited in more than one package, the order for opening of the “Financial Bid” shall be that in which they appear in the “Invitation for Bid”.

23.5 The Employer shall prepare disclose information regarding bid opening to those present.

23.6 The Employer shall open the bid and the information regarding bid opening may be disclosed to those present as representative of the bidder.

## **24. Process to be Confidential**

24.1 Information relating to the examination, clarification, evaluation and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any effort by a Bidder to influence the Employer's processing of bids or award decisions may result in the rejection of his Bid.

## **25. Clarification of Financial Bids**

25.1 To assist in the examination, evaluation and comparison of bids, the Employer may, at his discretion, ask any Bidder for clarification of his Bid, justification, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, but no change in the price of substance of the Bid shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with ITB Clause -27.

25.2 Subject to ITB sub-clause 25.1, no Bidder shall contact the Employer on any matter relating to his bid from the time of the bid opening to the time the contract is awarded. If the bidder wishes to bring additional information to the notice of the Employer, it should do so in writing.

25.3 Any effort by the Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result in the rejection of the Bidders' bid.

## **26. Examination of Bids and Determination of Responsiveness**

26.1 During the detailed evaluation of 'Technical Bids', the Employer will determine whether each Bid:

26.1.1 meets the eligibility criteria defined in ITB Clause 3 and 4;

26.1.2 has been properly signed digitally;

26.1.3 is accompanied by the required securities; and

26.1.4 is substantially responsive to the requirements of the bidding documents. During the detailed evaluation of the 'Financial Bid' the responsiveness of the bids will be further determined with respect to the remaining bid conditions, i.e. price bid, technical specifications, and drawings.

26.2 A substantially responsive 'Financial Bid' is one which conforms to all the terms, conditions, and specifications of the Bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the works; (b) which limits in any

substantial way, inconsistent with the bidding documents, the Employer's rights or the bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

26.3 If a 'Financial Bid' is not substantially responsive, it will be rejected by the Employer and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

## **27. Correction of Errors**

27.1 'Financial Bids' determined to be substantially responsive will be checked by the Employer for any arithmetical errors. Errors will be corrected by the Employer as follows:

(a) where there is a discrepancy between the rates in figures and in word, the rate in words will govern; and

(b) Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern.

27.2 The amount stated in the 'Financial Bid' will be corrected by the Employer in accordance with the above procedure and the bid amount adjusted with the concurrence of the Bidder in the following manner:

- i. If the Bid price increases as a result of these corrections, the amount as stated in the bid will be the 'bid price' and the increase will be treated as rebate;
- ii. If the bid price decrease as a result of the corrections, the decreased amount will be treated as the 'bid price'. Such adjusted bid price shall be considered as binding upon the bidder. If the Bidder does not accept the corrected amount the Bid will be rejected, and the Bid Security shall be forfeited in accordance with ITB Sub-clause 16.6(b).

## **28. Evaluation and Comparison of Financial Bids**

28.1 The Employer will evaluate and compare only the Bids determined to be substantially responsive in accordance with Sub-Clause 26.2.

28.2 In evaluating the Bids, the Employer will determine for each Bid the evaluated

Bid Price by adjusting the Bid Price as follows:

- a) making any corrections for errors pursuant to clause 27; or
- b) making an appropriate adjustment for any other acceptable variations, deviations

28.3 In case lowest quote is made by more than one bidder, then the bidder who has successfully completed and attached completion certificate while submitting online bid for a greater number of similar projects worth not less than Rs 25.00 Crores or more in the last 3 years would be awarded the work. In case of Joint Venture /Joint Venture, although the qualifying criteria is satisfied collectively by the joint venture for which the number of similar works attributed to each member of the joint venture is added; the computation for member of building projects for award of work to the joint venture in case of lowest quote would be computed on pro-rata basis of their participation in the JV and not by simply summing arithmetically, the number of similar building projects worth not less than Rs 25.00 Crore or more. Still, if there is a tie, lottery system will be followed to award the contract.

## **F. AWARD OF CONTRACT**

### **29. Award Criteria**

29.1 Subject to Clause 30, the Employer will award the Contract to the Bidder whose Bid has been determined

- i. to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid Price; and
- ii. to be within the available bid capacity adjusted to account for his bid price which is evaluated the lowest in any of the packages opened earlier than the one under consideration. In no case, the contract shall be awarded to any bidder whose available bid capacity is less than the evaluated bid price, even if the said bid is the lowest evaluated bid. The contract will in such cases be awarded to the next lowest bidder at the L1 cost if accepted by next lowest bidder otherwise tender stands cancelled.

### **30. Employer's Right to Accept or Reject any Bid**

30.1 Notwithstanding Clause 29, the Employer reserves the right to accept or reject any Bid, to cancel the bidding process and reject all bids, at any time prior to the 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.

30.2 After Award of contract, if the Bidder is found to have concealed any fact relevant to projects, the employer may blacklist the Bidder or Bidders within 180 days, with due process as -

- i. 3 Years Blacklisting for the Project Cost Rs. 2.50 Crore to Rs. 10.00 Crore
- ii. 5 Years Blacklisting for the Project Cost above Rs. 10.00 Crore to Rs.100.00 Crore
- iii. 10 Years Blacklisting for the Project Cost above Rs. 100.00 Crore

### **31. Notification of Award and Signing of Agreement**

31.1 The Bidder whose Bid has been accepted will be notified of the award by the employer prior to expiration of the Bid validity period by cable, telex or facsimile confirmed by letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Employer will pay the contractor in consideration of the execution, completion, and maintenance of the Works by the contractor as prescribed by the contract (hereinafter and in the contract called the "Contract Price").

31.2 The notification of award will constitute the formation of the Contract, subject only to the furnishing of a performance security in accordance with the provisions of Clause 32.

31.3 The Agreement will incorporate all agreements between the Employer and the successful Bidder. This agreement will be signed only after furnishing of the performance security by the successful bidder but within 14 days of issue of Letter of Acceptance. The Employer will promptly notify the other bidders that their Bids have been unsuccessful.

### **32. Performance Security**

32.1 Within 14 days of receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance security in any of the forms given in 32.2 for an amount equivalent to 5% of the Contract price.

32.2 A bank guarantee from any of the branches of Nationalized/Scheduled Bank situated within territory of India in the form given in Section 10; or Certified Cheque / Bank Draft payable to employer as indicated in item no. 16 Appendix to ITB.

**32.3** If the performance security is provided by the successful Bidder in the form of a Bank Guarantee, it shall be issued from any of the branches of Nationalized/ Scheduled Bank situated within the territory of India.

32.4 Failure of the successful Bidder to comply with the requirements of Sub-Clause 32.1 shall constitute grounds for cancellation of the award and forfeiture of the Bid Security.

32.5 The validity of the performance security is 28 days beyond the defect liability period.

### **33. Advance Payment and Security**

33.1 The Employer will provide contractor an interest bearing mobilization advance (as per CVC guidelines in this regard) on the Contract Price in two stages of 5 % each subject to maximum amount of 10% of contract price.

### **34. Corrupt or Fraudulent Practices**

34.1 The Employer will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question and will declare the firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract with BSCL, UD & HD, Government of Bihar, and any other state agencies, if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for the contract, or in execution of the work related to contract.

### **35. Dispute Resolution**

35.1 The dispute arising between the employer and the contractor, if not resolved amicably shall be referred to appointed expert mediator of Bihar State Legal Services Authority (BSLSA). If the matter does not get resolved it will finally go for arbitration. Arbitration in such a case will be done in accordance to Indian Arbitration and Conciliation Act, 1996 and amended provisions thereof. The place of arbitration shall be Bhagalpur and the language of arbitration shall be English. This may be read in conjunction with clause 20.2 of Condition of Contract.

## APPENDIX to ITB

S. No.	Description	Clause Reference with respect to Section- 2
1.	Name of the Employer is Chief Executive Officer, Bhagalpur Smart City Limited, Bhagalpur	[C1. 1.1]
2.	The last five years	[Cl. 4.5 A (a)]
	2014 - 2015	
	2015 - 2016	
	2016 - 2017	
	2017 - 2018	
3.	Minimum annual financial turnover amount is <b>Rs 13.11 Crores</b> (all class of civil engineering construction work in last five years)	[C1.4.5A(a)]
	Minimum work Completion Experience	[C1.4.5A(b)]
5.	Liquid assets and/or availability of credit facilities is Rs.6.56 Crores (25% of Project Cost)	[C1.4.5B(c) & Cl. 4.3 (h)]
6.	Price level of the financial year 2019-20	[C1. 4.7]
7.	The pre-bid meeting will take place at – BSCL Office, Municipal Corporation, Court Compound, BSCL, Bhagalpur	[C1. 9.2.1]
8.	The Technical bid will be opened at BSCL Office, Bhagalpur	[C1 .23.1.]
9.	Address of the Employer:	
	Bhagalpur Smart City Limited, Municipal Corporation, Court Compound, Bhagalpur	
10.	Submission of Bid:	[Cl. 19]

	Bid for Design, Engineering and <b>Construction of ICCCB Building (G+5 floors) (including structural design) under Smart City Mission, Bhagalpur, Bihar</b>		
11.	NIT No.		BSCL/ICCCB/2019/19
12.	The bid should be submitted online		[C1. 20.1]
13.	The bid will be opened at the time, date and venue mentioned in NIT		[C1.23.1]
14.	The Bank draft shall be in favour of Chief Executive Officer, Bhagalpur Smart City Limited Payable at - Bhagalpur		[C1.32.2]
15.	Escalation factors (For bringing the cost of works executed in different financial year to a common base value)		
	Years before	Multiply factor	
	2014-15	1.61	
	2015-16	1.46	
	2016-17	1.33	
	2017-18	1.21	
	2018-19	1.10	

## ANNEXURE – I

## List of Minimum Key Plant &amp; Equipment to be deployed on Contract work

[Reference C1. 4.5 (B) (a)]

Sl.	Type of Equipment (leased or owned)	Maximum age as on 01.01.2019 (In Years)	Minimum no. of Equipment required
1.	Dozer	5	1
2.	Front end Loader	5	1
3.	Smooth Wheeled Roller	5	1
4.	Water Tank	5	1
5.	Bar Cutting Machine	5	4
6.	Bar Bending Machine	5	2
7.	Welding Machine	5	4
8.	Vibrator (Needle)	5	4
9.	Well-equipped Laboratory facility for quality test		One
10.	Transit Mixer with pumping arrangement	5	1
11.	Steel Prop	5	For 2000 Sqm
12.	Concrete Batching Plant (20 cum / hour)	5	1
13.	Steel Plate with fitting	5	For 2000 Sqm
14.	Staging pipe with fitting	5	For 2000 Sqm
15.	Cube Testing Machine (UTM)	5	1
16.	Cube Mould	5	50

## ANNEXURE – II

**List of Minimum Key Personal to be deployed on Contract Work by the Contract Agency:**

[Reference C1.4.5 (B) (b)]

Sl. No.	Personnel	Qualification	No. of Person
1	Project Manager	B.E/B.Tech/B.Sc. in Civil Engineering or equivalent with 15 Years Exp. (5 years as Project Manager)	1
2.	Site Engineer	B.E/B.Tech/Bsc. in Civil Engineering with 10 Years Exp. (including 5 years in Building Construction) or Diploma Civil with 15 Years Exp. (including 10 years in Building Construction)	2
3	Electrical Engineer cum HVAC expert	B.E. Electrical + 5Years Exp. Or Diploma in Electrical + 10 years Exp. Exposure in HVAC work of at least two projects.	1
4.	Quantity Surveyor	B.E/B.Tech/Bsc. in Civil Engineering with 7 Years Exp. Or Dip. Civ. + 10 years Exp.	1
5.	Architect	B.Arch/B.E/B.Tech./BSc. Civil Engineering/Bachelor in Town or Regional Planning with 3 Years' Experience.	1
6.	Structural Engineer	B.E/B.Tech/Bsc. in Civil Engineering with Specialization in Structural Engineering having experience not less than 5 years.	1
7.	Quality Control Engineer	B.E/B.Tech/Bsc. in Civil Engineering with 5 years' Experience in Quality Control works	1
Total			8

**SECTION 3**

**QUALIFICATION INFORMATION**

**&**

**OTHER FORMS**

## QUALIFICATION INFORMATION

The information to be filled in by the bidder in the following pages will be used for purposes of post qualification as provided for in Clause 4 of the Instructions to Bidders. This information will not be incorporated in the Contract.

### 1. For Individual Bidders

- 1.1. Constitution or legal status of Bidder  
[Attach copy]

Place of registration:

Principal place of business:

Power of attorney of signatory of Bid [Attach]

- 1.2. Total value of Civil Engineering construction work performed in the last five financial years\*\*  
(in Rs. Lakhs)

2014-15	
2015-16	
2016-17	
2017-18	
2018-19	

1.3.1 Work of similar nature performed as prime contractor, work performed in the past as a nominated sub- contractor will also be considered provided the sub-contract involved execution of all main item of works which comes under housing projects, provided further that all other qualification criteria are satisfied (in the same name) on works of a similar nature over the last five financial years (2014-15 to 2018-19) and the current financial year till date.

Project Name	Name of the Employer*	Description of Work	Contact Number	Value of Contract (Rs. Crore) (β)	Date of issue of Work Order	Stipulated Period of Completion	Actual of Completion*	Remarks Explaining Reasons for Delay and Work Completed

\* Attach certificate(s) from the Engineer(s)-in-Charge/EE/Employer

β Attached certificate from Chartered Accountant (CA)

In case lowest quote is made by more than one bidder, then the bidder who has successfully completed and attached completion certificate while submitting online bid for more number of similar projects worth not less than Rs 25.00 Crores or more in the last 3 years would be awarded the work. In case of Joint Venture although the qualifying criteria is satisfied collectively by the joint venture for which the number of similar works attributed to each member of the joint venture is added; the computation for member of building projects for award of work to the joint venture in case of lowest quote would be computed on pro-rata basis of their participation in the JV and not by simply summing arithmetically, the number of similar building projects worth not less than Rs 25.00 Crore or more. Still, if there is a tie, lottery system will be followed to award the contract.

1.4 Information on Bid capacity (works for which bids have been submitted and works which are yet to be completed) as on the date of this bid.

(A). Existing commitments and on-going works:

Description of works	Place & State	Contract No.	Name & Address of Employer	Value of Contract (Rs Lakh)	Of Stipulated Period of Completion	Value of Works* Of remaining To be completed (Rs Lakh)	Anticipated date of completion
1	2	3	4	5	6	7	8

\* Attach certificate(s) from the Engineer(s)-in-Charge/EE/Employer. The item of work for which data is requested should tally with that specified in ITB clause 4.7.

(B). Works for which bids already submitted:

Description of work	Place & State	Name & Address of Employer	Estimated value of works (Rs Lakh)	Stipulated period of completion	Date when decision is expected	Remarks If any
1	2	3	4	5	6	7

1.5 Availability of key items of Contractor’s Equipment essential for carrying out the Works [ref. Clause 4.5(B)(a). The Bidder should list all the information requested below. Refer also to Sub Clause 4.3(d) of the Instructions to Bidders.

Item of Equipment	Requirement		Availability Proposals			Remarks (from whom to be purchased)
	No.	Capacity	Owned / Leased to be procured	Nos. / Capacity	Age/ Condition	

1.6 Qualifications and experience of key personnel required for administration and execution of the Contract [Ref. Clause 4.5(B)(b)]. Attach biographical data. Refer also to sub Clause 4.3 (e) of Instructions to Bidders and Sub Clause 6.9 of the Conditions of Contract.

Position	Name	Qualification	Years of Professional Experience	Years of experience in Proposed position

1.7 Proposed sub-contracts and firms involved. [Refer ITB Clause 4.3(k)]

Sanctions of the works	Value of Sub-contract	Sub-contractor (Name & Address)	Experience in similar Work

Attach copies of certificates on possession of valid license for building electrification / [Reference Clause 4.5A(d), Clause 4.5A(c) of ITB].

1.8 Financial reports for the last five financial years: balance sheets, profit and loss statements, auditors’ reports (in case of companies/corporation), etc. List them below and attach copies. (Attach certificate from Chartered Accountant)

1.9 Evidence of access to financial resources to meet the qualification requirements:

Cash in hand, lines of credit, etc. List them below and attach copies of support documents.

1.10 Name, address, and telephone, telex, and fax numbers of the Bidders’ bankers who may provide references if contacted by the Employer.

1.11 Information on litigation history of Past 7 financial years starting 2013-14 in which the Bidder is involved.

Other Party(ies)	Employer	Cause of Dispute	Amount involved	Remarks showing Present Status

1.12 Statement of compliance under the requirements of Sub Clause 3.2 of the Instructions to Bidders. (Name of Consultant engaged for project preparation is)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1.13 Proposed work methods and schedule. The Bidder should attach descriptions, drawings and charts as necessary to comply with the requirements of the Bidding documents. [Refer ITB Clause 4.1 & 4.3 (a)]

1.14 Programme

1.15 Quality Assurance Programme

2. **Additional Requirements.**

2.1. Affidavit as provided in Section 3 of ITB

2.2. Undertaking as provided in Section 3 of ITB

2.3. Bidders should provide any additional information required to fulfill the requirements of Clause 4 of the Instructions to the Bidders, if applicable.

2.4. Copy of letter of association in the form of agreement with subcontractor for the work defined or for any specialize /Engineering methodology work.

**Note: Even though the bidder meets the above qualifying criteria, he is subject to be disqualified, if he has made a misleading or false representation(s) in the forms, statements and attachments in proof of the qualifying requirements.**

**SAMPLE FORMAT FOR EVIDENCE OF ACCESS TO OR AVAILABILITY OF CREDIT FACILITIES**

**(Clause 4.3 (g) OF ITB)**

**BANK CERTIFICATE**

This is to certify that M/s. \_\_\_\_\_ is a reputed Company with a good financial standing.

If the contract for the work, namely \_\_\_\_\_ is awarded to the above firm, we shall be able to provide overdraft/credit facilities to the extent of Rs. \_\_\_\_\_ to meet their working capital requirements for executing the above contract during the contact period.

\_\_\_\_\_  
(Signature) Name of Bank

Senior Bank Manager Address of the Bank

**AFFIDAVIT****Also refer qualification information format para 2.1 in the same Section**

1. I, the undersigned, do hereby certify that all the statements made in the required attachments are true and correct.
  
2. The undersigned also hereby certifies that neither our firm M/S \_\_\_\_\_ have abandoned any work of **Bhagalpur Smart City Limited** or any contract awarded to us for such work have been rescinded, during last five years prior to the date of this bid.
  
3. The undersigned hereby authorize(s) and request(s) any bank, person, firm or corporation to furnish pertinent information deemed necessary and requested by the Department to verify this statement or regarding my (our) competence and general reputation.
  
4. The undersigned understand and agrees that further qualifying information may be requested, and agrees to furnish any such information at the request of the Department/Project implementing agency.

(Signed by an authorized Officer of the Firm)

\_\_\_\_\_

\_\_\_\_\_

Title of officer

\_\_\_\_\_

Name of Firm

\_\_\_\_\_

Date

## UNDERTAKING

**Also refer qualification information format para 2.2 in the same  
Section**

I, the undersigned do hereby undertake that our firm M/s \_\_\_\_\_

would invest a minimum cash up to 25% of the value of

\_\_\_\_\_ the work during implementation of the Contract.

\_\_\_\_\_  
(Signed by an authorized Officer of the Firm)

\_\_\_\_\_  
Title of officer

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Date

## **SECTION 4**

### **GENERAL CONDITIONS OF CONTRACT**

## **General Conditions of Contract**

### **ARTICLES**

1. Definitions of Interpretation
2. Scope of Work
3. Obligation of the Contractor
4. Obligation of the Authority
5. Representation & Warranties
6. Disclaimer
7. Performance Security
8. Site of Project
9. Utilities & Trees
10. Design & Construction of the Project
11. Quality Assurance, Monitoring & Supervision
12. Completion Certificate
13. Change of Scope
14. Traffic Regulation
15. Defects Liability
16. Authority's Engineer
17. Financial Covenants
18. Insurance
19. Force Majeure
20. Suspension of Contractor's Rights
21. Termination
22. Assignment & Charges
23. Liability & Indemnity
24. Dispute Resolution
25. Miscellaneous
26. Definition

## ARTICLE 1

## DEFINITIONS AND INTERPRETATION

## 1.1 Definitions

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 26) shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

## 1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

- a. references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- b. references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- c. references to a “**person**” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
- d. the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- e. the words “**include**” and “**including**” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;
- f. references to “construction” or “building” include, unless the context otherwise requires, survey and investigation, design, developing, engineering, procurement, supply of plant, materials, equipment, labour, delivery, transportation, installation, processing, fabrication, testing, and commissioning of the Project, including maintenance during the Construction

Period, removing of defects, if any, and other activities incidental to the construction and “**construct**” or “**build**” shall be construed accordingly;

- g. references to “**development**” include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, up-gradation and other activities incidental thereto during the Construction Period, and “develop” shall be construed accordingly;
- h. any reference to any period of time shall mean a reference to that according to Indian standard time;
- i. any reference to day shall mean a reference to a calendar day;
- j. reference to a “**business day**” shall be construed as reference to a day (other than a Sunday) on which banks in the State are generally open for business;
- k. any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- l. references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;
- m. any reference to any period commencing “from” a specified day or date and “**till**” or “**until**” a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- n. the words importing singular shall include plural and vice versa;
- o. references to any gender shall include the other and the neutral gender;
- p. “**lakh**” means a hundred thousand (100,000) and “**crore**” means ten million (10,000,000);
- q. “**indebtedness**” shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

- r. references to the “winding-up”, “dissolution”, “insolvency”, or “reorganization” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;
- s. save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licensee or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause (s) shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;
- t. any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Authority’s Engineer shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party or the Authority’s Engineer, as the case may be, in this behalf and not otherwise;
- u. the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- v. references to Recitals, Articles, Clauses, Sub-clauses, Provisos or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses, Provisos and Schedules of or to this Agreement; reference to an Annex shall, subject to anything to the contrary specified therein, be construed as a reference to an Annex to the Schedule in which such reference occurs; and reference to a Paragraph shall, subject to anything to the contrary specified therein, be construed as a reference to a Paragraph of the Schedule or Annex, as the case may be, in which such reference appear;

the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the “**Damages**”); and

w. time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended for the reasons specified in the Agreement, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Contractor to the Authority shall be provided free of cost and in three copies, and if the Authority is required to return any such Documentation with its comments and/or approval, it shall be entitled to retain two copies thereof.

1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.4 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act, 1897 shall not apply.

### **1.3 Measurements and arithmetic conventions**

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

### **1.4 Priority of agreements and errors/discrepancies**

1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

1. this Agreement; and

all other agreements and documents forming part hereof or referred to herein;

i.e. this Agreement at (a) above shall prevail over the agreements and documents at (b).

1.4.2 Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

(i) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

(ii) between the Clauses of this Agreement and the Schedules, the Clauses shall

prevail and between Schedules and Annexes, the Schedules shall prevail;

- iv. between any two Schedules, the Schedule relevant to the issue shall prevail;
- v. between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;
- vi. between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and
- vii. between any value written in numerals and that in words, the latter shall prevail.

## **1.5 Joint and several liability**

1.5.1 If the Contractor has formed a Joint Venture of two or more persons for implementing the Project:

- i. these persons shall, without prejudice to the provisions of this Agreement, be deemed to be jointly and severally liable to the Authority for the performance of the Agreement; and
- ii. The Contractor shall ensure that no change in the composition of the Joint Venture is effected without the prior consent of the Authority.

1.5.2 Without prejudice to the joint and several liability of all the members of the Joint Venture, the Lead Member shall represent all the members of the Joint Venture and shall at all times be liable and responsible for discharging the functions and obligations of the Contractor. The Contractor shall ensure that each member of the Joint Venture shall be bound by any decision, communication, notice, action or inaction of the Lead Member on any matter related to this Agreement and the Authority shall be entitled to rely upon any such action, decision or communication of the Lead Member. The Authority shall have the right to release payments to Joint Venture and shall not in any manner be responsible or liable for the *inter se* allocation of payments among members of the Joint Venture.

## Part II

### **Scope of the Project**

## ARTICLE 2

**SCOPE OF THE PROJECT****2.1 Scope of the Project**

Under this Agreement, the scope of the Project (the “**Scope of the Project**”) shall mean and include:

- i. Architectural Planning & Design, Engineering, Procurement, preparation of detailed structural design & drawing, Construction of G + 5 Building after obtaining approval from competent authority including water supply and sanitation, sewer network, Internal & External Electrification works, storm water drainage, rain water harvesting, landscaping, barbed wire fencing, street lighting, Construction of internal roads & parking, 1000 KVA Generator sets in two nos., Firefighting System, HVAC & Office Furniture for ICCB Building in conformity with the Specifications and Standards set forth in RFP; and
- ii. Performance and fulfillment of all other obligations of the Contractor in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Contractor under this Agreement.

## ARTICLE 3

**OBLIGATIONS OF THE CONTRACTOR****3.1 Obligations of the Contractor**

- 3.1.1 Subject to and on the terms and conditions of this Agreement, the Contractor shall undertake the survey, investigation, design, engineering, procurement, and construction of the Project and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 3.1.2 The Contractor shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
- 3.1.3 Save and except as otherwise provided in this Agreement or Applicable Laws, as the case may be, the Contractor shall, in discharge of all its obligations under this Agreement, conform with and adhere to Good Industry Practice at all times.
- 3.1.4 The Contractor shall remedy any and all loss or damage to the Project, occurring on or after the Appointed Date and until the date of Provisional Certificate, with respect to the Works completed prior to the issuance of the Provisional Certificate and/or Completion Certificate, with respect to the Works referred to in the Punch List, at its own cost, save and except to the extent that any such loss or damage shall have arisen from any default of the Authority or on account of a Force Majeure Event in which case the provisions of Clause 19 shall apply.
- 3.1.5 The Contractor shall remedy any and all loss or damage to the Project during the Defects Liability Period at its own cost, to the extent that such loss or damage shall have arisen out of the reasons specified in Clause 15.3.
- 3.1.6 The Contractor shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:
- a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits set forth and obtain and keep in force and effect such Applicable Permits in conformity with Applicable Laws;
  - b). procure, as required, the appropriate proprietary rights, licences, agreements and permissions for Materials, methods, processes, know-how and systems used or incorporated into the Project;

- c. make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Sub-contractors in connection with the performance of its obligations under this Agreement;
- d. ensure and procure that its Sub-contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Contractor's obligations under this Agreement;
- e. always act in a manner consistent with the provisions of this Agreement and not cause or fail to do any act, deed or thing, whether intentionally or otherwise, which may in any manner be violative of any of the provisions of this Agreement;
- f. support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement;
- g. ensure that the Contractor and its Sub-contractors comply with the safety and welfare measures for labour in accordance with Applicable Laws and Good Industry Practice;
- h. keep, on the Site, a copy of this Agreement, publications named in this Agreement, the Drawings, Documents relating to the Project, and Change of Scope Orders and other communications sent under this Agreement, and provide access to all these documents at all reasonable times to the Authority's Engineer and its authorised personnel;
- i. cooperate with other contractors employed by the Authority and personnel of any other public authority; and
- j. not interfere unnecessarily or improperly with the convenience of the public, or the access to and use and occupation of all the existing facilities within the Right of Way, irrespective of whether they are public or in the possession of the Authority or of others.

3.1.7 The Contractor shall undertake all necessary superintendence to plan, arrange, direct, manage, inspect and test the Works.

**3.2 The Contractor shall not allow to sub-contract Works.**

**3.3 Obligations relating to employment of foreign nationals**

The Contractor acknowledges, agrees and undertakes that employment of foreign personnel by the Contractor and/or its Sub-contractors and their sub-contractors shall be subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of the Contractor. Notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Contractor or any of its Sub-contractors or their sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Contractor from the performance and discharge of its obligations and liabilities under this Agreement.

### **3.4 Obligations relating to Contractor's personnel**

- 3.4.1 The Contractor shall ensure and procure that the personnel engaged by it or by its Sub-contractors for performance of its obligations under this Agreement are at all times appropriately qualified, skilled and experienced in their respective functions in conformity with Applicable Laws and Good Industry Practice.
- 3.4.2 The Authority's Engineer may, for reasons to be specified in writing, direct the Contractor to remove any member of the Contractor's or Sub-contractor's personnel from the Project. Provided that any such direction issued by the Authority's Engineer shall specify the reasons for the removal of such person.
- 3.4.3 The Contractor shall, on receiving a direction from the Authority's Engineer under the provisions of Clause 3.4.2, ensure and procure the removal of such person or persons from the Project with immediate effect. The Contractor shall further ensure that such persons have no further connection with the Project.

### **3.5 Obligations relating to advertisement on Project**

The Contractor shall not use the Project or any part thereof in any manner for branding or advertising purposes including for advertising any commercial product or services or companies.

### **3.6 Obligations relating to Contractor's care of the Works**

The Contractor shall bear full risk in and take full responsibility for the care of Works, and of Materials, goods and equipment for incorporation therein, on and from the Appointed Date and until the date of Provisional Certificate, with respect to the Works completed prior to the issuance of the Provisional Certificate, and/or Completion Certificate, with respect to the Works referred to in the Punch List, save and except to the extent that any such loss or damage shall have arisen from any default or neglect of the Authority.

### **3.7 Obligations relating to electricity, water and other services**

The Contractor shall be responsible for procuring of all power, water and other services that it may require for the Project.

### **3.8 Unforeseeable difficulties**

Except as otherwise specified in the Agreement:

- a. the Contractor accepts complete responsibility for having foreseen all difficulties and costs of successfully completing the Works;
- b. the Contract Price shall not be adjusted to take account of any unforeseen difficulties or costs; and
- c. the Scheduled Completion Date shall not be adjusted to take account of any unforeseen difficulties or costs.

For the purposes of this Clause, unforeseeable difficulties include physical conditions like man-made or natural physical conditions including sub-surface and hydrological conditions which the Contractor encounters at the Site during execution of the Works.

## ARTICLE 4

**OBLIGATIONS OF THE AUTHORITY****4.1 Obligations of the Authority**

- 4.1.1 The Authority shall, at its own cost and expense, undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 4.1.2 The Authority shall be responsible for the correctness of the Scope of the Project, Project Facilities, Specifications and Standards and the criteria for Testing of the completed Works.
- 4.1.3 The Authority shall, upon receiving the Performance Security under Clause 7.1.1, provide to the Contractor:
- a. the land for construction in accordance with the provisions of Clauses 8.2 and 8.3, within a period of 15 (fifteen) days from the date of this Agreement.
  - b. approval of the general arrangement drawings (the “**GAD**”) from BSCL authorities to enable the Contractor to start construction of Project in accordance with the Specifications and Standards, and subject to the terms and conditions specified in such approval, within a period of 60 (sixty) days from the Appointed Date; and
  - c. all environmental and forest clearances as required under Clause 4.3.
- 4.1.4 Deleted.
- 4.1.5 Notwithstanding anything to the contrary contained in this Agreement, the Parties expressly agree that the aggregate Damages payable under Clauses 4.1.4, 8.3 and 9.2 shall not exceed 3% (three percent) of the Contract Price. For the avoidance of doubt, the Damages payable by the Authority under the aforesaid Clauses shall not be additive if they arise concurrently from more than one cause but relate to the same part of the Project.

4.1.6 The Authority agrees to provide support to the Contractor and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and Applicable Laws, the following:

- c) upon written request from the Contractor, and subject to the Contractor complying with Applicable Laws, provide reasonable support to the Contractor in procuring Applicable Permits required from any Government Instrumentality for implementation of the Project;
- d) upon written request from the Contractor, provide reasonable assistance to the Contractor in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favorable than those generally available to commercial customers receiving substantially equivalent services;
- e) procure that no barriers that would have a material adverse effect on Works are erected or placed on or about the Project by any Government Instrumentality or persons claiming through or under it, except for reasons of Emergency, national security or law and order;
- f) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
- g) support, cooperate with and facilitate the Contractor in the implementation of the Project in accordance with the provisions of this Agreement; and
- h) upon written request from the Contractor and subject to the provisions of Clause 3.3, provide reasonable assistance to the Contractor and any expatriate personnel of the Contractor or its Sub-contractors to obtain applicable visas and work permits for the purposes of discharge by the Contractor or its Sub-contractors of their obligations under this Agreement and the agreements with the Sub-contractors.

## **4.2 Deleted**

## **4.3 Obligations relating to Environmental and Forest Clearances**

All the clearances shall be taken by selected bidder.

## ARTICLE 5

**REPRESENTATIONS AND WARRANTIES****5.1 Representations and warranties of the Contractor**

The Contractor represents and warrants to the Authority that:

- a) it is duly organized and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- c) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- d) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- e) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum and articles of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- g) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect

on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

- i) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;
- j) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- k) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the contract or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith;
- l) all information provided by the {selected bidder/ members of the Joint Venture} in response to the Request for Qualification and Request for Proposals or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects;
- m) all undertakings and obligations of the Contractor arising from the Request for Qualification and Request for Proposals or otherwise shall be binding on the Contractor as if they form part of this Agreement; and
- n) nothing contained in this Agreement shall create any contractual relationship or obligation between the Authority and any Sub-contractors, designers, consultants or agents of the Contractor.

## **5.2 Representations and warranties of the Authority**

The Authority represents and warrants to the Contractor that:

- a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- b) it has taken all necessary actions under Applicable Laws to authorize the execution, delivery and performance of this Agreement;
- c) it has the financial standing and capacity to perform its obligations under this Agreement;

- d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement:
- f) it has complied with Applicable Laws in all material respects;
- g) it has good and valid right to the Site and has the power and authority to grant the site in respect thereof to the Contractor; and
- h) it shall have procured, as on the Appointed Date, site so that the Contractor can commence.

### **5.3 Disclosure**

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.

ARTICLE 6  
**DISCLAIMER**

**6.1 Disclaimer**

- 6.1.1 The Contractor acknowledges that prior to the execution of this Agreement, the Contractor has, after a complete and careful examination, made an independent evaluation of the Request for Qualification, Request for Proposals, Scope of the Project, Specifications and Standards, Site, local conditions, physical qualities of ground, subsoil and geology, traffic volumes, suitability and availability of access routes to the Site and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Save as provided in Clause 4.1.2 and Clause 5.2, the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Contractor confirms that it shall have no claim whatsoever against the Authority in this regard.
- 6.1.2 The Contractor acknowledges and hereby accepts to have satisfied itself as to the correctness and sufficiency of the Contract Price.
- 6.1.3 The Contractor acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 6.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Contractor, or any person claiming through or under any of them, and shall not lead to any adjustment of Contract Price or Scheduled Completion Date.
- 6.1.4 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 6.1.1 above shall not vitiate this Agreement, or render it voidable.
- 6.1.5 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 6.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error.
- 6.1.6 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Contractor; and the Authority shall not be liable in any manner for such risks or the consequences thereof.

## Part III

### **Construction**

## ARTICLE 7

**PERFORMANCE SECURITY****7.1 Performance Security**

- 7.1.1 The Contractor shall, for the performance of its obligations hereunder, provide to the Authority, within 15 (fifteen) days of the date of this Agreement, an irrevocable and unconditional guarantee, for an amount equal to 5% (five percent) of the Contract Price, from a Bank in the form set forth in Annex-I of Schedule-F (the “**Performance Security**”). The Performance Security shall be valid until 60 (sixty) days of the expiry of the Defects Liability Period specified in Clause 15.1.1. Until such time the Performance Security is provided by the Contractor pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security, the Authority shall release the Bid Security to the Contractor. For the avoidance of doubt, the Parties expressly agree that the Contractor shall provide, no later than 30 (thirty) days prior to the expiry of the Performance Security for the Defects Liability Period specified in Clause 15.1.1, a Performance Security in respect of the extended Defects Liability Period, as specified in Clause 15.1.2, for an amount equal to 5% (five percent) of the estimated cost.
- 7.1.2 Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that in the event of failure of the Contractor to provide the Performance Security in accordance with the provisions of Clause 7.1.1 and within the time specified therein or such extended period as may be provided by the Authority, in accordance with the provisions of Clause 7.1.3, the Authority may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Contractor under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.
- 7.1.3 In the event the Contractor fails to provide the Performance Security within 15 (fifteen) days of the date of this Agreement, it may seek extension of time for a period not exceeding a further 15 (fifteen) days on payment of Damages for such extended period in a sum calculated at the rate of 0.05% (zero point zero five percent) of the Contract Price for each day until the Performance Security is provided.

## **7.2 Extension of Performance Security**

The Contractor may initially provide the Performance Security for a period of 15 months; provided that it shall procure the extension of the validity of the Performance Security, as necessary, at least 2 (two) months prior to the date of expiry thereof. Upon the Contractor providing an extended Performance Security, the previous Performance Security shall be deemed to be released and the Authority shall return the same to the Contractor within a period of 7 (seven) business days from the date of submission of the extended Performance Security.

## **7.3 Appropriation of Performance Security**

7.3.1 Upon occurrence of a Contractor Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate from the Performance Security the amounts due to it as Damages for the Contractor's Default.

7.3.2 Upon such encashment and appropriation from the Performance Security, the Contractor shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Contractor shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate the Agreement in accordance with Article 21. Upon such replenishment or furnishing of a fresh Performance Security, as the case may be, the Contractor shall be entitled to an additional Cure Period of 30 (thirty) days for remedying the Contractor Default, and in the event of the Contractor not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 21.

## **7.4 Release of Performance Security**

The Authority shall release the Performance Security within 60 (sixty) days of the expiry of the Defects Liability Period or the extended Defects Liability Period, as the case may be, under this Agreement. Notwithstanding the aforesaid, the Parties agree that the Authority shall not be obliged to release the Performance Security until all Defects identified during the Defects Liability Period or the extended Defects Liability Period, as the case may be, have been rectified.

## **7.5 Retention Money**

7.5.1 From every payment for Works due to the Contractor in accordance with the provisions of Clause 17.5, the Authority shall deduct 9% (nine percent) thereof as

guarantee money for performance of the obligations of the Contractor during the Construction Period (the “**Retention Money**”) subject to the condition that the maximum amount of Retention Money shall not exceed 8% (eight percent) of the Contract Price.

- 7.5.2 Upon occurrence of a Contractor’s Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to appropriate the relevant amounts from the Retention Money as Damages for such Contractor’s Default.
- 7.5.3 The Contractor may, upon furnishing an irrevocable and unconditional bank guarantee substantially in the form provided at Annex-II of Schedule-F, require the Authority to refund the Retention Money deducted by the Authority under the provisions of Clause 7.5.1. Provided that the refund hereunder shall be made in tranches of not less than 1% (one percent) of the Contract Price.
- 7.5.4 Within 15 (fifteen) days of the date of issue of the Completion Certificate, the Authority shall discharge the bank guarantees, if any, furnished by the Contractor under the provisions of Clause 7.5.3 and refund the balance of Retention Money remaining with the Authority after adjusting the amounts appropriated under the provisions of Clause 7.5.2 and the amounts refunded under the provisions of Clause 7.5.3.
- 7.5.5 The Parties agree that in the event of Termination of this Agreement, the Retention Money and the bank guarantees specified in this Clause 7.5 shall be treated as if they are Performance Security and shall be reckoned as such for the purposes of Termination Payment under Clause 21.6.

## ARTICLE 8

## SITE OF PROJECT

**8.1 The Site**

The site of the Project (the “**Site**”) shall comprise the site described in respect of which the land shall be provided by the Authority to the Contractor. The Authority shall be responsible for:

- i. acquiring and providing land on the Site in accordance with the [alignment] finalized by the Authority, free from all encroachments and encumbrances, and free access thereto for the execution of this Agreement.

**8.2 Deleted****8.3 Deleted.****8.4 Deleted.****8.5 Deleted.****8.6 Deleted****8.7 Deleted****8.8 Geological and archaeological finds**

It is expressly agreed that mining, geological or archaeological rights do not form part of this Agreement with the Contractor for the Works, and the Contractor hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site shall vest in and belong to the Authority or the concerned Government Instrumentality. The Contractor shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Authority forthwith of the discovery thereof and comply with such instructions as the Authority or the concerned Government Instrumentality may reasonably give for the removal of such property. For the avoidance of doubt, it is agreed that any reasonable expenses incurred by the Contractor hereunder shall be reimbursed by the Authority. It is also agreed that the Authority shall procure that the instructions hereunder are issued by the concerned Government Instrumentality within a reasonable period so as to enable the Contractor to continue its Works with such modifications as may be deemed necessary.

## ARTICLE 9

**UTILITIES AND TREES**

**9.1 Deleted.**

**9.2 Deleted.**

**9.3 New utilities**

9.3.1 The Contractor shall allow, subject to such conditions as the Authority may specify, access to, and use of the Site for laying telephone lines, water pipes, electric cables or other public utilities. Where such access or use causes any financial loss to the Contractor, it may require the user of the Site to pay compensation or damages as per Applicable Laws. For the avoidance of doubt, it is agreed that use of the Site under this Clause 9.3 shall not in any manner relieve the Contractor of its obligation to construct the Project in accordance with this Agreement and any damage caused by such use shall be restored forthwith at the cost of the Authority.

9.3.2 In the event the construction of any Works is affected by a new utility or works undertaken in accordance with this Clause 9.3, the Contractor shall be entitled to a reasonable Time Extension as determined by the Authority's Engineer in accordance with the provisions of Clause 10.4.

9.3.3 The Authority may, by notice, require the Contractor to connect any adjoining road to the Project, and the connecting portion thereof falling within the Site shall be constructed by the Contractor at the Authority's cost in accordance with Article 10.

9.3.4 Deleted.

**9.4 Felling of trees**

The Authority shall assist the Contractor in obtaining the Applicable Permits for felling of trees to be identified by the Authority for this purpose if and only if such trees cause a Material Adverse Effect on the construction of the Project. The cost of such felling and of the compensatory plantation of trees, if any, shall be borne by the Authority. In the event of any delay in felling thereof for reasons beyond the control of the Contractor; it shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay in the felling of trees. The Parties hereto agree that the felled trees shall be deemed to be owned by the Authority and shall be disposed in such manner and subject to such conditions as the Authority may in its sole discretion deem appropriate. For the avoidance of doubt, the Parties agree that if any felling of trees result any period of delay in

providing the Applicable Permits, the Contractor shall be entitled to Time Extension.

## ARTICLE 10

**DESIGN AND CONSTRUCTION OF THE PROJECT****10.1 Obligations prior to commencement of Works**

10.1.1 Within 20 (twenty) days of the Appointed Date, the Contractor shall:

- i) appoint its representative, duly authorised to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement;
- ii) appoint a design engineer (the “**Design Engineer**”) who will head the Contractor’s design unit and shall be responsible for surveys, investigations, collection of data, and preparation of preliminary and detailed designs;
- iii) undertake and perform all such acts, deeds and things as may be necessary or required before commencement of Works under and in accordance with this Agreement, Applicable Laws and Applicable Permits; and
- iv) make its own arrangements for quarrying of materials and procurement needed for the Project under and in accordance with Applicable Laws and Applicable Permits.

10.1.2 The Authority shall, within 15 (fifteen) days of the date of this Agreement, appoint an engineer (the “**Authority’s Engineer**”) to discharge the functions and duties specified in this Agreement, and shall notify to the Contractor the name, address and the date of appointment of the Authority’s Engineer forthwith.

10.1.3 Within 30 (thirty) days of the Appointed Date, the Contractor shall submit to the Authority and the Authority’s Engineer a programme (the “**Programme**”) for construction of the Works, developed using networking techniques and giving the following details:

*Part I* Contractor’s organization for the Project, the general methods and arrangements for design and construction, environmental management plan, Quality Assurance Plan including design quality plan, traffic management and safety plan covering safety of users and workers during construction, Contractor’s key personnel, and equipment.

*Part II Programme* for completion of all stages of construction given in Schedule-G and Project Milestones of the Works as specified in Project Completion Schedule set forth in Schedule-I. The Programme shall include:

- i. the order in which the Contractor intends to carry out the Works, including the anticipated timing of design and stages of Works;
- ii. the periods for reviews under Clause 10.2; and
- iii. the sequence and timing of inspections and tests specified in this Agreement.

The Contractor shall submit a revised programme whenever the previous programme is inconsistent with the actual progress or with the Contractor's obligations.

*Part III Monthly cash flow forecast for the Project.*

For the avoidance of doubt, the Contractor acknowledges and agrees that the Authority may, within a period of 15 (fifteen) days of receipt of the Programme, convey its comments to the Contractor stating the modifications, if any, required for compliance with the provisions of this Agreement, and the Contractor shall carry out such modifications, to the extent required for conforming with the provisions of this Agreement.

10.1.4 The Contractor shall compute, on the basis of the Drawings prepared in accordance with Clause 10.2.7, and provide to the Authority's Engineer, the length, area and numbers, as the case may be, in respect of the various items of work specified and comprising the Scope of the Project. The Parties expressly agree that these details shall form the basis for estimating the interim payments for the Works in accordance with the provisions of Clause 17.3. For the avoidance of doubt, the sum of payments to be computed in respect of all the items of work shall not exceed the Contract Price, as may be adjusted in accordance with the provisions of this Agreement.

10.1.5 The Contractor shall appoint a safety consultant (the "**Safety Consultant**") to carry out safety audit at the design stage of the Project in accordance with Applicable Laws and Good Industry Practice. The Safety Consultant shall be appointed after proposing to the Authority a panel of 3 (three) names of qualified and experienced firms from which the Authority may choose 1 (one) to be the Safety Consultant. Provided, however, that if the panel is not acceptable to the Authority and the reasons for the same are furnished to the Contractor, the Contractor shall propose to the Authority a revised panel of 3 (three) names for obtaining the consent of the Authority. The Authority shall, within 15 (fifteen) days of receiving a proposal from the Contractor hereunder, convey its decision, with reasons, to the Contractor, and

if no such decision is conveyed within the said period, the Contractor may proceed with engaging of the Safety Consultant. For the avoidance of doubt, the Parties agree that no firm or person having any conflict of interest shall be engaged hereunder. The Parties further agree that any assignments completed at least 3 (three) years prior to the appointment hereunder shall not be reckoned for the purposes of conflict of interest.

10.1.6 The safety audit pursuant to Clause 10.1.5 shall be carried out by the Safety Consultant in respect of all such design details that have a bearing on safety of Users as well as pedestrians and animals involved in or associated with accidents. The recommendations of the Safety Consultant shall be incorporated in the design of the Project and the Contractor shall forward to the Authority's Engineer a certificate to this effect together with the recommendations of the Safety Consultant. In the event that any works required by the Safety Consultant shall fall beyond the scope, the Contractor shall make a report thereon and seek the instructions of the Authority for Change in Scope. For the avoidance of doubt, the Safety Consultant to be engaged by the Contractor shall be independent of the design and implementation team of the Contractor.

## **10.2 Design and Drawings**

10.2.1 Design and Drawings shall be developed in conformity with the Specifications and Standards. In the event, the Contractor requires any relaxation in design standards due to restricted Right of Way in any Section, the alternative design criteria for such Section shall be provided for review of the Authority's Engineer.

10.2.2 The Contractor shall appoint a proof check consultant (the "**Proof Consultant**") after proposing to the Authority a panel of 3 (three) names of qualified and experienced firms from whom the Authority may choose 1 (one) to be the Proof Consultant. Provided, however, that if the panel is not acceptable to the Authority and the reasons for the same are furnished to the Contractor, the Contractor shall propose to the Authority a revised panel of 3 (three) names for obtaining the consent of the Authority. The Contractor shall also obtain the consent of the Authority for 2 (two) key personnel of the Proof Consultant who shall have adequate experience and qualifications with respect to the main elements of the Project. The Authority shall, within 15 (fifteen) days of receiving a proposal from the Contractor hereunder, convey its decision, with reasons, to the Contractor, and if no such decision is conveyed within the said period, the Contractor may proceed with engaging of the Proof Consultant. For the avoidance of doubt, the Parties agree that no firm or person having any conflict of interest shall be engaged hereunder. The Parties further agree that any assignments completed at least three years prior to the appointment hereunder shall not be reckoned for the purposes of conflict of interest.

10.2.3 The Proof Consultant shall:

- a) evolve a systems approach with the Design engineer so as to minimise the time required for final designs and construction drawings; and
- b) proof check the detailed calculations, drawings and designs, which have been approved by the Design Director.

10.2.4 In respect of the Contractor's obligations with respect to the design and Drawings of the Project as set forth in Schedule-H, the following shall apply:

- c) The Contractor shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, 3 (three) copies each of the design and Drawings, duly certified by the Proof Consultant, to the Authority's Engineer for review.

Provided, however, that in respect of [Major Bridges and Structures], the Authority's Engineer may require additional drawings for its review in accordance with Good Industry Practice;

- d) by submitting the Drawings for review to the Authority's Engineer, the Contractor shall be deemed to have represented that it has determined and verified that the design and engineering, including field construction criteria related thereto, are in conformity with the Scope of the Project, Specifications and Standards, Applicable Laws and Good Industry Practice;

- e) within 15 (fifteen) days of the receipt of the Drawings, the Authority's Engineer shall review the same and convey its observations to the Contractor with particular reference to their conformity or otherwise with the Scope of the Project and the Specifications and Standards. The Contractor shall not be obliged to await the observations of the Authority's Engineer on the Drawings submitted pursuant hereto beyond the said period of 15 (fifteen) days and may begin or continue Works at its own discretion and risk; Provided, however, that in case of a [Major Bridge or Structure], the aforesaid period of 15 (fifteen) days may be extended upto 30 (thirty) days;

- f) if the aforesaid observations of the Authority's Engineer indicate that the Drawings are not in conformity with the Scope of the Project or the Specifications and Standards, such Drawings shall be revised by the Contractor in conformity with the provisions of this Agreement and resubmitted to the Authority's Engineer for review. The Authority's Engineer shall give its observations, if any, within 10 (ten) days of receipt of the revised Drawings. In the event the Contractor fails to revise and resubmit such Drawings to the Authority's Engineer for review as aforesaid, the Authority's Engineer may cause the payment for the affected works to be withheld under the provisions of Clause 17.5.4. If the

Contractor disputes any decision, direction or determination of the Authority's Engineer hereunder, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure;

- g) no review and/or observation of the Authority's Engineer and/or its failure to review and/or convey its observations on any Drawings shall relieve the Contractor of its obligations and liabilities under this Agreement in any manner nor shall the Authority's Engineer or the Authority be liable for the same in any manner; and if errors, omissions, ambiguities, inconsistencies, inadequacies or other Defects are found in the Drawings, they shall be corrected, along with the affected Works, at the Contractor's cost, notwithstanding any review under this Article 10;
- h) the Contractor shall be responsible for delays in submitting the Drawings, as set forth in Schedule-H, caused by reason of delays in surveys and field investigations, and shall not be entitled to seek any relief in respect thereof from the Authority; and
- i) the Contractor warrants that its designers, including any third parties engaged by it, shall have the required experience and capability in accordance with Good Industry Practice and it shall indemnify the Authority against any damage, expense, liability, loss or claim, which the Authority might incur, sustain or be subject to arising from any breach of the Contractor's design responsibility and/or warranty as set out in this Clause.

10.2.5 Any cost or delay in construction arising from review by the Authority's Engineer shall be borne by the Contractor.

10.2.6 Works shall be executed in accordance with the Drawings provided by the Contractor in accordance with the provisions of this Clause 10.2 and the observations of the Authority's Engineer thereon as communicated pursuant to the provisions of Clause 10.2.4 (d). Such Drawings shall not be amended or altered without prior written notice to the Authority's Engineer. If a Party becomes aware of an error or defect of a technical nature in the design or Drawings, that Party shall promptly give notice to the other Party of such error or defect.

10.2.7 Within 90 (ninety) days of the Project Completion Date, the Contractor shall furnish to the Authority and the Authority's Engineer a complete set of as-built Drawings, in 2 (two) hard copies and in its editable digital format or in such other medium or manner as may be acceptable to the Authority, including an as-built survey illustrating the layout of the Project and setback lines, if any, of the buildings and structures forming part of Project Facilities, and shall hand them over to the Authority against receipt thereof.

### **10.3 Construction of the Project**

10.3.1 The Contractor shall construct the Project in conformity with the Specifications and Standards set forth in this RFP. The Contractor shall be responsible for the correct positioning of all parts of the

Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works. The 15 months from the Appointed Date shall be the scheduled completion date (the “**Scheduled Completion Date**”) and the Contractor agrees and undertakes that the construction shall be completed on or before the Scheduled Completion Date, including any extension thereof.

10.3.2 The Contractor shall construct the Project in accordance with the Project Completion Schedule set forth in Schedule-I. In the event that the Contractor fails to achieve any Project Milestone or the Scheduled Completion Date within a period of 30 (thirty) days from the date set forth in Schedule-I, unless such failure has occurred due to Force Majeure or for reasons attributable to the Authority, it shall pay Damages to the Authority in a sum calculated at the rate of 0.05% (zero point zero five per cent) of the Contract Price for delay day reckoned from the date specified in Schedule - I and until such Project Milestone is achieved or the Works are completed; provided that if the period for any or all Project Milestones or the Scheduled Completion Date is extended in accordance with the provisions of this Agreement, the dates set forth in Schedule-I shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Schedule-I has been amended as above; provided further that in the event the Works are completed within or before the Scheduled Completion Date including any Time Extension, the Damages paid under this Clause 10.3.2 shall be refunded by the Authority to the Contractor, but without any interest thereon. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 10.3.2 shall be without prejudice to the rights of the Authority under this Agreement including the right of Termination thereof. The Parties further agree that Time Extension hereunder shall only be reckoned for and in respect of the affected Works as specified in Clause 10.4.2.

10.3.3 The Authority shall notify the Contractor of its decision to impose Damages in pursuance of the provisions of this Clause 10.3. Provided, however, that no deduction on account of Damages shall be effected by the Authority without taking into consideration the representation, if any, made by the Contractor within 20 (twenty) days of such notice. The Parties expressly agree that the total amount of Damages under Clause 10.3.2 shall not exceed 10% (ten percent) of the Contract Price.

#### **10.4 Extension of time for completion**

10.4.1 Without prejudice to any other provision of this Agreement for and in respect of extension of time, the Contractor shall be entitled to extension of time in the Project Completion Schedule (the “**Time Extension**”) to the extent that completion of any Project Milestone is or will be delayed by any of the following, namely:

- a) delay in providing site, environmental clearances specified in Clause 4.1.4;

- b) Change of Scope, unless an adjustment to the Scheduled Completion Date has been agreed under Article 13;
- c) occurrence of a Force Majeure Event;
- d) any delay, impediment or prevention caused by or attributable to the Authority, the Authority's personnel or the Authority's other contractors on the Site; and
- e) any other cause or delay which entitles the Contractor to Time Extension in accordance with the provisions of this Agreement.

10.4.2 The Contractor shall, no later than 15 (fifteen) business days from the occurrence of an event or circumstance specified in Clause 10.4.1, inform the Authority's Engineer by notice in writing, with a copy to the Authority, stating in reasonable detail with supporting particulars, the event or circumstances giving rise to the claim for Time Extension in accordance with the provisions of this Agreement. Provided that the period of 15 (fifteen) business days shall be calculated from the date on which the Contractor became aware, or should have become aware, of the occurrence of such an event or circumstance.

Provided further that notwithstanding anything to the contrary contained in this Agreement, Time Extension shall be due and applicable only for the Works which are affected by the aforesaid events or circumstances and shall not in any manner affect the Project Completion Schedule for and in respect of the Works which are not affected thereby.

10.4.3 In the event of the failure of the Contractor to issue to the Authority's Engineer a notice in accordance with the provisions of Clause 10.4.2 within the time specified therein, the Contractor shall not be entitled to any Time Extension and shall forfeit its right to any such claims in future. For the avoidance of doubt, in the event of failure of the Contractor to issue notice as specified in this Clause 10.4.3, the Authority shall be discharged from all liability in connection therewith.

10.4.4 The Authority's Engineer shall, on receipt of a claim in accordance with the provisions of Clause 10.4.2, examine the claim expeditiously within the time frame specified herein. In the event the Authority's Engineer requires any clarifications to examine the claim, the Authority's Engineer shall seek the same within 15 (fifteen) days from the date of receiving the claim. The Contractor shall, on the receipt of the communication of the Authority's Engineer requesting for clarification, furnish the same to the Authority's Engineer within 10 (ten) days thereof. The Authority's

Engineer shall, within a period of 30 (thirty) days from the date of receipt of such clarifications, forward in writing to the Contractor its determination of Time Extension. For the avoidance of doubt, the Parties agree that the Authority's Engineer shall, in accordance with the provisions of this Agreement, notify the Contractor of the aforesaid Time Extension no later than 60 (sixty) days from the date of receipt of the Contractor's claim for Time Extension.

Provided that when determining each extension of time under this Clause 10.4, the Authority's Engineer shall review previous determinations and may increase, but shall not decrease, the total Time Extension.

10.4.5 If the event or circumstance giving rise to the notice has a continuing effect:

- f) the detailed claim shall be considered as interim;
- g) the Contractor shall, no later than 10 (ten) days after the close of each month, send further interim claims specifying the accumulated delay, the extension of time claimed, and such further particulars as the Authority's Engineer may reasonably require; and
- h) the Contractor shall send a final claim within 30 (thirty) days after the effect of the event or the circumstance ceases.

Upon receipt of the claim hereunder, the Authority's Engineer shall examine and determine the same in accordance with the provisions of Clause 10.4.4 within a period of 60 (sixty) days of the receipt thereof.

## **10.5 Incomplete Works**

In the event the Contractor fails to complete the Works in accordance with the Project Completion Schedule, including any Time Extension granted under this Agreement, the Contractor shall endeavour to complete the balance work expeditiously and shall pay Damages to the Authority in accordance with the provisions of Clause 10.3.2 for delay of each day until the Works are completed in accordance with the provisions of this Agreement. Recovery of Damages under this Clause shall be without prejudice to the rights of the Authority under this Agreement including the right to termination under Clause 21.1.

## ARTICLE 11

**QUALITY ASSURANCE, MONITORING AND SUPERVISION****11.1 Quality of Materials and workmanship**

11.1.1 The Contractor shall ensure that the Construction, Materials and workmanship are in accordance with the requirements specified in this Agreement, Specifications and Standards and Good Industry Practice.

11.1.2 The Contractor warrants that all Materials shall be new, unused, not reconditioned and in conformity with Specification and Standards, Applicable Laws and Good Industry Practice, and that the Contractor shall not use any materials which are generally recognized as being deleterious under Good Industry Practice.

**11.2 Quality control system**

11.2.1 The Contractor shall establish a quality control mechanism to ensure compliance with the provisions of this Agreement (the “**Quality Assurance Plan**” or “**QAP**”).

11.2.2 The Contractor shall, within 30 (thirty) days of the Appointed Date, submit to the Authority’s Engineer its Quality Assurance Plan which shall include the following:

- i) organization, duties and responsibilities, procedures, inspections and documentation;
- ii) quality control mechanism including sampling and testing of Materials, test frequencies, standards, acceptance criteria, testing facilities, reporting, recording and interpretation of test results, approvals, check list for site activities, and proforma for testing and calibration in accordance with the Specifications and Standards and Good Industry Practice; and

- iii) internal quality audit system.

The Authority’s Engineer shall convey its comments to the Contractor within a period of 21 (twenty-one) days of receipt of the QAP stating the modifications, if any, required, and the Contractor shall incorporate those in the QAP to the extent required for conforming with the provisions of this Clause 11.2.

11.2.3 The Contractor shall procure all documents, apparatus and instruments, fuel, consumables, water, electricity, labour, Materials, samples, and qualified personnel as are necessary for examining and testing the Project Assets, Materials and workmanship in accordance with the Quality Assurance Plan.

11.2.4 The cost of testing of Construction, Materials and workmanship under this Article

11 shall be borne by the Contractor.

### **11.3. Methodology**

The Contractor shall, at least 15 (fifteen) days prior to the commencement of construction, submit to the Authority's Engineer for review the methodology proposed to be adopted for executing the Works, giving details of equipment to be deployed, traffic management and measures for ensuring safety. The Authority's Engineer shall complete the review and convey its comments, if any, to the Contractor within a period of 10 (ten) days from the date of receipt of the proposed methodology from the Contractor.

### **11.4. Inspection and technical audit by the Authority**

The Authority or any representative authorized by the Authority in this behalf may inspect and review the progress and quality of the construction of Works and issue appropriate directions to the Authority's Engineer and the Contractor for taking remedial action in the event the Works are not in accordance with the provisions of this Agreement.

### **11.5 External technical audit**

At any time during construction, the Authority may appoint an external technical auditor to conduct an audit of the quality of the Works. The findings of the audit, to the extent accepted by the Authority, shall be notified to the Contractor and the Authority's Engineer for taking remedial action in accordance with this Agreement. The Contractor shall provide all assistance as may be required by the auditor in the conduct of its audit hereunder. Notwithstanding anything contained in this Clause 11.5, the external technical audit shall not affect any obligations of the Contractor or the Authority's Engineer under this Agreement.

### **11.6 Inspection of construction records**

The Authority shall have the right to inspect the records of the Contractor relating to the Works.

### **11.7 Monthly progress reports**

During the Construction Period, the Contractor shall, no later than 10 (ten) days after the close of each month, furnish to the Authority and the Authority's Engineer a monthly report on the progress of Works and shall promptly give such other relevant information as may be required by the Authority's Engineer.

### **11.8 Inspection**

11.8.1 The Authority's Engineer and its authorized representative shall at all times:

- iv) have full access to all parts of the Site and to all places from which natural Materials are being obtained for use in the Works; and
- v) during production, manufacture and construction at the Site and at the place of production, be entitled to examine, inspect, measure and test the Materials and workmanship, and to check the progress of manufacture of Materials.

11.8.2 The Contractor shall give the Authority’s Engineer and its authorized agents access, facilities and safety equipment for carrying out their obligations under this Agreement.

11.8.3 The Authority’s Engineer shall submit a monthly inspection report (the “**Inspection Report**”) to the Authority and the Contractor bringing out the results of inspections and the remedial action taken by the Contractor in respect of Defects or deficiencies. For the avoidance of doubt, such inspection or submission of Inspection Report by the Authority’s Engineer shall not relieve or absolve the Contractor of its obligations and liabilities under this Agreement in any manner whatsoever.

## 11.9 Samples

The Contractor shall submit the following samples of Materials and relevant information to the Authority’s Engineer for review:

- vi) manufacturer’s test reports and standard samples of manufactured Materials; and
- vii) samples of such other Materials as the Authority’s Engineer may require.

## 11.10 Tests

11.10.1 For determining that the Works conform to the Specifications and Standards, the Authority’s Engineer shall require the Contractor to carry out or cause to be carried out tests, at such time and frequency and in such manner as specified in this Agreement, and in accordance with Good Industry Practice for quality assurance. The Contractor shall, with due diligence, carry out all the tests in accordance with the Agreement and furnish the results thereof to the Authority’s Engineer. Of the total tests for each category or type to be undertaken by the Contractor under the provisions of this Agreement and Good Industry Practice, the Authority’s Engineer shall (a) carry out or cause to be carried out, test checks equal to about 10% (ten percent) of the number of the tests required to be undertaken by the Contractor; and (b) witness or participate in at least 10% (ten percent) of the number of such tests conducted or caused to be conducted by the Contractor.

11.10.2 In the event that results of any tests conducted under this Clause 11.10 establish any Defects or deficiencies in the Works, the Contractor shall carry out remedial measures and furnish a report to the Authority's Engineer in this behalf. The Authority's Engineer shall require the Contractor to carry out or cause to be carried out tests to determine that such remedial measures have brought the Works into compliance with the Specifications and Standards, and the procedure shall be repeated until such Works conform to the Specifications and Standards. For the avoidance of doubt, the cost of such tests and the remedial measures in pursuance thereof shall be solely borne by the Contractor.

### **11.11 Examination of work before covering up**

In respect of the work which the Authority's Engineer is entitled to examine, inspect, measure or test before it is covered up or put out of view or any part of the work is placed thereon, the Contractor shall give notice to the Authority's Engineer whenever any such work is ready and before it is covered up. The Authority's Engineer shall then either carry out the examination, inspection or testing without unreasonable delay, or promptly give notice to the Contractor that the Authority's Engineer does not require to do so. Provided, however, that if any work is of a continuous nature where it is not possible or prudent to keep it uncovered or incomplete, the Contractor shall notify the schedule of carrying out such work to give sufficient opportunity, not being less than 3 (three) business days' notice, to the Authority's Engineer to conduct its inspection, measurement or test while the work is continuing. Provided further that in the event the Contractor receives no response from the Authority's Engineer within a period of 3 (three) business days from the date on which the Contractor's notice hereunder is delivered to the Authority's Engineer, the Contractor shall be entitled to assume that the Authority's Engineer would not undertake the said inspection.

### **11.12 Rejection**

11.12.1 If, as a result of an examination, inspection, measurement or testing, any Plant, Material, design or workmanship is found to be defective or otherwise not in accordance with the provisions of this Agreement, the Authority's Engineer may reject such Plant, Material, design or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the Defect and ensure that the rejected item complies with the requirements of this Agreement.

11.12.2 If the Authority's Engineer requires the Plant, Material, design or workmanship to be retested, the tests shall be repeated on the same terms and conditions, as applicable in each case. If the rejection and retesting cause the Authority to incur any additional costs, such costs shall be recoverable by the Authority from the

Contractor and may be deducted by the Authority from any monies due to be paid to the Contractor.

11.12.3 The Contractor shall not be entitled to any extension of time on account of rectifying any Defect or retesting as specified in this Clause 11.12.

11.12.4 No examination, inspection, measurement or testing of any Plant, Material, design or workmanship by the Authority's Engineer or its failure to convey its observations or to examine, inspect, measure or test shall relieve the Contractor of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner.

### **11.13 Remedial work**

11.13.1 Notwithstanding any previous test or certification, the Authority's Engineer may instruct the Contractor to:

1. remove from the Site and replace any Plant or Materials which are not in accordance with the provisions of this Agreement;
2. remove and re-execute any work which is not in accordance with the provisions of this Agreement and the Specification and Standards; and
3. execute any work which is urgently required for the safety of the Project, whether because of an accident, unforeseeable event or otherwise; provided that in case of any work which is required on account of a Force Majeure Event, the provisions of Clause 19.6 shall apply.

11.13.2 If the Contractor fails to comply with the instructions issued by the Authority's Engineer under Clause 11.13.1, within the time specified in the Authority's Engineer's notice or as mutually agreed, the Authority's Engineer may advise the Authority to have the work executed by another agency. The cost so incurred by the Authority for undertaking such work shall, without prejudice to the rights of the Authority to recover Damages in accordance with the provisions of this Agreement, be recoverable from the Contractor and may be deducted by the Authority from any monies due to be paid to the Contractor.

### **11.14 Delays during construction**

Without prejudice to the provisions of Clause 10.3.2, in the event the Contractor does not achieve any of the Project Milestones within the time period stipulated in Schedule I or the Authority's Engineer shall have reasonably determined that the rate of progress of Works is such that Completion of the Project is not likely to be achieved by the end of the Scheduled Completion Date, it may notify the same to the Contractor, and the Contractor shall, within 15 (fifteen) days of such notice, by a communication inform the Authority's Engineer in reasonable detail about the

steps it proposes to take to expedite progress and the period within which it shall achieve the Project Completion Date.

### **11.15 Quality control records and Documents**

The Contractor shall hand over to the Authority's Engineer a copy of all its quality control records and documents before the Completion Certificate is issued pursuant to Clause 12.2.

### **11.16 Video recording**

During the Construction Period, the Contractor shall provide to the Authority for every calendar quarter, a video recording, which will be compiled into a 3 (three)hour digital video disc or any substitute thereof, covering the status and progress of Works in that quarter. The video recording shall be provided to the Authority no later than 15 (fifteen) days after the close of each quarter after the Appointed Date.

### **11.17 Suspension of unsafe Construction Works**

11.17.1 Upon recommendation of the Authority's Engineer to this effect, or on its own volition in cases of emergency or urgency, the Authority may by notice require the Contractor to suspend forthwith the whole or any part of the Works if, in the reasonable opinion of the Authority's Engineer or the Authority, as the case may be, such work threatens the safety of the Users and or other persons on or about the Project. Provided, however, that in case of an emergency, the Authority may *suo moto* issue the notice referred to hereinabove.

11.17.2 The Contractor shall, pursuant to the notice under Clause 11.17.1, suspend the Works or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measures to secure the safety of suspended works, the Users, other persons and vehicles on or about the Project including pedestrians. The Contractor may by notice require the Authority's Engineer to inspect such remedial measures forthwith and make a report to the Authority recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the Authority's Engineer, the Authority shall either revoke such suspension or instruct the Contractor to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in this Clause 11.17 shall be repeated until the suspension hereunder is revoked.

11.17.3 Subject to the provisions of Clause 19.6, all reasonable costs incurred for maintaining and protecting the Works or part thereof during the period of suspension (the "**Preservation Costs**"), shall be borne by the Contractor; provided

that if the suspension has occurred as a result of any breach of this Agreement by the Authority, the Preservation Costs shall be borne by the Authority.

11.17.4 If suspension of Works is for reasons not attributable to the Contractor, the Authority's Engineer shall determine any Time Extension to which the Contractor is reasonably entitled in accordance with the provisions of Clause 10.4.

## ARTICLE 12

**COMPLETION CERTIFICATE****12.1 Tests on completion**

12.1.1 No later than 30 (thirty) days prior to the likely completion of the Project, or a Section thereof, the Contractor shall notify the Authority's Engineer of its intent to subject the Project or a Section thereof, to Tests. The date and time of each of the Tests shall be determined by the Authority's Engineer in consultation with the Contractor, and notified to the Authority who may designate its representative to witness the Tests. The Contractor shall either conduct the Tests as directed by the Authority's Engineer or provide such assistance as the Authority's Engineer may reasonably require for conducting the Tests. For the avoidance of doubt, the Parties agree that in the event of the Contractor and the Authority's Engineer failing to mutually agree on the dates for conducting the Tests, the Contractor shall fix the dates by giving not less than 10 (ten) days' notice to the Authority's Engineer, and in the event the Authority's Engineer delays the Tests hereunder, the Authority shall impose exemplary penalties on the Authority's Engineer and shall ensure that Tests are completed in time either by the Authority's Engineer or any substitute thereof.

12.1.2 All Tests shall be conducted in accordance with Schedule-J at the cost and expense of the Contractor. The Authority's Engineer shall observe, monitor and review the results of the Tests to determine compliance of the Project or a Section thereof, with Specifications and Standards and if it is reasonably anticipated or determined by the Authority's Engineer during the course of any Test that the performance of the Project or Section or any part thereof, does not meet the Specifications and Standards, it shall have the right to suspend or delay such Test and require the Contractor to remedy and rectify any Defect or deficiency. Upon completion of each Test, the Authority's Engineer shall provide to the Contractor and the Authority copies of all Test data including detailed Test results. For the avoidance of doubt, the Parties expressly agree that the Authority's Engineer may require the Contractor to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project or Section thereof with the Specifications and Standards.

## 12.2 Provisional Certificate

- 12.2.1 Subject to the provisions of Clause 12.2.5, upon completion of all Works forming part of the Project, save and except the Works for which Time Extension has been granted under Clause 10.5, the Authority's Engineer shall, at the request of the Contractor, issue a provisional certificate of completion substantially in the form set forth in Schedule-K (the "**Provisional Certificate**") if the Tests for and in respect of the completed Works are successful. The Provisional Certificate shall have appended thereto a list of outstanding items of work (the "**Punch List**") that need to be completed in accordance with the provisions of this Agreement. The Contractor undertakes to complete the minor outstanding items of works in respect of those Sections of the Project for which the Provisional Certificate has been issued, within a period of 30 (thirty) days of the date of Provisional Certificate, and those parts of the Works in respect of which Time Extension has been granted, within the extended period thereof. For the avoidance of doubt, the Parties agree that the Punch List shall include all Works for which Time Extension has been granted and shall also include any minor outstanding items of work forming part of the completed Sections if such works do not materially affect the use of the completed Sections for their intended purpose. The Parties further agree that Provisional Certificate shall not be issued if the completed Works cannot be safely and reliably placed in service of the Users thereof.
- 12.2.2 Upon issue of Provisional Certificate, the provisions of Article 15 shall apply to the completed parts of the Project and the property and ownership of all such completed Works shall vest in the Authority.
- 12.2.3 If the Authority's Engineer determines that the Project or any completed part thereof does not conform to the provisions of this Agreement and cannot be safely and reliably placed in operation, it shall forthwith make a report in this behalf and send copies thereof to the Authority and the Contractor and withhold issuance of the Provisional Certificate until the Defects or deficiencies are rectified by the Contractor and Tests are successful in accordance with this Article 12.
- 12.2.4 Notwithstanding anything to the contrary contained in Clause 12.2.3, the Authority may, at any time after receiving a report from the Authority's Engineer under that Clause, direct the Authority's Engineer to issue a Provisional Certificate under Clause 12.2.1 and such direction shall be complied forthwith.
- 12.2.5 No Provisional Certificate shall be issued under the provisions of this Clause 12.2 until the Contractor has submitted valid claims for payment of at least 80% (eighty percent) of the amount arrived at after reducing the lump sum price specified in Clause 17.1.1 by the amount attributable to works which have been withdrawn under

the provisions of Clause 8.3.3. For the avoidance of doubt and by way of illustration, the Parties agree that if the Contract Price specified in Clause 17.1.1 is Rs.105 cr. (Rs. one hundred and five crore) and the works withdrawn under Clause 8.3.3 have a value of Rs.5 cr. (Rs. five crore), a Provisional Certificate shall not be issued until valid claims for payment of an amount of Rs.80 cr. (Rs. eighty crore) have been submitted by the Contractor in accordance with the provisions of this Agreement. It is further agreed that all price adjustments made in pursuance of Clause 17.10 shall not be reckoned for computation of the claims for payments referred to in this Clause 12.2.5. It is also agreed that any Change of Scope effected within 30 (thirty) days of the Appointed Date shall be reckoned for the purposes of determining the Contract Price hereunder.

### **12.3 Completion of remaining Works**

All items in the Punch List shall be completed by the Contractor in accordance with the provisions of this Agreement. For any delay in their completion other than for the reasons attributable to the Authority or due to Force Majeure, the Authority shall be entitled to recover Damages from the Contractor in accordance with the provisions of Clause 10.3.2 of this Agreement.

### **12.4 Completion Certificate**

- 12.4.1 Upon completion of all Works, including the items specified in the Punch List, and the Authority's Engineer determining the Tests to be successful, it shall forthwith issue to the Contractor and the Authority a certificate substantially in the form set forth in Schedule-K (the "**Completion Certificate**").
- 12.4.2 Upon receiving the Completion Certificate, the Contractor shall remove its equipment, materials, debris and temporary works from the Site within a period of 30 (thirty) days thereof, failing which the Authority may remove or cause to be removed, such equipment, materials, debris and temporary works and recover from the Contractor an amount equal to 120% (one hundred and twenty percent) of the actual cost of removal incurred by the Authority.
- 12.4.3 Without prejudice to the obligations of the Contractor specified in Article 15, the property and ownership of all the completed Works forming part of the Project shall vest in the Authority.

## **12.5 Rescheduling of Tests**

If the Authority's Engineer certifies to the Authority and the Contractor that it is unable to issue the Completion Certificate or Provisional Certificate, as the case may be, because of events or circumstances on account of which the Tests could not be held or had to be suspended, the Contractor shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

## ARTICLE 13

**CHANGE OF SCOPE****13.1 Change of Scope**

13.1.1 The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the Contractor to make modifications or alterations to the Works (“**Change of Scope**”) before the issue of the Completion Certificate either by giving an instruction or by requesting the Contractor to submit a proposal for Change of Scope involving additional cost or reduction in cost. Any such Change of Scope shall be made and valued in accordance with the provisions of this Article 13.

13.1.2 Change of Scope shall mean:

- 1) change in specifications of any item of Works;
- 2) omission of any work from the Scope of the Project except under Clause 8.3.3; provided that, subject to Clause 13.5, the Authority shall not omit any work under this Clause in order to get it executed by any other entity; or
- 3) any additional work, Plant, Materials or services which are not included in the Scope of the Project, including any associated Tests on completion of construction.

13.1.3 If the Contractor determines at any time that a Change of Scope will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Authority of executing, maintaining or operating the Project, (iii) improve the efficiency or value to the Authority of the completed Project, or (iv) otherwise be of benefit to the Authority, it shall prepare a proposal with relevant details at its own cost. The Contractor shall submit such proposal, supported with the relevant details including the amount of reduction in the Contract Price, if any, to the Authority to consider such Change of Scope. The Authority shall, within 15 (fifteen) days of receipt of such proposal, either accept such Change of Scope with modifications, if any, and initiate proceedings therefor in accordance with this Article 13 or reject the proposal and inform the Contractor of its decision. For the avoidance of doubt, the Parties agree that the Contractor shall not undertake any Change of Scope without a Change of Scope Order being issued by the Authority, save and except any Works necessary for meeting any Emergency.

## 13.2 Procedure for Change of Scope

13.2.1 In the event of the Authority determining that a Change of Scope is necessary, it may direct the Authority's Engineer to issue to the Contractor a notice specifying in reasonable detail the works and services contemplated thereunder (the "**Change of Scope Notice**").

13.2.2 Upon receipt of a Change of Scope Notice, the Contractor shall, with due diligence, provide to the Authority and the Authority's Engineer such information as is necessary, together with preliminary documentation in support of:

- a) the impact, if any, which the Change of Scope is likely to have on the Project Completion Schedule if the works or services are required to be carried out during the Construction Period; and
- b) the options for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time thereof, including the following details:
- c) break down of the quantities, unit rates and cost for different items of work;
- d) proposed design for the Change of Scope; and
- e) proposed modifications, if any, to the Project Completion Schedule of the Project. For the avoidance of doubt, the Parties expressly agree that, subject to the provisions of Clause 13.4.2, the Contract Price shall be increased or decreased, as the case may be, on account of Change of Scope.

13.2.3 The Contractor's quotation of costs for the Change of Scope shall be determined on the following principles:

- a) For works of similar nature compared to the Works being executed, the quotation shall be based on the rate for the work inclusive of all labour, Materials, equipment, incidentals, overheads and profit derived in accordance with the provisions of Clause 17.3; and the price adjustment in accordance with Clause 17.8 shall apply to the rates so worked out.
- b) For works not similar in nature to the Works being executed, the cost of work shall be derived on the basis of Bihar SOR Standard Data Book.

13.2.4 Upon reaching an agreement, the Authority shall issue an order (the “**Change of Scope Order**”) requiring the Contractor to proceed with the performance thereof. In the event that the Parties are unable to agree, the Authority may:

- c) issue a Change of Scope Order requiring the Contractor to proceed with the performance thereof at the rates and conditions approved by the Authority till the matter is resolved in accordance with Article 24; or
- d) proceed in accordance with Clause 13.5.

13.2.5 The provisions of this Agreement, insofar as they relate to Works and Tests, shall apply *mutatis mutandis* to the works undertaken by the Contractor under this Article 13.

### **13.3 Payment for Change of Scope**

Payment for Change of Scope shall be made in accordance with the payment schedule specified in the Change of Scope Order.

### **13.4 Restrictions on Change of Scope**

13.4.1 No Change of Scope shall be executed unless the Authority has issued the Change of Scope Order save and except any Works necessary for meeting any Emergency.

13.4.2 Unless the Parties mutually agree to the contrary, the total value of all Change of Scope Orders shall not exceed 10% (ten percent) of the Contract Price.

13.4.3 Notwithstanding anything to the contrary in this Article 13, no change arising from any default of the Contractor in the performance of its obligations under this Agreement shall be deemed to be Change of Scope, and shall not result in any adjustment of the Contract Price or the Project Completion Schedule.

### **13.5 Power of the Authority to undertake works**

13.5.1 In the event the Parties are unable to agree to the proposed Change of Scope Orders in accordance with Clause 13.2, the Authority may, after giving notice to the Contractor and considering its reply thereto, award such works or services to any person on the basis of open competitive bidding from amongst bidders who are pre-qualified for undertaking the additional work; provided that the Contractor shall have the option of matching the first ranked bid in terms of the selection criteria, subject to payment of 2% (two percent) of the bid amount to the Authority, and thereupon securing the award of such works or services. For the avoidance of doubt, it is agreed that the Contractor shall be entitled to exercise such option only if it has

participated in the bidding process and its bid does not exceed the first ranked bid by more than 10% (ten per cent) thereof. It is also agreed that the Contractor shall provide assistance and cooperation to the person who undertakes the works or services hereunder, but shall not be responsible for rectification of any Defects in works carried out by other agencies. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not undertake any works or services under this Clause 13.5.1 if such works or services cause a Material Adverse Effect on the Contractor.

- 13.5.2 The works undertaken in accordance with this Clause 13.5 shall conform to the Specifications and Standards and shall be carried out in a manner that minimises disruption to the Project. The provisions of this Agreement, insofar as they relate to Works and Tests, shall apply *mutatis mutandis* to the works carried out under this Clause 13.5.

ARTICLE 14 - Deleted

## ARTICLE 15

**DEFECTS LIABILITY****15.1 Defects Liability Period**

15.1.1 The Contractor shall be responsible for all the Defects and deficiencies, except usual wear and tear in the Project or any Section thereof, till the expiry of a period of Two (02) years commencing from the date of Provisional Certificate or expiry of a period of eighteen (18) months from the date of issue of completion certificate, whichever is later (the “**Defects Liability Period**”).

15.1.2 Deleted.

**15.2 Remedy and rectification of Defects and deficiencies**

Without prejudice to the provisions of Clause 15.2 the Contractor shall repair or rectify all Defects and deficiencies observed by the Authority’s Engineer during the Defects Liability Period within a period of 15 (fifteen) days from the date of notice issued by the Authority’s Engineer in this behalf, or within such reasonable period as may be determined by the Authority’s Engineer at the request of the Contractor, in accordance with Good Industry Practice.

**15.3 Cost of remedying Defects**

For the avoidance of doubt, any repair or rectification undertaken in accordance with the provisions of Clause 15.2, including any additional tests, shall be carried out by the Contractor at its own risk and cost, to the extent that such rectification or repair is attributable to:

- a) the design of the Project;
- b) Works, Plant, Materials or workmanship not being in accordance with this Agreement and the Specifications and Standards;
- c) improper maintenance during construction of the Project by the Contractor; or
- d) failure by the Contractor to comply with any other obligation under this Agreement.

#### **15.4 Contractor's failure to rectify Defects**

In the event that the Contractor fails to repair or rectify such Defect or deficiency within the period specified in Clause 15.2, the Authority shall be entitled to get the same repaired, rectified or remedied at the Contractor's cost so as to make the Project conform to the Specifications and Standards and the provisions of this Agreement. All costs consequent thereon shall, after due consultation with the Authority and the Contractor, be determined by the Authority's Engineer. The cost so determined, and an amount equal to 20% (twenty percent) of such cost as Damages, shall be recoverable by the Authority from the Contractor and may be deducted by the Authority from any monies due to the Contractor.

#### **15.5 Contractor to search cause**

15.5.1 The Authority's Engineer may instruct the Contractor to examine the cause of any Defect in the Works or part thereof before the expiry of the Defects Liability Period.

15.5.2 In the event any Defect identified under Clause 15.5.1 is attributable to the Contractor, the Contractor shall rectify such Defect within the period specified by the Authority's Engineer, and shall bear the cost of the examination and rectification of such Defect.

15.5.3 In the event such Defect is not attributable to the Contractor, the Authority's Engineer shall, after due consultation with the Authority and the Contractor, determine the costs incurred by the Contractor on such examination and notify the same to the Contractor, with a copy to the Authority, and the Contractor shall be entitled to payment of such costs by the Authority.

#### **15.6 Extension of Defects Liability Period**

15.6.1 The Defects Liability Period shall be deemed to be extended till the identified Defects under Clause 15.2 have been remedied.

15.6.2 Any Materials or Works with Defects identified under Clause 15.2 and replaced or repaired during the Defects Liability Period or the extended Defects Liability Period, as the case may be, would be further warranted for a period of twelve (12) months from the date of completion of such repair or replacement.

15.6.3 The Contractor shall upon termination or expiry of this Agreement, or upon expiry of the Defects Liability Period, assign any outstanding benefit in respect of any subcontract or any warranty from any subcontractor, to the Authority or to such other person as the Authority may direct.

## ARTICLE 16

## AUTHORITY'S ENGINEER

**16.1 Appointment of the Authority's Engineer**

16.1.1 The Authority shall appoint a consulting engineering firm substantially in accordance with the selection criteria set forth in Schedule-L, to be the engineer under this Agreement (the “**Authority's Engineer**”).

16.1.2 The appointment of the Authority's Engineer shall be made no later than 15 (fifteen) days from the date of this Agreement. The Authority shall notify the appointment or replacement of the Authority's Engineer to the Contractor forthwith.

16.1.3 The staff of the Authority's Engineer shall include suitably qualified engineers and other professionals who are competent to assist the Authority's Engineer to carry out its duties.

**16.2 Duties and functions of the Authority's Engineer**

16.2.1 The Authority's Engineer shall perform its duties and discharge its functions in accordance with the provisions of this Agreement, and substantially in accordance with the terms of reference (“**Terms of Reference**” or “**TOR**”) set forth in Annex 1 of Schedule L, but subject to obtaining prior written approval of the Authority before determining:

- a) any Time Extension;
- b) any additional cost to be paid by the Authority to the Contractor;
- c) the Termination Payment; or
- d) any other matter which is not specified in (a), (b) or (c) above and which creates an obligation or liability on either Party for a sum exceeding Rs. 5,00,000 (Rs. five lakh).

16.2.2 No decision or communication of the Authority's Engineer shall be effective or valid unless it is accompanied by an attested true copy of the approval of the Authority for and in respect of any matter specified in Clause 16.2.1.

16.2.3 The Authority's Engineer shall submit regular periodic reports, at least once every month, to the Authority in respect of its duties and functions under this Agreement. Such reports shall be submitted by the Authority's Engineer within 10 (ten) days of the beginning of every month. For the avoidance of doubt, the Authority's Engineer shall include in its report compliance of the recommendations of the Safety Consultant.

16.2.4 A true copy of all communications sent by the Authority to the Authority's Engineer and by the Authority's Engineer to the Authority shall be sent forthwith by the Authority's Engineer to the Contractor.

16.2.5 A true copy of all communications sent by the Authority's Engineer to the Contractor and by the Contractor to the Authority's Engineer shall be sent forthwith by the Authority's Engineer to the Authority.

### **16.3 Authorized signatories**

The Authority shall require the Authority's Engineer to designate and notify to the Authority and the Contractor up to 2 (two) persons employed in its firm to sign for and on behalf of the Authority's Engineer, and any communication or document required to be signed by the Authority's Engineer shall be valid and effective only if signed by any of the designated persons; provided that the Authority's Engineer may, by notice in writing, substitute any of the designated persons by any of its employees.

### **16.4 Instructions of the Authority's Engineer**

16.4.1 The Authority's Engineer may issue to the Contractor instructions for remedying any Defect. The Contractor shall take such instructions from the Authority's Engineer only.

16.4.2 The instructions issued by the Authority's Engineer shall be in writing. However, if the Authority's Engineer issues any oral instructions to the Contractor, it shall confirm in writing the oral instructions within 2 (two) working days of issuing such oral instructions.

16.4.3 In case the Contractor does not receive the confirmation of the oral instructions within the time specified in Clause 16.4.2, the Contractor shall seek the written confirmation of the oral instructions from the Authority's Engineer and shall obtain acknowledgement from the Authority's Engineer of the communication seeking written confirmation. In case of failure of the Authority's Engineer to reply to the Contractor within 2 (two) days of the receipt of the communication from the Contractor, the Contractor may not carry out the instruction.

### **16.5 Determination by the Authority's Engineer**

16.5.1 The Authority's Engineer shall consult with each Party in an endeavour to reach agreement wherever this Agreement provides for the determination of any matter by the Authority's Engineer. If such agreement is not achieved, the Authority's Engineer shall make a fair determination in accordance with this Agreement having due regard to all relevant circumstances. The Authority's Engineer shall give notice to both the Parties of each such agreement or determination, with supporting particulars.

16.5.2 Each Party shall give effect to each agreement or determination made by the Authority's Engineer in accordance with the provisions of this Agreement. Provided, however, that if any Party disputes any instruction, decision, direction or determination of the Authority's Engineer, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

#### **16.6 Remuneration of the Authority's Engineer**

The remuneration, cost and expenses of the Authority's Engineer shall be paid by the Authority.

#### **16.7 Termination of appointment of the Authority's Engineer**

16.7.1 The Authority may, in its discretion, replace the Authority's Engineer at any time, but only upon appointment of another Authority's Engineer in accordance with Clause 16.1.

16.7.2 If the Contractor has reasons to believe that the Authority's Engineer is not discharging its duties and functions in accordance with the provisions of this Agreement, it may make a written representation to the Authority and seek termination of the appointment of the Authority's Engineer. Upon receipt of such representation, the Authority shall hold a tripartite meeting with the Contractor and Authority's Engineer and make best efforts for an amicable resolution of the Dispute. In the event that the appointment of the Authority's Engineer is terminated hereunder, the Authority shall appoint forthwith another Authority's Engineer in accordance with Clause 16.1.

#### **16.8 Interim Arrangement**

In the event that the Authority has not appointed an Authority's Engineer, or the Authority's Engineer so appointed has relinquished its functions or defaulted in discharge thereof, the Authority may, in the interim, designate and authorize any person to discharge the functions of the Authority's Engineer in accordance with the provisions of this Agreement, save and except that such person shall not exercise any functions relating to review, comment, approval or inspection as specified in this Agreement for and in respect of the Authority's Engineer, and such functions shall be discharged as and when an Authority's Engineer is appointed in accordance with the provisions of this Agreement. Provided, however, that nothing contained in this Clause 16.8 shall in any manner restrict the rights of the Authority to enforce compliance of the provisions of this Agreement.

## Part IV

### **Financial Covenants**

## ARTICLE 17

**PAYMENTS****17.1 Contract Price**

17.1.1 The Authority shall make payments to the Contractor for the Works on the basis of the lump sum price accepted by the Authority in consideration of the obligations specified in this Agreement for an amount of Rs. \*\*\*\*\* (Rs. \*\*\*\*\*) (the “**Contract Price**”), which shall be subject to adjustments in accordance with the provisions of this Agreement. The Parties further agree that save and except as provided in this Agreement, the Contract Price shall be valid and effective until issue of Completion Certificate.

17.1.2 The Contract Price includes all duties, taxes, royalty, and fees that may be levied in accordance with the laws and regulations in force as on the Base Date on the Contractor’s equipment, Plant, Materials and supplies acquired for the purpose of this Agreement and on the Works undertaken under this Agreement. Nothing in this Agreement shall relieve the Contractor from its responsibility to pay any tax including any tax that may be levied in India on profits made by it in respect of this Agreement.

17.1.3 The Contract Price shall not be adjusted for any change in duties, taxes etc. specified in Clause 17.1.2 above, save and except as specified in Clauses 17.8 and 17.13.

17.1.4 The Contract Price shall not be adjusted to take account of any unforeseen difficulties or costs, unless otherwise provided for in this Agreement.

17.1.5 Unless otherwise specified in this Agreement, the Contract Price covers all the Contractor’s obligations for the Works under this Agreement and all things necessary for the Construction thereof and for the rectification of any Defects in the Project.

17.1.6 All payments under this Agreement shall be made in Indian Rupees.

**17.2 Advance Payment**

17.2.1 The Authority shall make an advance payment (the “**Advance Payment**”), equal to 10% (ten percent) of the Contract Price, for mobilization expenses and for acquisition of equipment. The Advance Payment shall carry simple interest at the rate of 8% (eight per cent) per annum and shall be made in two equal installments.

17.2.2 The Contractor may apply to the Authority for the 1<sup>st</sup> (first) installment of the Advance Payment at any time after the Appointed Date, along with an irrevocable and unconditional guarantee from a Bank for an amount equivalent to 110% (one hundred and ten per cent) of such installment, substantially in the form provided at Annex-III of Schedule-F, to remain effective till the complete and full repayment of such installment and any interest thereon.

- 17.2.3 At any time, after 60 (sixty) days from the Appointed Date, the Contractor may apply to the Authority for the 2<sup>nd</sup> (second) installment of the Advance Payment along with an irrevocable and unconditional guarantee from a Bank for an amount equivalent to 110% (one hundred and ten per cent) of such installment, substantially in the form provided at Annex-III of Schedule-F, to remain effective till the complete and full repayment of such installment and any interest thereon.
- 17.2.4 The installments of Advance Payment shall be paid by the Authority to the Contractor within 15 (fifteen) days of the receipt of its respective requests in accordance with the provisions of this Clause 17.2.
- 17.2.5 The Advance Payment shall be recovered through proportionate deductions to be made in the Interim Payments Certificates issued in accordance with the provisions of Clause 17.5.2. Deductions of Advance Payment shall commence from the Interim Payment Certificate in which the cumulative interim payments certified shall have reached 50% (fifty per cent) of the Contract Price. The total amount recovered in each Interim Payment Certificate shall not exceed 30% (thirty per cent) of the amount due and payable under such Interim Payment Certificate, which shall include interest on the amount being recovered hereunder. For the avoidance of doubt, the Parties agree that in the event the total payment specified in any Interim Payment Certificate exceeds the limit of 50% (fifty per cent) of the Contract Price, the proportion of recovery hereunder shall be restricted to the amount exceeding 50% (fifty per cent) of the Contract Price. By way of illustration, the Parties agree that if the first recovery of say, Rupees ‘x’ is made after 20 (twenty) months from the date of 1<sup>st</sup> (first) installment of the Advance Payment, interest on Rupees ‘x’ shall be due and payable for a period of 20 (twenty) months; and when the next recovery is made in the following month for say, Rupees ‘y’, interest on Rupees ‘y’ shall be due and payable for a period of 21 (twenty one) months. The Parties further agree that no payments in excess of 90% (ninety per cent) of the Contract Price shall be released to the Contractor until the Advance Payment, including interest thereon, has been fully recovered.
- 17.2.6 If the Advance Payment has not been fully repaid prior to Termination under Clause 19.7 or Article 21, as the case may be, the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Authority. In the event of Termination for Contractor Default, the Advance Payment shall be deemed to carry interest at an annual rate of 3% (three per cent) above the Bank Rate from the date of Advance Payment to the date of recovery thereof. For the avoidance of doubt, the aforesaid interest shall be payable on each installment of the Advance Payment, regardless of whether the installment or any part thereof has been repaid to the Authority prior to Termination.

### **17.3 Procedure for estimating the payment for the Works**

- 17.3.1 The Authority shall make interim payments to the Contractor, as certified by the Authority's Engineer on completion of a stage.
- 17.3.2 The Contractor shall make its claim for interim payment for the stages completed till the end of the month for which the payment is claimed, valued in accordance with Clause 17.3.1, and supported with necessary particulars and documents in accordance with this Agreement.
- 17.3.3 Any reduction in the Contract Price arising out of Change of Scope or the Works withdrawn under Clause 8.3, as the case may be, shall not affect the amounts payable for the items or stage payments thereof which are not affected by such Change of Scope or withdrawal.

### **17.4 Stage Payment Statement for Works**

The Contractor shall submit a statement (the “**Stage Payment Statement**”), in 3 copies, by the 7<sup>th</sup> (seventh) day of a month to the Authority's Engineer in the form set forth in Schedule-M, showing the amount calculated in accordance with Clause 17.3 to which the Contractor considers itself entitled for the completed stage(s) of Works. The Stage Payment Statement shall be accompanied with the progress reports and any other supporting documents. The Contractor shall not submit any claim for payment of incomplete stages of work. In the event that there is no claim for a month in accordance with the provisions of this Clause 17.4, the Contractor shall submit a 'Nil' claim to the Authority's Engineer.

### **17.5 Stage Payment for Works**

- 17.5.1 Within 10 (ten) days of receipt of the Stage Payment Statement from the Contractor pursuant to Clause 17.4, the Authority's Engineer shall broadly determine the amount due to the Contractor and recommend the release of 90% (ninety per cent) of the amount so determined as part payment against the Stage Payment Statement, pending issue of the Interim Payment Certificate by the Authority's Engineer. Within 10 (ten) days of the receipt of recommendation of the Authority's Engineer, the Authority shall make an electronic payment thereof directly to the Contractor's bank account.
- 17.5.2 Within 15 (fifteen) days of the receipt of the Stage Payment Statement referred to in Clause 17.4, the Authority's Engineer shall determine and shall deliver to the Authority and the Contractor an IPC certifying the amount due and payable to the Contractor, after adjusting the payments already released to the Contractor against the said statement. For the avoidance of doubt, the Parties agree that the IPC shall

specify all the amounts that have been deducted from the Stage Payment Statement and the reasons therefore.

17.5.3 In cases where there is a difference of opinion as to the value of any stage, the opinion of the Authority's Engineer shall prevail and interim payments shall be made to the Contractor on that basis; provided that the foregoing shall be without prejudice to the Contractor's right to raise a Dispute.

17.5.4 The Authority's Engineer may, for reasons to be recorded, withhold from payment:

- a) the estimated value of work or obligation that the Contractor has failed to perform in accordance with this Agreement and in respect of which the Authority's Engineer had notified the Contractor; and
- b) the estimated cost of rectification of any Works which have not been constructed in accordance with this Agreement.

17.5.5 Payment by the Authority hereunder shall be deemed to be provisional and shall not be construed as the Authority's acceptance, approval, consent or satisfaction with the work done.

17.5.6 In the event the amounts released by the Authority under Clause 17.5.1 exceed the amount finally determined by the Authority's Engineer pursuant to Clauses 17.5.2 to 17.5.4, the difference thereof shall be accounted for in the next IPC.

## **17.6 Payment of Damages**

17.6.1 The Contractor may claim Damages due and payable to it in accordance with the provisions of this Agreement.

17.6.2 The Authority's Engineer shall issue the IPC within 15 (fifteen) days of the receipt of the claim under Clause 17.6.1, after making adjustments in accordance with the provisions of this Agreement. The Authority shall pay to the Contractor the amount due under such IPC within a period of 30 (thirty) days from the date of the submission of the claim under this Clause 17.6.

## **17.7 Time of payment and interest**

17.7.1 The Authority shall pay to the Contractor any amount due under any payment certificate issued by the Authority's Engineer in accordance with the provisions of this Agreement as follows:

Payment shall be made no later than 30 (thirty) days from the date of submission of the Stage Payment Statement by the Contractor to the Authority's Engineer for certification in accordance with the provisions of Clause 17.4 for an IPC; provided, however, that in the event the IPC is not

issued by the Authority’s Engineer within the aforesaid period of 30 (thirty) days, the Authority shall pay the amount shown in the Contractor’s Stage Payment Statement and any discrepancy therein shall be adjusted in the next payment certificate; and payment shall be made no later than 30 (thirty) days from the date of submission of the Final Payment Certificate for Works along with the discharge submitted to the Authority’s Engineer for certification in accordance with the provisions of Clause 17.12.

17.7.2 Deleted.

**17.8 Deleted**

**17.9 Deleted.**

### **17.10 Final Payment Statement**

17.10.1 Within 60 (sixty) days of receiving the Completion Certificate under Clause 12.4, the Contractor shall submit to the Authority’s Engineer six copies of a final payment statement (the “**Final Payment Statement**”), with supporting documents, in the form prescribed by the Authority’s Engineer in respect of:

- a) the summary of Contractor’s Stage Payment Statements for Works as submitted in accordance with Clause 17.4;
- b) the amounts received from the Authority against each claim; and
- c) any further sums which the Contractor considers due to it from the Authority.

17.10.2 If the Authority’s Engineer disagrees with or cannot verify any part of the Final Payment Statement, the Contractor shall submit such further information as the Authority’s Engineer may reasonably require.

17.10.3 The Authority’s Engineer shall deliver to the Authority:

- 1) an IPC for those parts of the Final Payment Statement which are not in dispute, along with a list of disputed items which shall then be settled in accordance with the provisions of Article 24; or
- 2) a Final Payment Certificate in accordance with Clause 17.15, if there are no disputed items.

17.10.4 The Authority’s Engineer does not prescribe the form referred to in Clause 17.10.1 within 15 (fifteen) days of the date of issue of the Completion Certificate, the

Contractor shall submit the statement in such form as it deems fit.

### **17.11 Discharge**

Upon submission of the Final Payment Statement under Clause 17.10, the Contractor shall give to the Authority, with a copy to the Authority's Engineer, a written discharge confirming that the total of the Final Payment Statement represents full and final settlement of all monies due to the Contractor in respect of this Agreement for all the Works arising out of this Agreement, except for any monies due to either Party on account of any Defect. Provided that such discharge shall become effective only after the payment due has been made in accordance with the Final Payment Certificate issued pursuant to Clause 17.12.

### **17.12 Final Payment Certificate**

17.12.1 Within 30 (thirty) days after receipt of the Final Payment Statement under Clause 17.10, and the written discharge under Clause 17.11, and there being no disputed items of claim, the Authority's Engineer shall deliver to the Authority, with a copy to the Contractor, a final payment certificate (the "**Final Payment Certificate**") stating the amount which, in the opinion of the Authority's Engineer, is finally due under this Agreement or otherwise. For the avoidance of doubt, before issuing the Final Payment Certificate, the Authority's Engineer shall ascertain from the Authority all amounts previously paid by the Authority, all sums due to the Authority, and the balance, if any, due from the Authority to the Contractor or from the Contractor to the Authority, as the case may be.

17.12.2 The Authority shall, in accordance with the provisions of Clause 17.7, pay to the Contractor the amount which is specified as being finally due in the Final Payment Certificate.

### **17.13 Change in law**

17.13.1 If as a result of Change in Law, the Contractor suffers any additional costs in the execution of the Works or in relation to the performance of its other obligations under this Agreement, the Contractor shall, within 15 (fifteen) days from the date it becomes reasonably aware of such addition in costs, notify the Authority with a copy to the Authority's Engineer of such additional costs due to Change in Law.

17.13.2 If as a result of Change in Law, the Contractor benefits from any reduction in costs for the execution of this Agreement or in accordance with the provisions of this Agreement, either Party shall, within 15 (fifteen) days from the date it becomes reasonably aware of such reduction in costs, notify the other Party with a copy to the Authority's Engineer of such reduction in costs due to Change in Law.

17.13.3 The Authority's Engineer shall, within 15 (fifteen) days from the date of receipt of notice from the Contractor or the Authority, as the case may be, determine any addition or reduction to the Contract Price, as the case may be, due to the Change in Law.

#### **17.14 Correction of Interim Payment Certificates**

The Authority's Engineer may by an Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate issued by the Authority's Engineer.

#### **17.15 Authority's claims**

If the Authority considers itself to be entitled to any payment from the Contractor under any Clause of this Agreement, it shall give notice and particulars to the Contractor 20 (twenty) days before making the recovery from any amount due to the Contractor, and shall take into consideration the representation, if any, made by the Contractor in this behalf, before making such recovery.

#### **17.16 Bonus for early completion**

In the event that the Project Completion Date occurs prior to the Scheduled Completion Date, the Contractor shall be entitled to receive a payment of bonus equivalent to 0.03% (zero point zero three per cent) of the Contract Price for each day by which the Project Completion Date precedes the Scheduled Completion Date, but subject to a maximum of 3% (three per cent) of the Contract Price. Provided, however, that the payment of bonus, if any, shall be made only after the issue of the Completion Certificate. For the avoidance of doubt, the Parties agree that for the purpose of determining the bonus payable hereunder, the Contract Price shall always be deemed to be the amount specified in Clause 17.1.1, and shall exclude any revision thereof for any reason.

## ARTICLE 18

**INSURANCE****18.1 Insurance for Works**

18.1.1 The Contractor shall effect and maintain at its own cost the insurances specified in Schedule-N and as per the requirements under Applicable Laws.

18.1.2 Subject to the provisions of Clause 19.6, the Contractor shall, in accordance with the provisions of this Agreement, be liable to bear the cost of any loss or damage that does not fall within the scope of this Article 18 or cannot be recovered from the insurers.

18.1.3 Save and except as provided in Clause 18.1.4, the Contractor shall fully indemnify, hold harmless and defend the Authority from and against any and all losses, damages, costs, charges and/or claims with respect to:

- I. the death of or injury to any person; or
- II. the loss of or damage to any property,

that may arise out of or in consequence of any breach by the Contractor of this Agreement during the execution of the Works or the remedying of any Defects therein.

18.1.4 Notwithstanding anything in Clause 18.1.3, the Authority shall fully indemnify the Contractor from and against any and all losses, damages, costs, charges, proceedings and/or claims arising out of or with respect to

- a) the use or occupation of land or any part thereof by the Authority;
- b) the damage to property which is the unavoidable result of the execution and completion of the Works, or the remedying of any Defects therein, in accordance with this Agreement; and
- c) the death of or injury to persons or loss of or damage to property resulting from any act or neglect of the Authority, its agents, servants or other contractors, not being employed by the Contractor.

Provided, however, that in the event of any injury or damage as a result of the contributory negligence of the Contractor, the Authority shall be liable to indemnify the Contractor from and against any and all losses, damages, costs,

charges, proceedings and/or claims to the extent as proportionate to the liability of the Authority, its servants or agents or other contractors not associated with the Contractor in such injury or damage.

18.1.5 Without prejudice to the provisions of Clauses 18.1.3 and 18.1.4, the Contractor shall maintain or effect such third party insurances as may be required under Applicable Laws.

18.1.6 The Contractor shall provide to the Authority, within 30 days of the Appointed Date, evidence of professional liability insurance maintained by its Design engineer and/or consultants to cover the risk of professional negligence in the design of Works. The professional liability cover shall be for a sum of not less than [3% (three per cent)] of the Contract Price and shall be maintained until the end of the Defects Liability Period.

## **18.2 Notice to the Authority**

No later than 15 (fifteen) days after the date of this Agreement, the Contractor shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article. Within 15 (fifteen) days of receipt of such notice, the Authority may require the Contractor to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

## **18.3 Evidence of Insurance Cover**

18.3.1 All insurances obtained by the Contractor in accordance with this Article 18 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 10 (ten) days from the Appointed Date, the Contractor shall furnish to the Authority notarized true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty-five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Contractor to the Authority.

18.3.2 The Contractor shall procure and ensure the adequacy of the insurances at all times in accordance with the provisions of this Agreement.

## **18.4 Remedy for failure to insure**

If the Contractor shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, and pay such premia and recover the costs thereof from the Contractor, or in the event of computation of a Termination Payment, treat an

amount equal to the Insurance Cover as deemed to have been received by the Contractor.

#### **18.5 Waiver of subrogation**

All insurance policies in respect of the insurance obtained by the Contractor pursuant to this Article 18 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, Affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

#### **18.6 Contractor's waiver**

The Contractor hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, Affiliates, employees, successors, insurers and underwriters, which the Contractor may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Contractor pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

#### **18.7 Cross liabilities**

Any such insurance maintained or effected in pursuance of this Article 18 shall include a cross liability clause such that the insurance shall apply to the Contractor and to the Authority as separately insured.

#### **18.8 Accident or injury to workmen**

Notwithstanding anything contained in this Agreement, it is hereby expressly agreed between the Parties that the Authority shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the Contractor or Sub-contractor, save and except as for death or injury resulting from any act, omission or default of the Authority, its agents or servants. The Contractor shall indemnify and keep indemnified the Authority from and against all such claims, proceedings, damages, costs, charges, and expenses whatsoever in respect of the above save and except for those acts, omissions or defaults for which the Authority shall be liable.

### **18.9 Insurance against accident to workmen**

The Contractor shall effect and maintain during the Agreement such insurances as may be required to insure the Contractor's personnel and any other persons employed by it on the Project from and against any liability incurred in pursuance of this Article 18 Provided that for the purposes of this Clause 18.9, the Contractor's personnel/any person employed by the Contractor shall include the Sub-contractor and its personnel. Provided further that in respect of any persons employed by any Sub-contractor, the Contractor's obligations to insure as aforesaid under this Clause 18.9 shall be discharged if the Sub-contractor shall have insured against any liability in respect of such persons in such manner that the Authority is indemnified under the policy. The Contractor shall require such Sub-contractor to produce before the Authority, when required, such policy of insurance and the receipt for payment of the current premium within 10 (ten) days of such demand being made by the Authority.

### **18.10 Application of insurance proceeds**

The proceeds from all insurance claims, except for life and injury, shall be applied for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project and the provisions of this Agreement in respect of construction of Works shall apply *mutatis mutandis* to the Works undertaken out of the proceeds of insurance.

### **18.11 Compliance with policy conditions**

The Contractor hereby expressly agrees to fully indemnify the Authority from and against all losses and claims arising from the Contractor's failure to comply with conditions imposed by the insurance policies effected in accordance with this Agreement.

## Part V

### **Force Majeure and Termination**

## ARTICLE 19

**FORCE MAJEURE****19.1 Force Majeure**

As used in this Agreement, the expression “**Force Majeure**” or “**Force Majeure Event**” shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 19.2, 19.3 and 19.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the “**Affected Party**”) of its obligations under this Agreement and which act or event (a) is beyond the reasonable control of the Affected Party, and the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (c) has Material Adverse Effect on the Affected Party.

**19.2 Non-Political Event**

A Non-Political Event shall mean one or more of the following acts or events:

- act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- strikes or boycotts (other than those involving the Contractor, Sub-contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty-four) hours and an aggregate period exceeding 10 (ten) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 19.3;
- any failure or delay of a Sub-contractor but only to the extent caused by another Non-Political Event;
- any judgement or order of any court of competent jurisdiction or statutory authority made against the Contractor in any proceedings for reasons other than (i) failure of the Contractor to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority; or (v) breach of its obligations by the Contractor under its sub-contracts;

- the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- any event or circumstances of a nature analogous to any of the foregoing.

### **19.3 Indirect Political Event**

An Indirect Political Event shall mean one or more of the following acts or events:

- C. an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- D. industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 10 (ten) days in an Accounting Year;
- E. any civil commotion, boycott or political agitation which prevents construction of the Project by the Contractor for an aggregate period exceeding 10 (ten) days in an Accounting Year;
- F. failure of the Authority to permit the Contractor to continue with its Construction Works, with or without modifications, in the event of stoppage of such work after discovery of any geological or archaeological finds;
- G. any failure or delay of a Sub-contractor to the extent caused by any Indirect Political Event;
- H. any Indirect Political Event that causes a Non-Political Event; or
- I. any event or circumstances of a nature analogous to any of the foregoing.

### **19.4 Political Event**

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

- d) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Clause 17.13;
- e) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Contractor or of the Sub-contractors;

- f) unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Contractor or any of the Sub-contractors to perform their respective obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Contractor's or any Sub-contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;
- g) any failure or delay of a Sub-contractor but only to the extent caused by another Political Event; or
- h) any event or circumstances of a nature analogous to any of the foregoing.

## **19.5 Duty to report Force Majeure Event**

19.5.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

- i) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 19 with evidence in support thereof;
- j) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;
- k) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
- l) any other information relevant to the Affected Party's claim.

19.5.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 10 (ten) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

19.5.3 For so long as the Affected Party continues to claim to be affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 19.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

## **19.6 Effect of Force Majeure Event on the Agreement**

19.6.1 Upon the occurrence of any Force Majeure

- a) prior to the Appointed Date, both Parties shall bear their respective Force Majeure costs.
- b) after the Appointed Date, the costs incurred and attributable to such event and directly relating to this Agreement (the “**Force Majeure costs**”) shall be allocated and paid as follows:
- c) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure costs and neither Party shall be required to pay to the other Party any costs thereof;
- d) upon occurrence of an Indirect Political Event, all Force Majeure costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the Contractor, and to the extent Force Majeure costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Contractor for the Force Majeure events; and
- e) upon occurrence of a Political Event, all Force Majeure costs attributable to such Political Event shall be reimbursed by the Authority to the Contractor.

For the avoidance of doubt, Force Majeure costs may include costs directly attributable to the Force Majeure Event, but shall not include debt repayment obligations, if any, of the Contractor.

19.6.2 Save and except as expressly provided in this Article 19, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

19.6.3 Upon the occurrence of any Force Majeure Event during the Construction Period, the Project Completion Schedule for and in respect of the affected Works shall be extended on a day for day basis for such period as performance of the Contractor's obligations is affected on account of the Force Majeure Event or its subsisting effects, as may be determined by the Authority's Engineer.

19.6.4 Force Majeure costs for any event which results in any offsetting compensation being payable to the Contractor by or on behalf of its Sub-contractors shall be reduced by such amounts that are payable to the Contractor by its Sub-contractors.

### **19.7 Termination Notice for Force Majeure Event**

If a Force Majeure Event subsists for a period of 60 (sixty) days or more within a continuous period of 120 (one hundred and twenty) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 19, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

### **19.8 Termination Payment for Force Majeure Event**

19.8.1 In the event of this Agreement being terminated on account of a Non-Political Event, the Termination Payment shall be an amount equal to the sum payable under Clause 21.5.

19.8.2 If Termination is on account of an Indirect Political Event, the Termination Payment shall include:

- any sums due and payable under Clause 21.5; and
- the reasonable cost, as determined by the Authority's Engineer, of the

Plant and Materials procured by the Contractor and transferred to the Authority for use in Construction, only if such Plant and Materials are in conformity with the Specifications and Standards;

19.8.3 If Termination is on account of a Political Event, the Authority shall make a Termination Payment to the Contractor in an amount that would be payable under Clause 21.6.2 as if it were an Authority Default.

### **19.9 Dispute resolution**

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

### **19.10 Excuse from performance of obligations**

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

- ii the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- iii the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
- iv when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

## ARTICLE 20

**SUSPENSION OF CONTRACTOR'S RIGHTS****20.1 Suspension upon Contractor Default**

Upon occurrence of a Contractor Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (a) suspend carrying out of the Works or any part thereof, and (b) carry out such Works itself or authorize any other person to exercise or perform the same on its behalf during such suspension (the “**Suspension**”). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Contractor and may extend up to a period not exceeding 90 (ninety) days from the date of issue of such notice.

**20.2 Authority to act on behalf of Contractor**

During the period of Suspension hereunder, all rights and liabilities vested in the Contractor in accordance with the provisions of this Agreement shall continue to vest in the Contractor and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Contractor under and in accordance with this Agreement shall be deemed to have been done or taken for and on behalf of the Contractor and the Contractor undertakes to indemnify the Authority for all costs incurred during such period. The Contractor hereby licenses and sub-licenses respectively, the Authority or any other person authorized by it under Clause 20.1 to use during Suspension, all Intellectual Property belonging to or licensed to the Contractor with respect to the Project and its design, engineering, construction, and which is used or created by the Contractor in performing its obligations under the Agreement.

**20.3 Revocation of Suspension**

20.3.1 In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 60 (sixty) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Contractor under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Authority may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

20.3.2 Upon the Contractor having cured the Contractor Default within a period not exceeding 60 (sixty) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Contractor under this Agreement.

## 20.4 Termination

20.4.1 At any time during the period of Suspension under this Article 20, the Contractor may by notice require the Authority to revoke the Suspension and issue a Termination Notice. The Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 21 as if it is a Contractor Default under Clause 21.1.

20.4.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 90 (ninety) days from the date of Suspension hereunder, the Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Contractor Default.

## ARTICLE 21

**TERMINATION****21.1 Termination for Contractor Default**

21.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Contractor fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Contractor shall be deemed to be in default of this Agreement (the “**Contractor Default**”), unless the default has occurred as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include the following:

- a) The Contractor fails to provide, extend or replenish, as the case may be, the Performance Security in accordance with this Agreement;
- b) subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 7.3, the Contractor fails to cure, within a Cure Period of 30 (thirty) days, the Contractor Default for which the whole or part of the Performance Security was appropriated;
- c) the Contractor does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule-I, subject to any Time Extension, and continues to be in default for 45 (forty five) days;
- d) the Contractor abandons or manifests intention to abandon the construction of the Project without the prior written consent of the Authority;
- e) the Contractor fails to proceed with the Works in accordance with the provisions of Clause 10.1 or stops Works for 30 (thirty) days without reflecting the same in the current programme and such stoppage has not been authorised by the Authority’s Engineer;
- f) the Project Completion Date does not occur within the period specified in Schedule-I for the Scheduled Completion Date, or any extension thereof;
- g) failure to complete the Punch List items within the periods stipulated therefor in Clause 12.3;

- h) the Contractor fails to rectify any Defect, the non-rectification of which shall have a Material Adverse Effect on the Project, within the time specified in this Agreement or as directed by the Authority's Engineer;
- i) the Contractor subcontracts the Works or any part thereof in violation of this Agreement or assigns any part of the Works without the prior approval of the Authority;
- j) the Contractor creates any Encumbrance in breach of this Agreement;
- k) an execution levied on any of the assets of the Contractor has caused a Material Adverse Effect;
- l) the Contractor is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Contractor or for the whole or material part of its assets that has a material bearing on the Project;
- m) the Contractor has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;
- n) a resolution for winding up of the Contractor is passed, or any petition for winding

up of the Contractor is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Contractor is ordered to be wound up by a court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Contractor are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Contractor under this Agreement; and provided that:

- o) the amalgamated or reconstructed entity has the capability and experience necessary for the performance of its obligations under this Agreement; and
- p) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and has a credit worthiness at least as good as that of the Contractor as

at the Appointed Date;

- q) any representation or warranty of the Contractor herein contained which is, as of the date hereof, found to be materially false or the Contractor is at any time hereafter found to be in breach thereof;
- r) the Contractor submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;
- s) the Contractor has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement;  
or
- t) the Contractor has failed to make any payment to the Authority within the period specified in this Agreement;
- u) the Concessionaire issues a Termination Notice in violation of this Agreement; or
- v) the Contractor commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Project or on the Authority.

21.1.2 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Contractor Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Contractor; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Contractor of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Contractor to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

21.1.3 After termination of this Agreement for Contractor Default, the Authority may complete the Works and/or procure its completion through any other entity. The Authority and such entity may, for this purpose, use any Materials, Plant and equipment, Contractor's documents and other design documents made by or on behalf of the Contractor.

## **21.2 Termination for Authority Default**

21.2.1 In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Default**") unless the default has occurred as a result of any breach of this Agreement by the Contractor or due to Force Majeure. The defaults referred to herein shall include the following:

- a) The Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Contractor;
- b) the Authority has failed to make payment of any amount due and payable to the Contractor within the period specified in this Agreement;
- c) the Authority has failed to provide, within a period of 180 (one hundred and eighty) days from the Appointed Date, the environmental clearances and forest clearances required for construction of the Project;
- d) the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement; or
- e) the Authority's Engineer fails to issue the relevant Interim Payment Certificate within 60 (sixty) days after receiving a statement and supporting documents.

21.2.2 Without prejudice to any other right or remedy which the Contractor may have under this Agreement, upon occurrence of an Authority Default, the Contractor shall be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Contractor shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

### **21.3 Termination for Authority's convenience**

Notwithstanding anything hereinabove, the Authority may terminate this Agreement for its own convenience. The termination shall take effect 30 (thirty) days from the date of notice hereunder and shall be deemed to be termination on account of Authority Default.

### **21.4 Requirements after Termination**

Upon Termination of this Agreement in accordance with the provisions of this Article 21, the Contractor shall comply with and conform to the following:

- a) deliver to the Authority all Plant and Materials which shall have become the property of the Authority under this Article 21;
- b) deliver all relevant records, reports, Intellectual Property and other licences pertaining to the Works, other design documents and in case of Termination occurring after the Provisional Certificate has been issued, the “**as built**” Drawings for the Works;
- c) transfer and/or deliver all Applicable Permits to the Authority to the extent permissible under Applicable Laws; and
- d) vacate the Site within 15 (fifteen) days.

## **21.5 Valuation of Unpaid Works**

21.5.1 Within a period of 45 (forty-five) days after Termination under Clause 21.1, 21.2 or 21.3, as the case may be, has taken effect, the Authority’s Engineer shall proceed in accordance with Clause 16.5 to determine as follows the valuation of unpaid Works (the “**Valuation of Unpaid Works**”):

- i. value of the completed stage of the Works, less payments already made; and
- ii. reasonable value of the partially completed stages of works as on the date of Termination, only if such works conform with the Specifications and Standards.

and shall adjust from the sum thereof (i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement; and (ii) all taxes due to be deducted at source.

21.5.2 The Valuation of Unpaid Works shall be communicated to the Authority, with a copy to the Contractor, within a period of 45 (forty five) days from the date of Termination.

## **21.6 Termination Payment**

21.6.1 Upon Termination on account of Contractor Default under Clause 21.1, the

Authority shall:

- iii. Encash and appropriate the Performance Security or Retention Money, whichever is more, and in the event the Contractor has failed to replenish or extend the Performance Security, claim the amount stipulated in Clause 7.1.1, as agreed pre-determined Damages, if any;
- iv. encash and appropriate the bank guarantee, if any, to the extent of the outstanding Advance Payment and interest thereon; and
- v. pay to the Contractor, by way of Termination Payment, an amount equivalent to the Valuation of Unpaid Works after adjusting any other sums payable or recoverable, as the case may be, in accordance with the provisions of this Agreement,

and shall adjust from the sum thereof (i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement, and (ii) all taxes due to be deducted at source.

21.6.2 Upon Termination on account of an Authority Default under Clause 21.2 or for

Authority's convenience under Clause 21.3, the Authority shall:

- a) return the Performance Security and Retention Money forthwith;
- b) Encash and appropriate the bank guarantee, if any, to the extent of the outstanding Advance Payment, including interest thereon; and
- c) pay to the Contractor, by way of Termination Payment, an amount equal to:
- d) Valuation of Unpaid Works;
- e) the reasonable cost, as determined by the Authority's Engineer, of the Plant and Materials procured by the Contractor and transferred to the Authority for its use, only if such Plant and Materials are in conformity with the Specifications and Standards;
- f) the reasonable cost of temporary works, as determined by the Authority's Engineer; and
- g) 10% (ten percent) of the cost of the Works that are not commenced or not completed, and shall adjust from the sum thereof (i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement, and (ii) all taxes due to be deducted at source.

21.6.3 Termination Payment shall become due and payable to the Contractor within 30 (thirty) days of a demand being made by the Contractor to the Authority with the necessary particulars, after the Valuation of Unpaid Works has been communicated by the Authority's Engineer. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

21.6.4 The Contractor expressly agrees that Termination Payment under this Article 21 shall constitute a full and final settlement of all claims of the Contractor on account of Termination of this Agreement and that it shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

## 21.7 Other rights and obligations of the Parties

Upon Termination for any reason whatsoever

- a) the property and ownership in all Materials, Plant and Works and the Project shall, as between the Contractor and the Authority, vest

in the Authority in whole, free from any and all Encumbrances; provided that the foregoing shall be without prejudice to Clause 21.6;

- b) the risk of loss or damage to any Materials, Plant or Works and the care and custody thereof shall pass from the Contractor to the Authority; and
- c) the Authority shall be entitled to restrain the Contractor and any person claiming through or under the Agreement from entering upon the Site or any part of the Project except for taking possession of materials, stores, implements, construction plants and equipment of the Contractor, which have not been vested in the Authority in accordance with the provisions of this Agreement.

### **21.8 Survival of rights**

Notwithstanding anything to the contrary contained in this Agreement any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or Agreement. All rights and obligations of either Party under this Agreement, including Termination Payments, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

## Part VI

### **Other Provisions**

## ARTICLE 22

**ASSIGNMENT AND CHARGES****22.1 Restrictions on assignment and charges**

This Agreement shall not be assigned by the Contractor to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

**22.2 Hypothecation of Materials or Plant**

Notwithstanding the provisions of Clause 22.1, the Contractor may pledge or hypothecate to its lenders, any Materials or Plant prior to their incorporation in the Works. Further, the Contractor may, by written notice to the Authority, assign its right to receive payments under this Agreement either absolutely or by way of charge, to any person providing financing to the Contractor in connection with the performance of the Contractor's obligations under this Agreement. The Contractor acknowledges that any such assignment by the Contractor shall not relieve the Contractor from any obligations, duty or responsibility under this Agreement. For the avoidance of doubt, all Materials and Plants shall, upon their incorporation into Works, be free from any and all Encumbrances without the Authority being required to make any payment to any person on account of any costs, compensation, expenses and charges for such Materials, Plants and Works.

## ARTICLE 23

**LIABILITY AND INDEMNITY****23.1 General indemnity**

The Contractor shall indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (the “**Authority Indemnified Persons**”) against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Contractor of any of its obligations under this Agreement or from any negligence under the Agreement, including any errors or deficiencies in the design documents, or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Authority Indemnified Persons.

**23.2 Indemnity by the Contractor**

23.2.1 Without limiting the generality of Clause 23.1, the Contractor shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

- a) failure of the Contractor to comply with Applicable Laws and Applicable Permits;
- b) payment of taxes required to be made by the Contractor in respect of the income or other taxes of the Sub-contractors, suppliers and representatives; or
- c) non-payment of amounts due as a result of Materials or services furnished to the Contractor or any of its Sub-contractors which are payable by the Contractor or any of its Sub-contractors.

23.2.2 Without limiting the generality of the provisions of this Article 23, the Contractor shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other Intellectual Property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Contractor or by the Sub-contractors in performing the Contractor’s obligations or in any way incorporated

in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Contractor shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Contractor shall promptly make every reasonable effort to secure for the Authority a license, at no cost to the Authority, authorizing continued use of the infringing work. If the Contractor is unable to secure such license within a reasonable time, the Contractor shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

### **23.3 Notice and contest of claims**

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Agreement (the “**Indemnified Party**”) it shall notify the other Party (the “**Indemnifying Party**”) within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

### **23.4 Defence of claims**

23.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Agreement, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand,

action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

23.4.2 If the Indemnifying Party has exercised its rights under Clause 23.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

23.4.3 If the Indemnifying Party exercises its rights under Clause 23.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

- d) the employment of counsel by such party has been authorised in writing by the Indemnifying Party;
- e) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action;
- f) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or
- g) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
  - 1) that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or
  - 2) that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 23.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party,

and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

**23.5 No consequential claims**

Notwithstanding anything to the contrary contained in this Article 23, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

**23.6 Survival on Termination**

The provisions of this Article 23 shall survive Termination.

## ARTICLE 24

**DISPUTE RESOLUTION****24.1 Dispute resolution**

24.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 24.2.

24.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

**24.2 Conciliation**

In the event of any Dispute between the Parties, either Party may call upon an officer of the Authority, not below the rank of Secretary to the Government or Chief Engineer, as the case may be, or such other person as the Parties may mutually agree upon (the “**Conciliator**”) to conciliate and assist the Parties in arriving at an amicable settlement thereof. Failing conciliation by the Conciliator or without the intervention of the Conciliator, either Party may require such Dispute to be referred to the Secretary or Chief Engineer of the Authority and the Chairman of the Board of Directors of the Contractor for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) business days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) business day period or the Dispute is not amicably settled within 15 (fifteen) business days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) business days of the notice in writing referred to in Clause 24.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 24.3.

**24.3 Arbitration**

24.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 24.2, shall be finally decided by reference to arbitration by an arbitral tribunal constituted in accordance with Clause 24.3.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi or Construction Industry Arbitration Council (CIAC) ,New Delhi (the “**Rules**”), or such other rules as may be mutually agreed

by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The place of such arbitration shall be the capital of the State, and the language of arbitration proceedings shall be English.

The Arbitration shall be in Institutional mode & would not be adhoc, in any case, and the online mode of dispute resolution may also be resorted to as per the latest notification of Ministry of Law & Justice, Government of India.

24.3.2 There shall be an arbitral tribunal comprising three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

24.3.3 Wherever possible or required, On-line dispute resolution mechanism as prescribed

by Ministry of Law vide their notification [http://doj.gov.in/sites/default/files/List%20of%20firm%20with%20profile-](http://doj.gov.in/sites/default/files/List%20of%20firm%20with%20profile-17_1.pdf)

[17\\_1.pdf](http://doj.gov.in/sites/default/files/List%20of%20firm%20with%20profile-17_1.pdf), with subsequent amendments if any, is to be resorted to, in place of the traditional in-situ arbitration procedures. The decision on which system of procedures is to be followed (viz. traditional or on-line) would rest with the Contracting Parties at the time of signing the contract, who may if they so decide, permit the decision to be made by Third Arbitrator (appointed by the two nominated arbitrators).

24.3.4 The arbitral tribunal shall make a reasoned award (the “**Award**”). Any Award made in any arbitration held pursuant to this Article 24 shall be final and binding on the Parties as from the date it is made, and the Contractor and the Authority agree and undertake to carry out such Award without delay.

24.3.5 The Contractor and the Authority agree that an Award may be enforced against the Contractor and/or the Authority, as the case may be, and their respective assets wherever situated.

24.3.6 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

24.3.7 In the event the Party against whom the Award has been granted challenges the Award for any reason in a court of law, it shall make an interim payment to the other Party for an amount equal to 75% (seventy five per cent) of the Award, pending final settlement of the Dispute. The aforesaid amount shall be paid forthwith upon furnishing an irrevocable Bank Guarantee for a sum equal to the aforesaid amount. Upon final settlement of the Dispute, the aforesaid interim payment shall be adjusted and any balance amount due to be paid or returned, as the case may be, shall be paid or returned with interest calculated at the rate of 10% (ten per cent) per annum from the date of interim payment to the date of final settlement of such balance.

**24.4 Adjudication by a tribunal**

In the event of constitution of a statutory tribunal or other forum with powers to adjudicate upon disputes between the Contractor and the Authority, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 24.3, be adjudicated upon by such tribunal or other forum in accordance with Applicable Laws and all references to Dispute Resolution Procedure shall be construed accordingly.

## ARTICLE 25

**MISCELLANEOUS****25.1 Governing law and jurisdiction**

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in the State shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

**25.2 Waiver of immunity**

Each Party unconditionally and irrevocably:

1. agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
2. agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
3. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
4. consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

**25.3 Deleted.****25.4 Waiver**

25.4.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

- a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
- c) shall not affect the validity or enforceability of this Agreement in any manner.

25.4.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder

nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

## **25.5 Liability for review of Documents and Drawings**

Except to the extent expressly provided in this Agreement:

- a) no review, comment or approval by the Authority or the Authority's Engineer of any Document or Drawing submitted by the Contractor nor any observation or inspection of the construction of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Contractor from its obligations, duties and liabilities under this Agreement, Applicable Laws and Applicable Permits; and
- b) the Authority shall not be liable to the Contractor by reason of any review, comment, approval, observation or inspection referred to in

Sub-clause (a) above.

## **25.6 Exclusion of implied warranties etc.**

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

## **25.7 Survival**

25.7.1 Termination shall:

- a) not relieve the Contractor or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and
- b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

25.7.2 All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

## **25.8 Entire Agreement**

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Contractor arising from the Request for Qualification or Request for Proposals and bid submissions, as the case may be, shall be deemed to form part of this Agreement and treated as such.

### **25.9 Severability**

If for any reason whatsoever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

### **25.10 No partnership**

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

### **25.11 Third parties**

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

### **25.12 Successors and assigns**

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

### **25.13 Notices**

Any notice or other communication to be given by any Party to the other

Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- a) in the case of the Contractor, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Contractor may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside the city specified in Sub-clause (b) below may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the person as the Contractor may from time to time designate by notice to the Authority;

Attention:

{Designation:

Address:

Fax No:

Email: }

- b) in the case of the Authority, be given by facsimile or e-mail and by letter delivered by hand and be addressed to the person named below with a copy delivered to the Authority Representative or such other person as the Authority may from time to time designate by notice to the Contractor; provided that if the Contractor does not have an office in the same city as the Authority, it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier;

{Designation

: Address:

Fax No:

Email: }); and

- c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

## 25.14 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

## 25.15 Counterparts

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

## 25.16 Confidentiality

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

## 25.17 Copyright and Intellectual Property rights

25.17.1 As between the Parties, the Contractor shall retain the copyright and other Intellectual Property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor. The Contractor shall be deemed (by signing this Agreement) to give to the Authority a non-terminable transferable non-exclusive royalty-free license to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This license shall:

- (a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- (b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- (c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by this Agreement, including replacements of any computers supplied by the Contractor:

25.17.2 The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Authority for purposes other than those permitted under this Clause 25.17.

25.17.3 As between the Parties, the Authority shall retain the copyright and other Intellectual Property rights in this Agreement and other documents made by (or on

behalf of) the Authority. The Contractor may, at its cost, copy, use, and obtain communication of these documents for the purposes of this Agreement. They shall not, without the Authority's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the contract.

### **25.18 Limitation of Liability**

25.18.1 Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with this Agreement.

25.18.2 The total liability of one Party to the other Party under and in accordance with the provisions of this Agreement, save and except as provided in Articles 21 and 23, shall not exceed the Contract Price. For the avoidance of doubt, this Clause shall not limit the liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

## ARTICLE 26

**DEFINITIONS****26.1 Definitions**

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

“**Accounting Year**” means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

“**Advance Payment**” shall have the meaning as set forth in Clause 17.2.1;

“**Affected Party**” shall have the meaning as set forth in Clause 19.1;

“**Affiliate**” means, in relation to either Party {and/or Members}, a person who controls, is controlled by, or is under the common control with such Party {or Member} (as used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

“**Agreement**” means this Agreement, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;

“**Applicable Laws**” means all laws, brought into force and effect by GOI or the State Government(s) including rules, regulations and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

“**Applicable Permits**” means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction of the Project during the subsistence of this Agreement;

“**Appointed Date**” means date of this Agreement.

“**Arbitration Act**” means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

“**Authority**” shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

“**Authority Default**” shall have the meaning as set forth in Clause 21.2.1;

“**Authority’s Engineer**” shall have the meaning as set forth in Clause 16.1.1;

“**Authority Representative**” means such person or persons as may be authorised in writing by the Authority to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement;

“**Bank**” means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore) or any other bank acceptable to the Authority;

“**Bank Rate**” means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect;

“**Base Date**” means the last date of that calendar month, which date precedes the Bid Due Date by at least 28 (twenty eight) days;

“**Bid**” means the documents in their entirety comprised in the bid submitted by the [selected bidder/Joint Venture] in response to the Request for Proposals in accordance with the provisions thereof and “**Bids**” shall mean the bids submitted by any and all pre-qualified bidders;

“**Bid Security**” means the bid security provided by the Contractor to the Authority in accordance with the Request for Proposals, and which is to remain in force until substituted by the Performance Security;

“**CPI (IW)**” means the Consumer Price Index for Industrial Workers as published by the Labour Bureau, Government of India and shall include any index which substitutes the CPI (IW), and any reference to CPI (IW) shall, unless the context otherwise requires, be construed as a reference to the CPI (IW) published for the period ending with the preceding month, save and except that for the purposes of annual revision of the Fixed Charge in accordance with the provisions of Clause 25.3, the revision due on April 1 of any year shall be computed with reference to CPI (IW) as on January 31 of that year;

“**Change in Law**” means the occurrence of any of the following after the

Base Date:

- i. the enactment of any new Indian law;
- ii. the repeal, modification or re-enactment of any existing Indian law;
- iii. the commencement of any Indian law which has not entered into effect until the Base Date;
- iv. a change in the interpretation or application of any Indian law by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the Base Date; or
- v. any change in the rates of any of the Taxes or royalties that have a direct effect on the Project;

“**Change of Scope**” shall have the meaning as set forth in Article 13; “**Change of Scope Notice**” shall have the meaning as set forth in Clause 13.2.1;

“**Change of Scope Order**” shall have the meaning as set forth in Clause 13.2.4;

“**Completion Certificate**” shall have the meaning as set forth in Clause 12.4.1;

“**Joint Venture**” means the Joint Venture of entities which have formed a joint venture for implementation of this Project;

“**Construction**” shall have the meaning as set forth in Clause 1.2.1 (f);

“**Construction Period**” means the period commencing from the Appointed Date and ending on the date of the Completion Certificate;

“**Contract Price**” means the amount as specified in Clause 17.1.1;

“**Contractor**” shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

“**Contractor Default**” shall have the meaning as set forth in Clause 21.1.1;

“**Cure Period**” means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

- commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
- not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and

- not in any way be extended by any period of Suspension under this Agreement;

provided that if the cure of any breach by the Contractor requires any reasonable action by the Contractor that must be approved by the Authority or the Authority's Engineer hereunder, the applicable Cure Period shall be extended by the period taken by the Authority or the Authority's

Engineer to accord their approval;

“**Damages**” shall have the meaning as set forth in paragraph of Clause 1.2.1;

“**Defect**” means any defect or deficiency in Construction of the Works or any part thereof, which does not conform with the Specifications and Standards;

“**Defects Liability Period**” shall have the meaning as set forth in Clause 15.1.1;

“**Dispute**” shall have the meaning as set forth in Clause 24.1.1;

“**Dispute Resolution Procedure**” means the procedure for resolution of Disputes as set forth in Article 24;

“**Drawings**” means all of the drawings, calculations and documents pertaining to the Project as set forth in Schedule-H, and shall include ‘as built’ drawings of the Project;

“**Document**” or “**Documentation**” means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

“**Emergency**” means a condition or situation that is likely to endanger the safety or security of the individuals on or about the Project, including Users thereof, or which poses an immediate threat of material damage to the Works or any of the Project Assets;

“**Encumbrances**” means, in relation to the Project, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, where applicable herein but excluding utilities referred to in Clause 9.1;

“**EPC**” means engineering, procurement and construction;

“**Final Payment Certificate**” shall have the meaning as set forth in Clause 17.12.1;

“**Final Payment Statement**” shall have the meaning as set forth in Clause 17.10.1;

**Force Majeure**” or **“Force Majeure Event”** shall have the meaning ascribed to it in Clause 19.1;

**“GAD”** or **“General Arrangement Drawings”** shall have the meaning as set forth in Clause 4.1.3 (b);

**“GOI”** or **“Government”** means the Government of India;

**“Good Industry Practice”** means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced contractor engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Contractor in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

**“Government Instrumentality”** means any department, division or sub-division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body, including panchayat, under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Agreement;

**“Indemnified Party”** means the Party entitled to the benefit of an indemnity pursuant to Article 23;

**“Indemnifying Party”** means the Party obligated to indemnify the other Party pursuant to Article 23;

**“Indirect Political Event”** shall have the meaning as set forth in Clause 19.3;

**“Insurance Cover”** means the aggregate of the maximum sums insured under the insurances taken out by the Contractor pursuant to Article 18, and includes all insurances required to be taken out by the Contractor under Clauses 18.1 and 18.9 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

**“Intellectual Property”** means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programmes and manuals, drawings, copyright (including rights in computer software), database rights, semi-conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

“**Interim Payment Certificate**” or “**IPC**” means the interim payment certificate issued by the Authority’s Engineer for payment to the Contractor in respect of Contractor’s claims for payment raised in accordance with the provisions of this Agreement;

“**LOA**” or “**Letter of Acceptance**” means the letter of acceptance referred to in Recital (D);

“**Lead Member**” shall, in the case of a Joint Venture, mean the member of such Joint Venture who shall have the authority to bind the Contractor and each member of the Joint Venture; and shall be deemed to be the Contractor for the purposes of this Agreement;

“**Manuals**” shall mean the manuals;

“**Material Adverse Effect**” means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

“**Materials**” are all the supplies used by the Contractor for incorporation in the Works of the Project;

“**Non-Political Event**” shall have the meaning as set forth in Clause 19.2;

“**Parties**” means the parties to this Agreement collectively and “**Party**” shall mean any of the parties to this Agreement individually;

“**Performance Security**” shall have the meaning as set forth in Clause 7.1.1;

“**Plant**” means the apparatus and machinery intended to form or forming part of the Works;

“**Political Event**” shall have the meaning as set forth in Clause 19.4;

“**Programme**” shall have the meaning as set forth in Clause 10.1.3;

“**Project**” means the construction of the Project in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project;

“**Project Assets**” means all physical and other assets relating to (a) tangible assets such as civil works and equipment including [foundations, embankments, pavements, road surface, interchanges, bridges, culverts, road over-bridges, drainage works, traffic signals, sign boards, kilometre-stones, electrical systems, communication systems, rest areas, relief centres, maintenance depots and administrative offices]; and (b) Project Facilities situated on the Site;

“**Project Completion Date**” means the date on which the last Provisional Certificate is issued;

“**Project Completion Schedule**” means the progressive Project Milestones set forth in Schedule-I for completion of the Project on or before the Scheduled Completion Date;

“**Project Facilities**” means all the amenities and facilities to be constructed on the Site,

“**Project Milestone**” means the project milestone as set forth in Schedule-I and includes the Scheduled Completion Date;

“**Proof Consultant**” shall have the meaning as set forth in Clause 10.2.2;

“**Provisional Certificate**” shall have the meaning as set forth in Clause 12.2.1;

“**Punch List**” shall have the meaning as set forth in Clause 12.2.1;

“**Quality Assurance Plan**” or “**QAP**” shall have the meaning as set forth in Clause 11.2.1;

“**Re.**”, “**Rs.**” or “**Rupees**” or “**Indian Rupees**” means the lawful currency of the Republic of India;

“**Request for Proposals**” or “**RFP**” shall have the meaning as set forth in Recital (C);

“**Retention Money**” shall have the meaning as set forth in Clause 7.5.1;

“**Safety Consultant**” shall have the meaning as set forth in Clause 10.1.5;

“**Scheduled Completion Date**” shall be the date as set forth in Clause 10.3.1;

“**Scope of the Project**” shall have the meaning as set forth in Clause 2.1;

“**Section**” means a part of the Project;

“**Site**” shall have the meaning as set forth in Clause 8.1;

“**Specifications and Standards**” means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project and any modifications thereof, or additions thereto, as included in the design and engineering for the Project submitted by the Contractor to, and expressly approved by, the Authority;

“**Stage Payment Statement**” shall have the meaning as set forth in Clause 17.4;

“**State**” means the State or the Union Territory, as the case may be, in which the headquarters of the Authority are situate and “**State Government**” means the government of that State or Union Territory;

“**Structures**” means an elevated [road or a flyover], as the case may be;

“**Sub-contractor**” means any person or persons to whom a part of the Works has been subcontracted by the Contractor and the permitted legal successors in title to such person, but not an assignee to such person;

“**Suspension**” shall have the meaning as set forth in Clause 20.1;

“**Taxes**” means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, Materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

“**Termination**” means the expiry or termination of this Agreement;

“**Termination Notice**” means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

“**Termination Payment**” means the amount payable by either Party to the other upon Termination in accordance with Article 21;

“**Terms of Reference**” or “**TOR**” shall have the meaning as set forth in Clause 16.2.1;

“**Tests**” means the tests set forth in Schedule-J to determine the completion of Works in accordance with the provisions of this Agreement;

“**Time Extension**” shall have the meaning as set forth in Clause 10.4.1;

“**User**” means a person who uses or intends to use the Project or any part thereof in accordance with the provision of this Agreement and Applicable Laws;

“**Valuation of Unpaid works**” shall have the meaning as set forth in Clause 21.5.1;

“**WPI**” means the wholesale price index for various commodities as published by the Ministry of Commerce and Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the WPI published for the period ending with the preceding month; and

“**Works**” means all works including survey and investigation, design, engineering, procurement, construction, Plant, Materials, temporary works and other things necessary to complete the Project in accordance with this Agreement.

**IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.**

SIGNED, SEALED AND  
DELIVERED

SIGNED, SEALED AN  
DELIVERED

For and on behalf of

For and on behalf of

[THE AUTHORITY] by:

THE CONTRACTOR by:

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

In the presence of:

1.

2.

{ COUNTERSIGNED and accepted by:

Name and particulars of other members of the Joint Venture }

## **Schedules**

## SCHEDULE – A

*(See Clauses 2.1 and 8.1)*

**SITE OF THE PROJECT****1 The Site**

- 1.1 Site of the Project shall include the land.
- 1.2 The dates of providing the land to the Contractor within 15 days of agreement.
- 1.3 An inventory of the Site including the land, building, trees and any other immovable property on, or attached to, the Site shall be prepared jointly by the Authority Representative and the Contractor, and such inventory shall form part of the memorandum referred to in Clause 8.2.1 of this Agreement.
- 1.4 The alignment plans of the Project are specified in Annex-III. In the case of sections where no modification in the existing alignment of the Project is contemplated, the alignment plan has not been provided. Alignment plans have only been given for sections where the existing alignment is proposed to be modified.
- 1.5 The status of the environment clearances obtained or awaited is given in Annex IV.

SCHEDULE – F

(See Clauses 7.1.1, 7.5.3 and 19.2)

**FORM OF BANK GUARANTEE**

Annex-I

(See Clause 7.1.1)

**Form of Guarantee for Performance Security**

.....,

.....,

.....,

**WHEREAS:**

a) .....(insert name and address of the contractor) (hereinafter called the “**Contractor**”) and (insert name and address of the project authority), (hereinafter called the “**Authority**”) have entered into an agreement (hereinafter called the “**Agreement**”) for the construction of the .....section of State Highway No. ....on Engineering, Procurement and Construction (the “**EPC**”) basis, subject to and in accordance with the provisions of the Agreement

b) The Agreement requires the Contractor to furnish a Performance Security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Construction Period and Defects Liability

Period (as defined in the Agreement) in a sum of Rs..... cr. (Rupees

..... crore) (the “**Guarantee Amount**”).

c) We, ..... through our branch at ..... (the “**Bank**”) have agreed to furnish this bank guarantee (*hereinafter called the “**Guarantee**”*) by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees and undertakes to pay to the Authority upon occurrence of any failure or default in the due and faithful performance of all or any of the Contractor's obligations, under and in accordance with the provisions of the Agreement during the {Construction Period/ Defects Liability Period} on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an officer not below the rank of a Chief Engineer of the Authority, that the Contractor has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Agreement and its decision that the Contractor is in default shall be final and binding on the Bank, notwithstanding any differences between the Authority and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Contractor for any reason whatsoever.
3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.
5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Contractor contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Contractor, and either to enforce or

forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfillment, compliance and/or performance of all or any of the obligations of the Contractor under the Agreement.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
8. The Guarantee shall cease to be in force and effect on .....\$. Unless a demand or claim under this Guarantee is made in writing before expiry of the Guarantee, the Bank shall be discharged from its liabilities hereunder.
9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorized to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for up to the date specified in paragraph 8 above or until it is released earlier by the Authority pursuant to the provisions of the Agreement

Signed and sealed this ..... day of ....., 20..... at .....

SIGNED, SEALED AND

DELIVERED For and on behalf of the

Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

- & The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
  
- & The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.

## Annex – II

(Schedule - F)

(See Clause 7.5.3)

**Form of Guarantee for Withdrawal of Retention Money**

.....,

.....,

.....,

**WHEREAS:**

1. ....(insert name and address of the contractor) (hereinafter called the “**Contractor**”) has executed an agreement (hereinafter called the “**Agreement**”) with the (insert name and address of the project authority), (hereinafter called the “**Authority**”) for the construction of the ICCB Building. .... on Engineering, Procurement and Construction (the “**EPC**”) basis, subject to and in accordance with the provisions of the Agreement.
2. In accordance with Clause 7.5.3 of the Agreement, the Contractor may withdraw the retention money (hereinafter called the “**Retention Money**”) after furnishing to the Authority a bank guarantee for an amount equal to the proposed withdrawal.
3. We, ..... through our branch at ..... (the “**Bank**”) have agreed to furnish this bank guarantee (hereinafter called the “**Guarantee**”) for the amount of Rs. .... cr. (Rs. .... crore) (the “**Guarantee Amount**”).

NOW, THEREFORE, the Bank hereby unconditionally and irrevocably guarantees and affirms as follows:

4. The Bank hereby unconditionally and irrevocably undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
5. A letter from the Authority, under the hand of an officer not below the rank of a Chief Engineer of the Authority, that the Contractor has committed default in the due and faithful performance of all or any of its obligations for under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Agreement and its decision that the Contractor is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Contractor for any reason whatsoever.
6. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
7. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.
8. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Retention Money and any of the rights and powers exercisable by the Authority against the Contractor, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the

liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

9. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Retention Money.
10. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
11. The Guarantee shall cease to be in force and effect 90 (ninety) days after the date of the Completion Certificate specified in Clause 12.4 of the Agreement.
12. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
13. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
14. This Guarantee shall come into force with immediate effect and shall remain in force and effect up to the date specified in paragraph 8 above or until it is released earlier by the Authority pursuant to the provisions of the Agreement.  
Signed and sealed this ..... day of ....., 20..... at .....

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- (ii) The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.

Annex – III

(Schedule - F)

(See Clause 19.2)

**Form of Guarantee for Advance Payment**

.....,  
.....,  
.....,

**WHEREAS:**

(A) .....(insert name and address of the contractor) (hereinafter called the “**Contractor**” has executed an agreement (hereinafter called the “**Agreement**”) with the (insert name and address of the project authority), (hereinafter called the “**Authority**”) for the construction of the

..... section of State Highway No. .... on Engineering, Procurement and Construction (the “**EPC**”) basis, subject to and in accordance with the provisions of the Agreement

(B) In accordance with Clause 19.2 of the Agreement, the Authority shall make to the Contractor an interest free advance payment (herein after called “**Advance Payment**”) equal to 10% (ten per cent) of the Contract Price; and that the Advance Payment shall be made in three instalments subject to the Contractor furnishing an irrevocable and unconditional guarantee by a scheduled bank for

an amount equivalent to 110% (one hundred and ten per cent) of such instalment to remain effective till the complete and full repayment of the instalment of the Advance Payment as security for compliance with its obligations in accordance with the Agreement. The amount of {first/second/third} instalment of the Advance

Payment is Rs. .... cr. (Rupees .....

crore) and the amount of this Guarantee is Rs. .... cr. (Rupees

..... crore)(the “**Guarantee Amount**”)<sup>§</sup>.

- (C) We, ..... through our branch at ..... (the “**Bank**”) have agreed to furnish this bank guarantee (*hereinafter called the* “**Guarantee**”) for the Guarantee Amount.

---

<sup>§</sup> The Guarantee Amount should be equivalent to 110% of the value of the applicable instalment.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful repayment on time of the aforesaid instalment of the Advance Payment under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an officer not below the rank of a Chief Engineer of the Authority, that the Contractor has committed default in the due and faithful performance of all or any of its obligations for the repayment of the instalment of the Advance Payment under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Agreement and its decision that the Contractor is in default shall be final and binding on the Bank, notwithstanding any differences between the Authority and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Contractor for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.
5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Advance Payment or to extend the time or period of its repayment or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Contractor, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Advance Payment.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
8. The Guarantee shall cease to be in force and effect on .....<sup>\$</sup> unless a demand or claim under this Guarantee is made in writing on or before the aforesaid date, the Bank shall be discharged from its liabilities hereunder.
9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorized to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in providing such notice when given by post it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
- m) This Guarantee shall come into force with immediate effect and shall remain in force and effect up to the date specified in paragraph 8 above or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed this ..... day of ....., 20..... at .....

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

- f) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- g) The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.

## SCHEDULE – H

*(See Clause 10.2.4)*

**DRAWINGS****a) Drawings**

In compliance of the obligations set forth in Clause 10.2 of this Agreement, the Contractor shall furnish to the Authority's Engineer, free of cost, all

Drawings listed in Annex-I of this Schedule-H.

**b) Additional Drawings**

If the Authority's Engineer determines that for discharging its duties and functions under this Agreement, it requires any drawings other than those listed in Annex-I, it may by notice require the Contractor to prepare and furnish such drawings forthwith. Upon receiving a requisition to this effect, the

Contractor shall promptly prepare and furnish such drawings to the Authority's

Engineer, as if such drawings formed part of Annex-I of this Schedule-H.

Annex - I

*(Schedule - H)*

**List of Drawings**

**[Note:** The Authority will be informed at the time of Agreement, however all the drawing related to building (GFC) shall be submitted by the bidder]

SCHEDULE – I

(See Clause 10.3.2)

**PROJECT COMPLETION SCHEDULE**

**1. Project Completion Schedule**

During Construction period, the Contractor shall comply with the requirements set forth in this Schedule-I for each of the Project Milestones and the Scheduled Completion Date. Within 15 (fifteen) days of the date of each Project Milestone, the Contractor shall notify the Authority of such compliance along with necessary particulars thereof.

**2.0 Project Milestones:**

<p><b>Milestone Number and Description of</b>  <b>Each Milestone</b></p>	<p><b>Payment</b>  <b>%age</b></p>	<p><b>Cumulative</b>  <b>Payment</b>  <b>%</b></p>	<p><b>to be</b>  <b>achieved</b>  <b>with</b>  <b>15 months</b>  <b>completion</b></p>
<p>1<sup>st</sup> a) Preparation, vetting &amp; approval of  design &amp; drawings.</p>			<p>1 Months</p>
<p>b) Completion of Foundation works and  R.C.C and/or Masonry work up to</p>	<p>10</p>	<p>10</p>	<p>3 Months</p>

Plinth Level complete in all respect.			
2nd Completion of R.C.C. frame and/or masonry work in walls etc. Payment will be divided on pro-rata basis of number of roof slabs if required.	30	40	9 Months
3rd Internal Flooring including skirting, dado in all type of rooms, passage and stairs. Payment will be divided on pro-rata basis of number of floor slabs if required.	7	47	10 Months
4 <sup>th</sup> Providing/Fixing Door Shutters, Balcony railing, S/C railing window grills and other steel work along with fittings	7	54	11 Months
5 <sup>th</sup> Internal water supply, Sanitary Work & Electrification works	6	60	12 Months
6 <sup>th</sup>	10	70	13 Months

Internal & external Painting			
7 <sup>th</sup> External campus Water supply, Storm water Drain, Sewerage i/c covers, Pathways, roads, Parks etc to complete in all respect.	10	80	14 Months
Boundary wall with necessary gate, Horticulture work i/c plantation and landscaping i/c water Supply etc.	5	85	14 Months
8 <sup>th</sup> Completion of all remaining items of work i/c handing over of flats defect free in all respects and testing of all services to the satisfaction of engineer-in-charge and handing over of services BSCL including external electrification and street lighting etc to complete.	7	92	15 Months
Modifications/alterations (as per the monitoring agency) and after handing	5	97	15 Months

over the DUs to BSCCL			
9 <sup>TH</sup>	3	100	
After Defect Liability Period			

***Payment Certificates***

The Contractor shall submit to the Engineer milestone bills of the estimated value of the work completed less the cumulative amount certified previously.

The Engineer shall check the Contractor’s milestone bills within 14 days and certify the amount to be paid to the Contractor.

The value of work executed shall be determined by the Engineer.

**. Scheduled Completion Date**

- 5.1 The Scheduled Completion Date shall be the 15 months from the Appointed Date.
- 5.2 On or before the Scheduled Completion Date, the Contractor shall have completed construction in accordance with this Agreement.

**a) Extension of time**

Upon extension of any or all of the aforesaid Project Milestones or the Scheduled Completion Date, as the case may be, under and in accordance with the provisions of this Agreement, the Project Completion Schedule shall be deemed to have been amended accordingly.

## SCHEDULE – J

(See Clause 12.1.2)

**TESTS ON COMPLETION<sup>18</sup>****1 Schedule for Tests**

- 1.1 The Contractor shall, no later than 30 (thirty) days prior to the likely completion of construction, notify the Authority's Engineer and the Authority of its intent to subject the Project to Tests, and no later than 10 (ten) days prior to the actual date of Tests, furnish to the Authority's Engineer and the Authority detailed inventory and particulars of all works and equipment forming part of Works.
- 1.2 The Contractor shall notify the Authority's Engineer of its readiness to subject the Project Highway to Tests at any time after 10 (ten) days from the date of such notice, and upon receipt of such notice, the Authority's Engineer shall, in consultation with the Contractor, determine the date and time for each Test and notify the same to the Authority who may designate its representative to witness the Tests. The Authority's Engineer shall thereupon conduct the Tests itself or cause any of the Tests to be conducted in accordance with Article 12 and this Schedule-J.

**2 Tests**

- 2.1 Visual and physical test: The Authority's Engineer shall conduct a visual and physical check of construction to determine that all works and equipment forming part thereof conform to the provisions of this Agreement. The physical tests shall include [\*\*\*].
- 2.2 Riding quality test: Riding quality of each lane of the carriageway shall be checked with the help of a calibrated bump integrator and the maximum permissible roughness for purposes of this Test shall be [2,000 (two thousand)] mm for each kilometer.
- 2.3 Deleted

- 2.4 Other tests: The Authority's Engineer may require the Contractor to carry out or cause to be carried additional tests, in accordance with Good Industry Practice, for determining the compliance of the Project with Specifications and Standards.
- 2.5 Environmental audit: The Authority's Engineer shall carry out a check to determine conformity of the Project with the environmental requirements set forth in Applicable Laws and Applicable Permits.
- 2.6 Safety Audit: The Authority's Engineer shall carry out, or cause to be carried out, a safety audit to determine conformity of the Project with the safety requirements and Good Industry Practice.

**i. Agency for conducting Tests**

All Tests set forth in this Schedule-J shall be conducted by the Authority's

Engineer or such other agency or person as it may specify in consultation with the Authority.

**ii. Completion Certificate**

Upon successful completion of Tests, the Authority's Engineer shall issue the Completion Certificate in accordance with the provisions of Article 12.

SCHEDULE – K

(See Clause 12.2 and 12.4)

**PROVISIONAL CERTIFICATE**

- 1) I/We, ..... (Name of the Authority’s Engineer), acting as the Authority’s Engineer, under and in accordance with the Agreement dated ..... (the “**Agreement**”), for construction of the ..... section (km .....to km .....) of State Highway No. .... (the “**Project**”) on Engineering, Procurement and Construction (EPC) basis through .....

(Name of Contractor), hereby certify that the Tests in accordance with Article 12 of the Agreement have been undertaken to determine compliance of the Project with the provisions of the Agreement.

- 2) Works that are incomplete on account of Time Extension have been specified in the Punch List appended hereto, and the Contractor has agreed and accepted that it shall complete all such works in the time and manner set forth in the Agreement. In addition, certain minor works are incomplete and these are not likely to cause material inconvenience to the Users of the Project Highway or affect their safety. The Contractor has agreed and accepted that as a condition of this Provisional Certificate, it shall complete such minor works within 30 (thirty) days hereof. These minor works have also been specified in the aforesaid Punch List.
- 3) In view of the foregoing, I/We am/are satisfied that the Project from km ..... to km .....can be safely and reliably placed in service of the Users thereof, and in terms of the Agreement, the Project is hereby provisionally declared fit for entry into operation on this the ..... day of ..... 20.....

ACCEPTED, SIGNED, SEALED

SIGNED, SEALED AND

AND DELIVERED

DELIVERED

For and on behalf of

For and on behalf of

CONTRACTOR by:

AUTHORITY's ENGINEER by:

(Signature)

(Signature)

(Name and Designation)

(Name and Designation)

(Address)

(Address)

### COMPLETION CERTIFICATE

a) I/We, ..... (Name of the Authority’s Engineer), acting as the Authority’s Engineer, under and in accordance with the Agreement dated .....

(the “**Agreement**”), for construction of the ..... section (km ..... to km

.....) of State Highway No. .... (the “**Project Highway**”) on Engineering,

Procurement and Construction (EPC) basis through .....

(Name of Contractor), hereby certify that the Tests in accordance with Article 12 of the Agreement have been successfully undertaken to determine compliance of the Highway with the provisions of the Agreement, and I/We am/are satisfied that the Project Highway can be safely and reliably placed in service of the Users thereof.

b) It is certified that, in terms of the aforesaid Agreement, all works forming part of Highway have been completed, and the Project Highway is hereby declared fit for entry into operation on this the ..... day of ..... 20.....

SIGNED, SEALED AND

DELIVERED For and on behalf of

the Authority’s Engineer by:

(Signature)

(Name)

(Designation)

(Address)

## SCHEDULE – L

*(See Clause 18.1.1)*

**SELECTION OF AUTHORITY’S ENGINEER****1.0 Selection of Authority’s Engineer**

- 1.1 The provisions of the Model Request for Proposals for Selection of Technical Consultants, issued by the Ministry of Finance, Government of India vide OM 24(23)/PF-II/2008 dated 21, May 2009, or any substitute thereof shall apply for selection of an experienced firm to discharge the functions and duties of an Authority’s Engineer. Provided, however, that no entity which is owned or controlled by the Authority shall be eligible for appointment as the Authority’s Engineer hereunder.
- 1.2 In the event of termination of the Technical Consultants appointed in accordance with the provisions of Paragraph 1.1, the Authority shall appoint another firm of Technical Consultants forthwith and may engage a government-owned entity in accordance with the provisions of Paragraph 3 of this Schedule-L.

**2.0 Terms of Reference**

The Terms of Reference for the Authority’s Engineer (the “**TOR**”) shall substantially conform with Annex 1 to this Schedule L.

**3.0 Appointment of Government entity as Authority’s Engineer**

Notwithstanding anything to the contrary contained in this Schedule, the Authority may in its discretion appoint a government-owned entity as the Authority’s Engineer; provided that such entity shall be a body corporate having as one of its primary functions the provision of consulting, advisory and supervisory services for engineering projects; provided further that a government-owned entity which is owned or controlled by the Authority shall not be eligible for appointment as Authority’s Engineer.

## Annex – I

(Schedule - L)

### Terms of reference for Authority’s Engineer<sup>19</sup>

#### 1 Scope

1.1 These Terms of Reference (the “**TOR**”) for the Authority’s Engineer are being specified pursuant to the EPC Agreement dated ..... (the “**Agreement**), which

has been entered into between the (insert name and address of the Authority) (the “**Authority**”) and ..... (the “**Contractor**”) for construction of ICCB Building on Engineering, Procurement, Construction (EPC) basis, and a copy of

which is annexed hereto and marked as Annex-A to form part of this TOR.

1.2 The TOR shall apply to construction of the Project .

#### 2 Definitions and interpretation

2.1 The words and expressions beginning with or in capital letters and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.

2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.

2.3 The rules of interpretation contained in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, *mutatis mutandis*, to this TOR.

#### 3.0 General

3.1 The Authority’s Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

3.2 The Authority’s Engineer shall perform the duties and exercise the authority in accordance with the provisions of this Agreement, but subject to obtaining prior written approval of the Authority before determining:

a) any Time Extension;

- b) any additional cost to be paid by the Authority to the Contractor;
  - c) the Termination Payment; or
  - d) any other matter which is not specified in (a), (b) or (c) above and which creates an obligation or liability on either Party for a sum exceeding Rs. 5,00,000 (Rs. five lakh).
- 3.3 The Authority's Engineer shall submit regular periodic reports, at least once every month, to the Authority in respect of its duties and functions under this Agreement. Such reports shall be submitted by the Authority's Engineer within 10 (ten) days of the beginning of every month.
- 3.4 The Authority's Engineer shall inform the Contractor of any delegation of its duties and responsibilities to its suitably qualified and experienced personnel; provided, however, that it shall not delegate the authority to refer any matter for the Authority's prior approval in accordance with the provisions of Clause 18.2.
- 3.5 The Authority's Engineer shall aid and advise the Authority on any proposal for Change of Scope under Article 13.
- 3.6 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Authority's Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

#### **4.0 Construction Period**

- 4.1 During the Construction Period, the Authority's Engineer shall review the Drawings furnished by the Contractor along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys, and the recommendations of the Safety Consultant in accordance with the provisions of Clause 10.1.6. The Authority's Engineer shall complete such review and send its observations to the Authority and the Contractor within 15 (fifteen) days of receipt of such Drawings; provided.
- 4.2 The Authority's Engineer shall review any revised Drawings sent to it by the Contractor and furnish its comments within 10 (ten) days of receiving such Drawings.
- 4.3 The Authority's Engineer shall review the Quality Assurance Plan submitted by the Contractor and shall convey its comments to the Contractor within a period of 21 (twenty-one) days stating the modifications, if any, required thereto.
- 4.4 The Authority's Engineer shall complete the review of the methodology proposed to be adopted by the Contractor for executing the Works, and convey its comments

to the Contractor within a period of 10 (ten) days from the date of receipt of the proposed methodology from the Contractor.

- 4.5 The Authority's Engineer shall grant written approval to the Contractor, where necessary, for interruption and diversion of the flow of traffic in the existing lane(s) of the Project for purposes of maintenance during the Construction Period in accordance with the provisions of Clause 10.4.
- 4.6 The Authority's Engineer shall review the monthly progress report furnished by the Contractor and send its comments thereon to the Authority and the Contractor within 7 (seven) days of receipt of such report.
- 4.7 The Authority's Engineer shall inspect the Construction Works and the Project and shall submit a monthly Inspection Report bringing out the results of inspections and the remedial action taken by the Contractor in respect of Defects or deficiencies. In particular, the Authority's Engineer shall include in its Inspection Report, the compliance of the recommendations made by the Safety Consultant.
- 4.8 The Authority's Engineer shall conduct the pre-construction review of manufacturer's test reports and standard samples of manufactured Materials, and such other Materials as the Authority's Engineer may require.
- 4.9 For determining that the Works conform to Specifications and Standards, the Authority's Engineer shall require the Contractor to carry out, or cause to be carried out, tests at such time and frequency and in such manner as specified in the Agreement and in accordance with Good Industry Practice for quality assurance.
- 4.10 The Authority's Engineer shall test check at least 20 (twenty) percent of the quantity or number of tests prescribed for each category or type of test for quality control by the Contractor.
- 4.11 The timing of tests referred to in Paragraph 4.9, and the criteria for acceptance/rejection of their results shall be determined by the Authority's Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Contractor for its own quality assurance in accordance with Good Industry Practice.
- 4.12 In the event that results of any tests conducted under Clause 11.10 establish any Defects or deficiencies in the Works, the Authority's Engineer shall require the Contractor to carry out remedial measures.
- 4.13 The Authority's Engineer may instruct the Contractor to execute any work which is urgently required for the safety of the Highway, whether because of an accident, unforeseeable event or otherwise; provided that in case of any work required on account of a Force Majeure Event, the provisions of Clause 21.6 shall apply.

- 4.14 In the event that the Contractor fails to achieve any of the Milestones, the Authority's Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Authority's Engineer shall determine that completion of the Project is not feasible within the time specified in the Agreement, it shall require the Contractor to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which the Project Completion Date shall be achieved. Upon receipt of a report from the Contractor, the Authority's Engineer shall review the same and send its comments to the Authority and the Contractor forthwith.
- 4.15 The Authority's Engineer shall obtain from the Contractor a copy of all the Contractor's quality control records and documents before the Completion Certificate is issued pursuant to Clause 12.4.
- 4.16 Authority's Engineer may recommend to the Authority suspension of the whole or part of the Works if the work threatens the safety of the Users and pedestrians. After the Contractor has carried out remedial measures, the Authority's Engineer shall inspect such remedial measures forthwith and make a report to the Authority recommending whether or not the suspension hereunder may be revoked.
- 4.17 In the event that the Contractor carries out any remedial measures to secure the safety of suspended works and Users, and requires the Authority's Engineer to inspect such works, the Authority's Engineer shall inspect the suspended works within 3 (three) days of receiving such notice, and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.
- 4.18 The Authority's Engineer shall carry out, or cause to be carried out, all the Tests specified in Schedule-J and issue a Completion Certificate or Provisional Certificate, as the case may be. For carrying out its functions under this Paragraph 4.18 and all matters incidental thereto, the Authority's Engineer shall act under and in accordance with the provisions of Article 12 and Schedule-J.

## **5 Determination of costs and time**

- 5.1 The Authority's Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.
- 5.2 The Authority's Engineer shall determine the period of Time Extension that is required to be determined by it under the Agreement.
- 5.3 The Authority's Engineer shall consult each Party in every case of determination in accordance with the provisions of Clause 18.5.

## 6.0 Payments

- 6.1 The Authority's Engineer shall withhold payments for the affected works for which the Contractor fails to revise and resubmit the Drawings to the Authority's Engineer in accordance with the provisions of Clause 10.2.4 (d).
- 6.2 Authority's Engineer shall
10. within 10 (ten) days of receipt of the Stage Payment Statement from the Contractor pursuant to Clause 19.4, determine the amount due to the Contractor and recommend the release of 90 (ninety) percent of the amount so determined as part payment, pending issue of the Interim Payment Certificate; and
11. within 15 (fifteen) days of the receipt of the Stage Payment Statement referred to in Clause 19.4, deliver to the Authority and the Contractor an Interim Payment Certificate certifying the amount due and payable to the Contractor, after adjustments in accordance with the provisions of Clause 19.10.

## 7.0 Other duties and functions

The Authority's Engineer shall perform all other duties and functions as specified in the Agreement.

## 8 Miscellaneous

- 8.1 A copy of all communications, comments, instructions, Drawings or Documents sent by the Authority's Engineer to the Contractor pursuant to this TOR, and a copy of all the test results with comments of the Authority's Engineer thereon, shall be furnished by the Authority's Engineer to the Authority forthwith.
- 8.2 The Authority's Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.
- 8.3 Within 90 (ninety) days of the Project Completion Date, the Authority's Engineer shall obtain a complete set of as-built Drawings, in 2 (two) hard copies and in micro film format or in such other medium or manner as may be acceptable to the Authority, reflecting the Project as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Project and setback lines, if any, of the buildings and structures forming part of Project Facilities; and shall hand them over to the Authority against receipt thereof.

- 8.4 The Authority's Engineer, if called upon by the Authority or the Contractor or both, shall mediate and assist the Parties in arriving at an amicable settlement of any Dispute between the Parties.
- 8.5 The Authority's Engineer shall inform the Authority and the Contractor of any event of Contractor's Default within one week of its occurrence.

SCHEDULE – M

(See Clauses 19.4.1, 19.6.1, and 19.8.1)

**FORMS OF PAYMENT STATEMENTS**

**a) Stage Payment Statement for Works**

The Stage Payment Statement for Works shall state:

(d)  <b>Milestone Number and Description of  Each Milestone</b>	<b>Payment  %</b>	<b>Cumulative  Payment  %</b>	<b>Milestones  to be  achieved  with  15 months  completion</b>
1st  a) Preparation, vetting & approval of  design & drawings.			1 Months
b) Completion of Foundation works and  R.C.C and/or Masonry work up to  Plinth Level complete in all respect.	10	10	3 Months

2nd	Completion of R.C.C. frame and/or masonry work in walls etc. Payment will be divided on pro-rata basis of	30	40	9 Months
	number of roof slabs if required.			
3rd	Internal Flooring including skirting, dado in all type of rooms, passage and stairs. Payment will be divided on pro-rata basis of number of floor slabs if required.	7	47	10 Months
4th	Providing/Fixing Door Shutters, Balcony railing, S/C railing window grills and other steel work along with fittings	7	54	11Months
5th	Internal water supply, Sanitary Work & Electrification works	6	60	12 Months
6th	Internal & external Painting	10	70	13 Months
7th	External campus Water supply, Storm			

water Drain, Sewerage i/c covers, Pathways, roads, Parks etc to complete in all respect.	10	80	14 Months
Boundary wall with necessary gate,			
Horticulture work i/c plantation and landscaping i/c water Supply etc.	5	85	14 Months
8th Completion of all remaining items of work i/c handing over of flats defect free in all respects and testing of all services to the satisfaction of engineer- in-charge and handing over of services to BSCL including external electrification and street lighting etc to complete.	7	92	15 Months
Modifications/alterations (as per the monitoring agency) and after handing over to BSCL	5	97	15 Months
9 th	3	100	

After Defect Liability Period			
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***Payment Certificates***

The Contractor shall submit to the Engineer milestone bills of the estimated value of the work completed less the cumulative amount certified previously.

The Engineer shall check the Contractor's milestone bills within 14 days and certify the amount to be paid to the Contractor.

The value of work executed shall be determined by the Engineer.

**(e) Contractor's claim for Damages**

**Note:** The Contractor shall submit its claims in a form acceptable to the Authority.

## SCHEDULE – N

(See Clause 20.1)

**INSURANCE****1.0 Insurance during Construction Period**

1.1 The Contractor shall effect and maintain at its own cost, from the Appointed Date till the date of issue of the Completion Certificate, the following insurances for any loss or damage occurring on account of Non Political Event of Force Majeure, malicious act, accidental damage, explosion, fire and terrorism:

- a) insurance of Works, Plant and Materials and an additional sum of [15% (fifteen per cent)] of such replacement cost to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature; and
- b) insurance for the Contractor's equipment and Documents brought onto the Site by the Contractor, for a sum sufficient to provide for their replacement at the Site.

1.2 The insurance under paragraph 1.1 (a) and (b) above shall cover the Authority and the Contractor against all loss or damage from any cause arising under paragraph 1.1 other than risks which are not insurable at commercial terms.

**2. Insurance for Contractor's Defects Liability**

The Contractor shall effect and maintain insurance cover for the Works from the date of issue of the Completion Certificate until the end of the Defects Liability Period for any loss or damage for which the Contractor is liable and which arises from a cause occurring prior to the issue of the Completion Certificate. The Contractor shall also maintain other insurances for maximum sums as may be required under Applicable Laws and in accordance with Good Industry Practice.

**3. Insurance against injury to persons and damage to property**

3.1 The Contractor shall insure against its liability for any loss, damage, death or bodily injury, or damage to any property (except things insured under Paragraphs

1 and 2 of this Schedule or to any person (except persons insured under Clause 20.9), which may arise out of the Contractor's performance of this Agreement. This insurance shall be for a limit per occurrence of not less than the amount specified below with no limit on the number of occurrences.

The insurance cover shall be not less than estimated cost.

3.2 The insurance shall be extended to cover liability for all loss and damage to the Authority's property arising out of the Contractor's performance of this Agreement excluding:

the Authority's right to have the construction works executed on, over, under, in or through any land, and to occupy this land for the Works; and damage which is an unavoidable result of the Contractor's obligations to execute the Works.

#### **4 Insurance to be in joint names**

The insurance under paragraphs 1 to 3 above shall be in the joint names of the Contractor and the Authority.

## **SECTION - 5**

### **SECTION 5: SPECIAL CONDITIONS OF CONTRACT**

5.1 **General:** The special conditions are supplementary instructions to the tenders and shall form part of the contract.

5.2 **Drawing:** All Drawings/Layout plans given in Section 11 are for reference or guidance purpose only. The Bidder will submit the detailed Contract execution plan within 15 days from date of issuing Work Order or Agreement whichever is earlier. The same shall be reviewed and approved by BSCL or through other agency approved by BSCL. This 15 days period is included in stipulated time of Contract Period. Construction of ICCB Building shall be carried out as per the drawings approved by BSCL.

5.3 **Data to be furnished by the Bidder:** The Bidder shall submit the following information to BSCL.

5.4 Proposed constructions Programme and time schedule showing sequence of operations within **15 days** of receipt of notice to proceed with the work in pursuance of the conditions of contract.

5.5 **Action when the progress of any item of work is unsatisfactory:** If the progress of an item of work during construction, which is important for timely completion of work is unsatisfactory, BSCL shall notwithstanding that the general progress of work is satisfactory, after giving the Bidder **15 days'** notice in writing get the said work executed by employing other means including other labour / Bidder etc. and the Bidder will have no claim for compensation for any loss sustained by him owing to such action.

5.6 In case if any of the works under this contract are found unsatisfactorily by BSCL, the BSCL shall either request the bidder to rectify the defect immediately or at his discretion may have it done by others (vendor or contractor) and deduct the actual amount incurred as per market rate plus 15 % extra incurred in such works from the bidders.

5.7 **Inspection and Tests:** Except as otherwise provided in here of all material and workmanship if not otherwise designated by the specifications shall be subject to inspection, examination and test by BSCL at any and all times during manufacture and/or construction and at any/all places where such manufacture or constructions are carried on. The BSCL shall have the right to reject defective materials and workmanship or require its corrections. Rejected workmanship shall be satisfactorily replaced with the proper material without charge thereof and the Bidder shall properly segregate and remove the rejected material from the premises. If the Bidder fails to proceed at once with the replacement of the rejected material and/or the construction of defective

workmanship BSCL may replace such material and/or correct such workmanship and charge the cost thereof to the Bidder.

The Bidder shall be liable for replacement of defective work up to the time of completion of DLP in accordance with the conditions of contract of all work to be done under the contract. The Bidder shall furnish promptly without additional charge all facilities, labour and material necessary for the safe and convenient inspection and tests that may be required by BSCL. All inspections and tests by the departments shall be performed in such a manner as to not unnecessarily delay the work. Special full size and performance test shall be charged with any additional cost of inspection when materials and workmanship are not kept ready by the Bidder at the time of inspection.

**5.8 Removal of temporary work, Plant & Surplus materials:** Prior to final acceptance of the completed work, but excepting as otherwise expressly directed or permitted in writing, the Bidder shall, at his own expenses remove from the site and dispose of all the temporary structures including buildings, all plant and surplus materials, and all rubbish and debris for which he is responsible to the satisfaction of BSCL.

**5.9 Possession prior to completion:** BSCL shall have the right to take possession of or use any completed part of the work. Such possession or use shall not be deemed as an acceptance of any work not completed in accordance with the contract.

**5.10 Damage to works:** The works whether fully completed or incomplete, all the materials, machinery, plants, tools, temporary building and other things connected there with shall remain at the risk and in the sole charge of the Bidder until the completed work has been delivered to BSCL and till completion certificate has been obtained from BSCL . Until such delivery of the completed work, the Bidder shall at his own cost take all precautions reasonably to keep all the aforesaid works, materials, machinery, plants, temporary buildings and other things connected there with free from any loss, damages and in the event of the same or any part there of being lost or damaged, he shall forthwith reinstate and make good such loss or damages at his own cost.

**5.11 Examination and tests on completions:** On the completion of the work and not later than three months thereafter, BSCL shall make such examination and tests of the work as may then seem to him to be possible, necessary or desirable, and the Bidder shall furnish free of cost any materials and labour which may be necessary thereof and shall facilitate in every way all operations required by BSCL, in making examination and tests.

**5.12 Climatic Conditions:** BSCL may order the Bidder to suspend any work that may be subject to damage by climatic conditions and no claims of the Bidder will be entertained by the department on this account.

5.13 As per the Ministry of Environment and Forest Guidelines 2010 and Ministry of Urban Development notifications, the Site area shall be protected from dust by fixing Green Fencing around the Construction site area.

The Contractor is instructed to strictly adhere to the following at his own cost.

- a) Supply and Fixing Green barriers and wind breaking walls around their sites.
- b) Cover tarpaulin on scaffolding around area of construction,
- c) Do not store construction material, particularly sand, on any part of the street, roads in any colony,
- d) Cordon the work area with proper fencing by other means with due consideration of safety of workers, public, etc.
- e) Dust emissions from construction site are controlled.
- f) Sprinklers should be compulsorily used at the site and Wet jets in grinding and stone cutting must be used.
- g) The work area shall be well illuminated during nights.

5.14 **Safety regulations:** During the entire contract period, while carrying out this works indicated in this tender, the Bidder will ensure compliance of all safety regulations as provided in the Safety Code (**Annexure - D**). The bidder will be responsible for safety of the works.

5.15 **The Bidder will make his own arrangement:** for supply of water, light & power for his works and labour camps etc.: The Bidder will make his own arrangement for supply of water, light and power for his works and labour camps etc. The department will not entertain any claim what so ever for any failure or break down etc. in supply of to the Bidder. The Bidder will supply and fix his own tested meter of the approved make but the meter will be kept in the custody of the department.

5.16 **Interference with other Bidders:** The Bidder must not interfere with other Bidders who may be employed simultaneously or otherwise by the department at the Site. He will at no time engage departmental labour or that of other Bidders without the written permission of BSCL. **Bidder is fully responsible for cause of damages of the adjoining works of different works at site and the same cost of rectification of damages shall be recovered from the Bidder as per BSCL's instructions.**

5.17 **Regulations and bye laws:** The Bidder shall conform to the regulations, bye-laws any other statutory rules made by any local authorities or by the Government and shall protect and indemnify BSCL, against any claim

or liability arising from or based on the violation of any such laws, safety, theft, ordinance, regulation, orders, decrees etc.

5.18 **Site Order Book:** A site order book shall be kept in the departmental office at the site of the work. As far as possible all orders regarding the works are to be entered in this book. All entries therein shall be signed by the departmental officers in direct charge of the work and the Bidder or his representatives. In the important cases the Chief General Manager of BSCL will countersign the entries which the Bidders or his representative shall be bound to take note of all instructions meant for the Bidder as entered in the site order book without having to be called for separately to note them. BSCL shall submit periodically copies of the remarks of the site order book to the Chief General Manager, BSCL for record and to the Bidder for compliance and report.

5.19 **Conversion of units:** Whenever in the contract agreement dimensions and units have been expressed in F.P.S. system, the same will be converted in to metric system units by applying the standard conversion table of Indian Standard Institution so as to derive the corresponding figure arithmetically and the Bidder will have to accept the figures so derived without any claim or compensation whatsoever.

5.20 **Rights of other Bidders and persons:** If, during the progress of the work covered by this contract, it is necessary for other Bidders or persons to do work in or about the site of work, the Bidder shall afford such facilities, as BSCL may require.

5.21 **Employment of technical persons:** The Bidder shall employ or produce evidence of having in his employment of the following qualified technical person from the Institution recognized by the Government of Bihar / Govt. of Other State / Govt. of India:

Sl. No.	Personnel	Qualification	No. of Person
1	Project Manager	B.E/B.Tech/B.Sc. in Civil Engineering or equivalent with 15 Years Exp. (5 years as Project Manager)	1
2.	Site Engineer	B.E/B.Tech/Bsc. in Civil Engineering with 10 Years Exp. (including 5 years in Building Construction) or Diploma Civil with 15 Years Exp.	2

		(including 10 years in Building Const.	
3	Electrical Engineer cum HVAC expert	B.E. Electrical + 5Years Exp. Or Diploma in Electrical + 10 years Exp Exposure in HVAC work of at least two projects.	1
4.	Quantity Surveyor	B.E/B.Tech/Bsc. in Civil Engineering with 7 Years Exp. Or Dip. Civ. + 10 years Exp.	1
5.	Architect	B.Arch/B.E/B.Tech./BSc. Civil Engineering/Bachelor in Town or Regional Planning with 3 Years Experience.	1
6.	Structural Engineer	B.E/B.Tech/Bsc. in Civil Engineering with Specialization in Structural Engineering having experience not less than 5 years.	1
7.	Soil & Material Engineer and Quality Control Engineer	B.E/B.Tech/Bsc. in Civil Engineering with 5 years Experience in Quality Control works	1
		Total	8

5.22 The above is the minimum requirement of Manpower. However contractor shall assess the actual requirement and deploy the necessary manpower. No extra cost will be paid for deployment of extra manpower if required.

5.23 The technical staff shall be got approved in writing from BSCL (whose approval may be withdrawn any time) for supervision of works and to receive direction from the Engineer of the work on behalf of the contractor. The supervisory staff of the contractor will not be changed without the approval of BSCL.

### 5.3 Bonus for early completion

In the event that the Project Completion Date occurs prior to the Scheduled Completion Date, the Contractor shall be entitled to receive a payment of bonus equivalent to 0.03% (zero point zero three per cent) of the Contract Price for each day by which the Project Completion Date precedes the Scheduled Completion Date, but subject to a maximum of 3% (three per cent) of the Contract Price. Provided, however, that the payment of bonus, if any, shall be

made only after the issue of the Completion Certificate. For the avoidance of doubt, the Parties agree that for the purpose of determining the bonus payable hereunder, the Contract Price shall always be deemed to be the amount specified in Clause 17.1.1, and shall exclude any revision thereof for any reason.

### Additional Special Conditions

1. Contractor is advised to read carefully all chapters and give complete information regarding his proposals, substantiating the same with calculations, drawings literature, with clear reference to any standards adopted (which are not mentioned in the tender), in such manner that there is no ambiguity or nothing is left to chance. All relevant information, so as to make the proposal understandable shall be given. Vague remarks and remarks like “will be given later” are not acceptable. If in the opinion of BSCL, the proposal is grossly incomplete, this will form sufficient reason for complete rejection of the tender on technical grounds.
2. Contractor shall note that this is a lumpsum rate tender. The bidder shall give rate for complete work. However, his proposals are subject to scrutiny and approval for unit wise / sub unit wise progressive payments by the competent authority. He shall therefore take utmost precaution to offer very standard equipment manufactured by only reputed manufacturers (wherever the makes are specified, the same shall be offered). However, the bidder should note that after the tenders are opened, all modifications, corrections, changes should be carried out entirely to the satisfaction of BSCL at no extra cost to BSCL. The contractor shall not be allowed to change the price quoted.
3. All the equipment installed shall be thoroughly tested at the time of commissioning of the plant and all initial defects shall be rectified to the entire satisfaction of the engineer. Damaged or non-working parts shall be replaced at no extra cost to BSCL.
4. **Training of the BSCL, staff before Handling over the Equipment/Instruments.** As there is fair amount of automation specified, there will be very large number of small components, which form units of equipment. In order that the BSCL staff engaged on operations and maintenance becomes proficient in understanding and handling the equipment correctly, the contractor will have to organize training programme in the manufacturers’ shops as well as on site during actual operation of the plant. For this purpose he will have to employ suitably qualified, trained personnel to carry out this training. The training period is for 7 days after commissioning of the plant or for such extra period before commissioning in the workshops. A mutually agreed programme shall be formulated during the execution, which will be binding on the contractor.
5. **Third Party Inspection:** BSCL reserves the right to appoint any organization/ institution for checking of design, & quality & quantity checks of works during currency of the contract & no additional cost shall be payable by BSCL on this account
6. The overall development of site at which Building shall be constructed inclusive of roads, horticulture, lights and other utilities services such as water supply,

sewerage, drainage etc. shall be provided by contractor agency as per drawings approved by BSCL.

7. The Bidder shall liable for all statutory clearances inclusive from Bihar Pollution Control Board for execution and till operation period of Building.
8. Bidder shall liable to all consequences arising there upon not meeting the required parameters/ specifications of Building on any account.
9. During the Construction Period, the Contractor shall maintain, at its cost, the Project Site and the assets thereon so that the traffic and commercial worthiness and safety thereof are at no time materially inferior as compared to their condition 7 (seven) days prior to the date of this Agreement, and shall undertake the necessary repair and maintenance works for this purpose.
10. The Construction work shall be executed by the bidder strictly as per technical specification of Bihar Construction Department/CPWD. In case of ambiguity or dispute arises, CPWD specification will prevail over.
11. The bidder shall strictly abide the General Conditions of contract and Special Conditions of Contract of the RFP document. In no case, the bidder may violate the above conditions and no amendments should be made in the GCC or SCC.
12. In case of arbitration or dispute of the Contract, the Hon'ble High court of Patna, Bihar is the Jurisdiction.
13. The RFP document shall form part of Contract Agreement. The bidder should download all pages of the RFP document and must sign all pages (authorized signatory of the Contract agency) before uploading the RFP document in the [www.eproc.bihar.gov.in](http://www.eproc.bihar.gov.in) portal

**SECTION 6**  
**CONTRACT DATA**

**CONTRACT DATA**

Clause Reference With respect to section 4.

Items marked “N/A” do not apply in this contract.

1.	The Employer is Name: BSCL. Address: Municipal Corporation, Court Compound, Bhagalpur Name of Employer’s Representative: - Chief Executive Officer, Bhagalpur Smart City Limited, Bhagalpur	[ Cl.1.1 of ITB of Section - 1]
2.	The Engineer is: - To be Informed Later.	GCC Cl .16 of Article -16
3.	The Dispute Review Expert will be Expert Mediator of the Govt. of India rules.	[GCC Cl. 24 of Article -24]
4.	The Defects Liability Period is Two Years from the date of completion of the project work.	[GCC Cl. 15 of Article -15]
5.	The Commencement Date shall be from the issue of letter of Notice to Proceed (NTP).	[GCC Cl. 10 of Article -10]
6.	The Intended Completion Date for the whole of the Works is <b>15</b> months after agreement For detail refer Important Milestone and Key Time periods under Contract Section-4 (Conditions of Contract) and reproduced below:	[GCC Cl 12 of Article -12]
	Milestone One- a) Preparation, vetting & approval of design & drawings. b) Completion of Foundation works and R.C.C and/or Masonry work up to Plinth Level complete in all respect.	a) One Months b) Two Months Total: 3 Months
	Milestone Two- Completion of R.C.C. frame and/or masonry work in walls etc. <i>Payment will be divided on pro-rata basis of number of roof slabs if required.</i>	Nine Months
	Milestone Three- Internal Flooring including skirting, dado in all type of rooms, passage and stairs. <i>Payment will be divided on pro-rata basis of</i>	Ten Months

	<i>number of floor slabs if required.</i>	
	Milestone Four- Providing/Fixing Door Shutters, Balcony railing, S/C railing window grills and other steel work along with fittings	Eleven Months
	Milestone Five- Internal water supply, Sanitary Work & Electrification works	Twelve Months

	Milestone Six- Internal & external Painting	Thirteen Months	
	Milestone Seven- External campus Water supply, Storm water Drain, Seweragei/c covers, Pathways, roads, Parks, HVAC & Firefighting etc to complete in all respect.	Fourteen Months	
	Milestone Seven- Boundary wall with necessary gate, Horticulture work i/c plantation and landscaping i/c water Supply etc.	Fourteen Months	
	Milestone Eight- Completion of all remaining items of work i/c handing over of flats defect free in all respects and testing of all services to the satisfaction of engineer-in-charge and handing over of services BSCL including external electrification and street lighting etc to complete.	Fifteen Months	
	Milestone Eight- Modifications/alterations (as per the monitoring agency) and after handing over the Building & Premises to BSCL	<b>Fifteen Months</b>	
	Mile Stone Physical works to be completed	<b>15 Months</b> from the start date of work	
7.	The Site is located at Bhagalpur municipal Area,	[ Cl.7 of ITB)	

	Bhagalpur		
8.	The name and identification number of the Contract is:	[ITB CL 1.1]	
9.	The work consists of “Design, Planning, Engineering, Procurement and Construction of ICCB Building (G+5 floors) in Bhagalpur Municipal Area in Bhagalpur, Bihar -812001  :The work shall inter alia, Include Civil, Electrical Plumbing & Sanitary, Water Supply & water harvesting works, etc., as specified or as directed Sewerage Networks, HVAC, Development works, Internal Roads, Firefighting, fencing, Rainwater harvesting with Green norms etc.,	[Cl. 1.1 of ITB)	
10.	The following documents also form part of the Contract:	[GCC Cl 1.0 of Article -1]	
11.	The law which applies to the Contract is the law of Union of India	[GCC Cl.25.1 of Article -25]	
12.	The language of the Contract documents is English	[GCC Cl.25.14 of Article -25]	
13.	Limit of subcontracting; 70% of the Initial Contract Price only for peripheral works but major works	[GCC CL 3.2 of Article – 3)	

	like foundation, superstructure shall not be sub contracted unless until New and Emerging technology is proposed by the contractor which is approved by BSCL/Employer		
14.	Co-operation with the Schedule of other Contractors	[GCC Cl 3.1.7 of Article 3] May be 3.1.6 (i)	
15.	The Schedule of Key Personnel	[Annexure – II of ITB of section 2)	
16.	The minimum insurance cover for physical property, injury and death is Rs.5 lakhs per occurrence with the number of occurrences limited to four. After each occurrence, contractor will pay additional premium necessary to make insurance valid for four occurrences always till Defect Liability Period of the Project.	[GCC. 18.0 of Article 17.0)	
17.	Site investigation report.	[GCC Cl.3.1 of Article 3]	
18.	The Site Possession Dates shall be 10 days after the issue of LoA.	[GCC Cl.8.2 of Article 8]	
19.	The period for submission of the programme for approval of Engineer shall be 21 days from the	[GCC Cl.10.13 of Article 10] 10.1.3	

	issue of Letter of Acceptance.		
20.	The period between programme updates shall be 90 days	Same as above	
21.	The amount to be withheld for late submission of an updated programme shall be Rs 3.00 lakhs	[GCC Cl.10.3 of Article -10]	
22.	The currency of the Contract is Indian Rupees	[GCC Cl.17.2 of Article 17)	
23.	The proportion of payments retained (retention money) shall be 9 % from each bills subject to a maximum of 10% of final contract price) including 2% of Performance Security money).	[GCC Cl. 7.5.1 of Article 7]	
24.	Amount of liquidated damages for delay in completion of works  For whole work: (1/2000) of the Initial Contract Price, rounded off to the nearest hundred, per day.	[GCC CL 8.7]	
25	Maximum limit of liquidated damages for delay in completion of work.	10 per cent of the Initial Contract Price rounded off to the nearest thousand.	[GCC Cl. 10.3.2 & 10.3.3 of Article 10)

26	Amount of Bonus for early completion of whole of the works As per GCC	[GCC Cl. 17.16 of Article 17]	
27.	The amounts of the advance payment are:	[GCC Cl 17.2 of Article 17]	
	<b>Nature of Advance</b>	<b>Amount (Rs.)</b>	<b>Conditions to be fulfilled</b>
	i. Mobilization (Interest bearing) – 10% of the Contract price. On submission of unconditional Bank Guarantee (to be drawn before the end of 20% of the contract period). The contractor shall furnish part 'Bank Guarantee' of 110% of amount of advance taken as Mobilization.	The mobilization advance shall be released in two equal installments of 5% each.	
28.	Repayment of advance payment for mobilization and equipment: The advance loan shall be repaid with percentage deductions from the interim payments certified by the Engineer under the Contract. Deductions shall commence in the next Interim Payment Certificate following that in which the total of all such payments to the Contractor has reached not less than 20 percent of the Contract	[GCC Cl. 17.2.5 of Article 17]	

	<p>Price or 6 (six) months from the date of payment of</p> <p>first installment of advance whichever period concludes earlier, and shall be made at the rate of 20 per cent of the amounts of all Interim Payment Certificates until such time as the loan has been repaid, always provided that the loan shall be completely repaid prior to the expiry of the original time for completion pursuant to Clauses 8.2 and 8.4 (Condition of Contract). In case non-achievement of milestone and accordingly non-production of running bills and consequently non-recovery of mobilization advance, the part Bank Guarantee (BG) against the Mobilization advance to that extent shall be forfeited.</p>		
29.	<p>The Securities shall be for the following minimum amounts equivalent as a percentage of the Contract Price:</p>		[Cl. 7.1 of Article 7)

	Performance Security for 2 per cent of contract price plus Rs. (to be decided after evaluation of the bid) as additional security in terms of ITB Clause 29.5.		
30.	The date by which "as-built" drawings (in scale as directed and in color print) in 5 sets of Hard copy (coloured) and 1 set of soft copy are required within 28 days of issue of certificate of completion of whole or section of the work, as the case may be.	GCC CL 10.2.7 of Article 10)	
31.	The amount to be withheld for failing to supply "as built" drawings in color print by the date required is Rs 10.00 lakhs for projects up to Rs 50 crores, and additional Rs 0.15 lakhs for every Rs. 1.00 crore increment in project cost thereafter, with upper limit of Rs 50 lakhs.	GCC CL 10.2.7 of Article 10	
32.	Contravention to the sub clause herein shall also be taken as fundamental breach of contract		
33.	The percentage to apply to the value of the work not completed representing the Employer's additional cost for completing the Works.	GCC Cl 10.5 of Article 10)	

**VOLUME-II**

**SECTION 7**

**TECHNICAL SPECIFICATION**

**Disclaimer:** *The technical specifications provided herein for Bhagalpur Smart City Limited) are as per NBC, IS 456, IS 800 and other relevant IS codes. In the absence of any definite provisions on any particular issue in the aforesaid specifications, reference may be made to the specifications of of Smart City Mission policy of Government of Bihar/India which provides the specifications of various items of works which may be taken as minimum and any item of lower specifications shall not be allowed. The Government of Bihar is committed to provide specification in line with the aforementioned policy, if not better, as indicated in the technical specifications given herein. All the material utilized in this building are to be complied with specification of Indian Green Building Council (IGBC) Green Data Center.*

*The successful bidder shall carry out appropriate geo-technical surveys and investigations and thereafter, provide proposed foundation design to be used on approval. They are also required to prepare architectural planning and design in which the carpet area. The building will be G+5 as specified by the employer. The contractor is supposed to get prepared structural design and drawings from experienced Structural designer of National / International repute. The design must conform to the relevant building codes & specifications related to earth quake resistant design of buildings for respective seismic zones. The designs and drawings so prepared have to be got approved from Indian Institute of Technology / National Institute of Technology, /Govt. Engineering College at their own cost.*

## **1. Foundation & Plinth**

**Foundation:** The foundations for building shall be either pile foundation or Isolated Column footing or Raft footing or Combined Column cum Raft footing, depending on the geo–technical report of soil strata, height of the building and the opinion of the design expert in Indian Institute of Technology / National Institute of Technology, /Govt. Engineering College. The RCC work in foundation, unless otherwise stated, shall be of M25 or higher grade.

**Plinth:** The Plinth beam in foundation shall be in RCC work with M25 Grade concrete and high corrosion resistance Fe 500/550 TMT bars conforming to IS 1786:2008.

**Plinth filling:** The plinth shall be filled with excavated soil (excluding clayey/black cotton soil) or new soil in layers not exceeding 15 cm or river/ local sand used for plinth filling eg. Ganga sand, etc (including watering/ ramming for proper compaction).

## **2. Super Structure**

**Superstructure:** The superstructure for the building under Smart City Mission shall be either RCC Framed structure or any structure conforming to New and Emerging Technology approved by Building Material and Technology Promotion Council (BMTPC), Ministry of Housing and Urban Poverty

Alleviation, Government of India. The RCC work in superstructure, unless otherwise stated shall be in M25 or higher grade for G+5 building, G+6 and G+8 building.

**Lintel:** As the building is to be earthquake proof, R.C.C band at lintel level shall be provided. The thickness of the band will be 120mm except for the openings where it will be 150mm extending suitably on the both sides of the opening to a thickness of not less than 200mm wherever necessary (i.e. where anchoring in column is not there).

**Chajja:** The Chajja will be in R.C.C of M-25 grade in G+5 Building and M-25 grade in G+6 and G+8 building. The chajja will be projected 45cm (cantilever projection) and the average thickness measured at middle will be 63mm.

### 3. Water proofing (APP) on roof slab and chajjas

Atactic Poly-propylene Polymer (APP) modified prefabricated five layer 3mm thick water proofing membrane, black finished, reinforced with non-woven polyester matt consisting of a coat of bitumen primer for bitumen membrane @ 0.40 liter/ sqm shall be provided on roof slab and chajjas for water proofing.

## 4. Brick work in foundation and superstructure 4.1

### In Foundation/Plinth

Red brick masonry work (brick conforming to 75 A) of required thickness as per design shall be used in foundation in 1:6 cement mortar (with Ordinary Portland Cement (OPC) Grade 43/53 Portland Slag cement). The brick work in external walls shall be laid over sand filling followed by PCC in 1:4:8 of 100 mm thick. The depth of this wall in plinth (upto plinth band level) shall be got approved by Engineer-in-charge; however, this depth shall be 450 mm unless until stated otherwise. Alternately, R.C.C band at ground level in M-20 concrete can be provided over which the red brick masonry work can be done upto plinth level.

### 4.2 In superstructure (including parapet wall)

Fly Ash brick masonry work (Bricks conforming to IS 12894 of 2004) shall be used in outer walls of superstructure in 1:6 cement mortar (with Ordinary Portland Cement (OPC) Grade 43/53 Portland Slag cement). The outer wall shall be of full brick size (230 mm).

The inner wall shall be in pre-cast concrete hollow blocks (150/100 mm), conforming to IS 2185 Part-I: 2005. 6 mm dia. mild steel Reinforcement shall be provided at every 4<sup>th</sup> course (embedded in cement mortar or otherwise) in the pre-cast concrete hollow block masonry work.

The parapet wall over roof slab on the periphery will be in full brick size (230 mm) laid in 1:4 cement mortar (with Ordinary Portland Cement (OPC) Grade 43/53 Portland Slag cement).

## 5. Plastering work (Internal and external)

### 5.1 Internal wall plaster:

12mm thick cement plaster in 1:6 cement mortar (with Ordinary Portland

Cement (OPC) Grade 43/53 Portland Slag cement) with clean coarse sand of FM 1.5, in single layer.

### 5.2 External wall plaster:

20 mm thick cement plaster in 1:4 cement mortar (with Ordinary Portland Cement (OPC) Grade 43/53 Portland Slag cement) with clean coarse sand of FM 1.5, in single layer.

Cement punning shall be provided of 1.5mm thick upto plinth band level in all building immediately after external plaster.

### 5.3 Ceiling plaster:

6 mm thick cement plaster in 1:3 cement mortar (with Ordinary Portland Cement (OPC) Grade 43/53 Portland Slag cement) with clean coarse sand of FM 1.5, in single layer.

### 5.4 Plaster in Chajjas:

6 mm thick cement plaster in 1:3 cement mortar (with Ordinary Portland Cement (OPC) Grade 43/53 Portland Slag cement) with clean coarse sand of FM 1.5, in single layer with suitable rain cuts along three edges of the chajja. The raincuts should be prepared with proper plastering (beat work) instead of simply pointing work.

## 6. Cement punning

Cement punning shall be done over slab (wardrobe shelf of rooms and slabs below kitchen deck slab) which will be 1.5 mm thick with Ordinary Portland Cement (OPC) Grade 43/53 Portland Slag cement).

## 7. Plain Cement Concrete:

Plain cement concrete or mud mat of 1:4:8 (one OPC cement of grade 53, four sand of FM 2.5-3.0, eight aggregates of metal grade III: 50-25 mm) shall be used below footing, wherever required.

Plain cement concrete of 1:3:6 (one OPC cement of grade 53, three sand of FM 2.5-3.0, six aggregates of metal grade III: 50-25 mm) shall be used below flooring, below bottom reinforced concrete slab of septic tank etc, wherever required as directed by EIC.

## 8. Reinforcement

Fe500/550 conforming to IS 1786:2008 High corrosion resistant -TMT Bars of TISCON (TATA), SAIL, JINDAL, VIZAG (RINL) or Electro-steel or equivalent.

## **9. Flooring, Skirting and Dado Sub-Base for**

### **Flooring in Ground floor**

In ground floor before flooring 75 mm local sand shall be filled and properly rammed after providing adequate water OMC for proper compaction. Over this sand layer, one flat brick soling with 75A bricks shall be provided and the joints filled with local sand. Over the flat brick soling 100 mm thick PCC 1:3:6 of M10 Grade shall be provided which will form the sub-base for flooring in the ground floor.

### **9.1 Floor Tiles of bedroom, hall, living room, balcony and passage/ lobby**

Vitrified floor tiles 600mm X 600mm X 8mm thick conforming to IS: 15622/ISO 13006, of approved make, colour and shades, laid on 20mm thick 1:4 cement mortar (1 cement : 4 coarse sand) including pointing the joints with white cement mixed with matching pigment etc., shall be provided in floor of bedroom, hall, living room, balcony and passage/ lobby. Skirting of similar material of 150 mm height shall be provided.

### **10.0 APP over sunken slab in Bath/ Toilet**

Atactic Poly-propylene Polymer (APP) modified prefabricated five layer 3mm thick water proofing membrane, black finished, reinforced with non-woven polyester matt consisting of a coat of bitumen primer for bitumen membrane @ 0.40 litre/ sqm needs to be provided in Sunk slab of Bath/ Toilet for water proofing.

Fill Material- Before laying Floor tiles in bath/toilet the space between sunken slab and floor need to be filled by lightweight materials with negligible pores such as fly ash etc.

### **11.0 Floor of Kitchen and Bath/ Toilet**

Ceramic antiskid tiles in floor of size 300mm X 300mm X 6mm thick conforming to IS : 15622, in approved make, colour, shade laid on 20 mm thick Cement Mortar 1:4 (1 cement : 4 coarse sand) including pointing the joints with white cement mixed with matching pigment etc., shall be provided in floor of Kitchen and Bath/ Toilet.

### **12.0 Dado/ Wall Tile Work in Kitchen and Bath/ Toilet**

**In Kitchen-** The skirting will be 150mm high and will be of the same material of which the floor has been provided in the kitchen. In dado, ceramic glazed tiles of size 300mmX300mm X 6mm thick conforming to IS: 15622, in approved make, colour, shade laid on 12 mm thick Cement Mortar 1:3 (1 cement : /3 coarse sand) including pointing the joints with white cement mixed with matching pigment etc., complete shall be provided upto a height of 600mm above kitchen counter

top all along the adjacent wall of the kitchen counter top including window sill and window side wherever applicable.

**In Bath/ Toilet-** In dado of Bath/ Toilet, ceramic glazed tiles of size 300mmX300mm X 6mm thick conforming to IS : 15622, in approved make, colour, shade laid on 12 mm thick Cement Mortar 1:3 (1 cement : /3 coarse sand) including pointing the joints with white cement mixed with matching pigment etc., complete shall be provided upto a height of 2 m from floor level in all walls of bath/toilet.

### **13.0 Floor of Staircase**

Kota stone of minimum thickness 25mm shall be used for flooring in risers and treads of steps, skirting and/ or pillar laid in minimum 20mm thick cement mortar 1:4 (1 cement : 4 coarse sand) and jointed with grey cement slurry mixed with pigment to match the shade of the kota stone including rubbing and polishing complete. Single stone is to be used for riser and treads of steps and the size of kota stone should be chosen such there should be no horizontal joints in the skirting of the stairs. The height of the skirting should be such that from the outer edge of the tread the skirting should be atleast 150mm in height. The upper edge of the skirting should be in straight line.

### **14.0 Doors and Door Frames**

**14.1 Pressed steel door frames conforming to IS:** 4351, manufactured from commercial mild steel sheet of 1.60 mm thickness, including hinges, jamb, lock jamb, bead and if required angle threshold of mild steel angle of section 50x25 mm, or base ties of 1.60 mm, pressed mild steel welded or rigidly fixed together by mechanical means, including M.S. pressed butt hinges 2.5 mm thick with mortar guards, lock strike plate and shock absorbers as specified and applying a coat of approved steel primer after pre-treatment of the surface all complete. Two coats of synthetic enamel paint of approved shade and make over steel door frame surface after cleaning the surface thoroughly shall be provided. The frame shall be fixed with adjustable lugs with split end tail to each jamb.

**14.2 External Doors:** Minimum 30mm thick solid core type non-decorative single leaf flush shutter conforming to IS 2202-1 (1999) with black board core blended with high quality phenol formaldehyde synthetic resin both side commercial veneeres of standard make for external doors.

**14.3 Internal Doors:** Minimum 25mm thick flush door shutters non decorative type, conforming to IS : 2202 (Part 1), interior grade, commercial type, core of block board construction with frame of first class hard wood and well matched commercial ply veneering with vertical grains, cross bands and face veneers on both faces of shutters. The doors in the bath/ toilet will be provided with aluminum metal sheet all over its face in inner side. There will be no painting on the inner side of the bath/ toilet door however, two coats of primer with anti-termite solution mixed suitable shall be provided.

14.4 Both external and internal doors will include hinges, should be all complete with ISI Mark Powder coated (minimum thickness of powder coating

50 micron). Aluminum Door fittings namely Tower Bolt: 150 x 10 mm, Sliding Pad Bolt: 250 x 16mm, Handle: 125 mm and Floor Door Stopper: Single Rubber Stopper.

**15.0 Painting:** Two coats of synthetic enamel paint over one coat of wood pink primer of approved shade and make over new wooden surface after cleaning and smoothening of wooden surface with sand papers of appropriate numbers all complete.

**16.0 Fire Door and Door Frame in Fire Staircase:** Fire resistant door frame shall be provided in fire staircase of section 50 x 60 mm on horizontal side 35 x 60 mm on vertical sides having built in rebate made out of 1.6 mm thick GI sheet (Zinc coating not less than 120gm/m<sup>2</sup>) suitable for mounting 120 min Fire Rated Glazed Door Shutters. The frame shall be filled with Mineral wool Insulation having density min 96Kg/m<sup>3</sup>. The frame will have a provision of G.I. Anchor fasteners 14 nos (5 each on vertical style & 4 on horizontal style of size M10 x 80) suitable for fixing in the opening along with Factory made Template for SS Ball Bearing Hinges of Size 100x89x3mm for fixing of fire rated glazed shutter. The frame shall be finished with a approved fire resistant primer or Powder coating of not less than 30 micron in desired shade.

16.1 : 60 mm thick glazed fire resistant door shutters in fire staircase of 120 min fire rating confirming to IS:3614 (Part II) or EN1634-1:1999, tested and certified as per laboratory approved by Engineer-in-charge, with suitable mounting on door frame, consisting of vertical styles, top rail & side rail 60 mm x 60 mm wide and bottom rail of 110 mm x 60 mm made out of 1.6mm thick G.I. sheet (zinc coating not less than 120gm/m<sup>2</sup>) duly filled mineral wool insulation having density min 96 kg/m<sup>3</sup> and fixing with necessary stainless steel ball bearing hinges of size 100x89x3mm of approved make, including applying a coat of approved fire resistant primer or powder coating not less than 30 micron.

### **17.0 Windows, Ventilator and Associated Grill**

Aluminum work for windows and ventilators with extruded built up standard tubular sections/ appropriate Z sections and other sections of approved make conforming to IS: 733 and IS: 1285, fixing with dash fasteners of approved dia and size; including necessary filling up the gaps at junctions, i.e. at top, bottom and sides with required EPDM rubber/neoprene gasket etc. Aluminum sections shall be smooth, rust free, straight, mitred and jointed mechanically wherever required including cleat angle, Aluminum snap beading for glazing / paneling, C.P. brass / stainless steel screws, all complete as per architectural drawings and the directions of Engineer-in-charge. Including Glazing, paneling and dash fasteners. Powder coated Aluminum sections shall be used (minimum thickness of powder coating 50 micron) with float glass panes of minimum 4.0 mm thickness. The aluminum plate wherever used of 1.5mm thickness.

M.S. grill made of 20mm x 6mm M.S. flat or 10mm square bar with minimum 18 Kg per sqm as per approved drawing, properly fabricated with joints continuous fillet welded and finished smooth or as approved by Engineer In charge for windows & ventilator. Two coats of synthetic enamel paint of approved

shade and make over a coat of red oxide zinc chromate primer after cleaning the surface thoroughly all complete.

### **18.0 Railing in Balcony and Staircase**

Railing in Balcony and Staircase will comprise of Steel work welded in built up sections of height not less than 1.2m with minimum 18 Kg per sqm 16 gauge properly fixed and applying two coats of synthetic enamel paint over a priming coat of red oxide zinc chromate primer. Over the steel work circular pipe will be welded which will be also painted as the steel work are painted. Railing work shall conform to IS 1239-1 (2004)

### **19.0 Kitchen Countertop and Shelf**

**Countertop-** The kitchen countertop base slab shall be constructed with RCC 1:1.5:3 M-20 concrete with 6mm and down stone chips and 6mm dia MS Bars. The Thickness of the slab will be 50 mm. Over this slab, 600mm x 25mm thick Kota stone shall be provided. The stainless steel sink will be adjusted suitably and shall be in level flushed with the kitchen finished countertop so that the water on the kitchen countertop finds way smoothly to the sink. Kota Stone shall also be provided in the core of the kitchen slab, flushed with the outer edge of the horizontal slab. The Kota stone should be fixed with cement mortar 1:3. **Shelf Below Kitchen Platform -** The space below the kitchen platform shall be constructed with RCC 1:1.5:3 M-20 concrete with 6mm and down stone chips and 6mm dia MS Bars suitably divided in two parts in order to accommodate gas cylinder in one part. In the remaining part between the kitchen platform and the floor one horizontal RCC slab of 50mm thickness shall be provided for accommodating kitchen utensils and other kitchenware. This slab needs to be finished with 1:3 cement mortar and 1.5 mm thick cement punning. The lowest enclosure of the shelf shall be 75mm above floor level.

**Shelf Above Lintel in kitchen-** The Shelf above lintel level of 63mm thickness which shall be 60cm projection along three sides of wall shall be constructed with RCC 1:1.5:3 M-20 concrete with 6mm and down stone chips and 6mm dia MS Bars. The slabs need to be finished with 1:3 cement plaster and 1.5mm thick punning over it. The color wash of the room shall be applied on this slab also after finishing with plaster etc.

### **20.0 Shelf in Bedroom and Drawing Hall**

The Shelf in bedroom and drawing hall shall be of 63mm thickness shall be RCC 1:1.5:3 M-20 concrete with 6mm and down stone chips and 6mm dia MS Bars suitably partitioned so as to hang coats, sarees, etc in one upper part and the remaining portion can be sub divided to keep folded clothes, books, etc. A hanging rod shall be provided for hanging coat, sarees etc. All the slabs needs to be finished with 1:3 cement plaster with 1.5mm thick punning on its top and front face. The lowest enclosure of the shelf shall be 75mm above floor level.

The Shelf above lintel level shall be constructed of 75mm thickness and 750mm projected in all sides of wall in bedroom which shall be constructed in RCC 1:1.5:3 M-20 concrete with 6mm and down stone chips and 6mm dia MS

Bars. All the slab needs to be finished with 1:3 cement plaster with 1.5mm thick punning and 1.5mm thick punning over it. The color wash of the room shall be applied on this slab also after finishing with plaster etc.

### **21.0 Terrace and Parapet Wall**

Staircase tower shall vertically extend as per the typical drawing to have sufficient head room which will be covered with RCC slab of thickness as per design with minimum M-20 concrete. APP water proofing will be applied over the staircase roof also. The staircase tower roof slab will necessarily have to be projected so that the water cut can be provided in the projected portion which will avoid rain water flowing from the roof top finding way directly through walls. The vertical walls of the staircase tower will be 230mm thick constructed by Fly ash brick.

Wall all around the roof in parapet will be 1m high 230 mm thick full brick/ concrete wall. The parapet wall will be plaster from inside 1:4 cm and 1:3 cm plaster on top. 1.5mm cement punning will be done on the flat top portion of the parapet wall.

All terrace and parapet walls shall be finished with Premium exterior acrylic smooth paint silicone additives. (Two or more coats applied @ 1.43 ltr/ 10 sqm over priming coat of cement primer applied @ 2.20 kg/ 10 sqm).

### **22.0 Painting**

Internal walls and ceiling- Painting with two coats of interior acrylic emulsion paint of approved shade (however, for ceiling only white color paint shall be used) and make over surface smoothed after applying Birla putty or equivalent of any other make of 2mm thickness and providing over it a primer coat of cement primer. Exterior walls with Premium exterior acrylic smooth paint silicone additives. (Two or more coats applied @ 1.43 ltr/ 10 sqm over priming coat of cement primer applied @ 2.20 kg/ 10 sqm)

**23.0 Wooden Work-** Two coats of synthetic enamel paint over one coat of wood pink primer of approved shade and make over new wooden surface after cleaning and smoothing of wooden surface with sand papers of appropriate numbers all complete.

**Steel Surface** - two coats of synthetic enamel paint of approved shade and make over steel surface after cleaning the surface thoroughly all complete.

### **24.0 Internal Sanitary and Collecting Chamber India Water**

#### **Closet (I.W.C)**

Viterous white glazed earthen ware I.W.C. conforming to IS 2556 Part-III of approved make with attached footrest (Preferably Orrisa Squatting Pan in white color of size 580x440x300 mm) with 100mm H.C.I. 'P' or 'S' trap and not less than 5 Litre low level plastic cistern of approved make in white color with brass stop cock (weight 50gm or more), PVC connection pipe etc all associated fittings to complete the job which can be utilized by the residents thereafter.

## 25.0 Wash Basin

Viterous white glazed earthen ware wash hand basin of minimum size 450mm x 300mm of approved make conforming to IS 2556 Part IV of flat back of one piece construction including combined overflow basin single tap hole of size 28 sqm or 30mm rounded. The basin shall have circular waste hole or 5sqcm slot type overflow supported on painted C.I. or R.S. cantilever brackets conforming to IS 775(use of MS angle or Tee section as bracket not permitted) with 32mm C.I. brass waste, 15mm dia C.I. body brass spindle stop cock of approved quality and weight not less than 330 grams, 32mm P.V.C. waste pipe 750mm long with brass coupling at one end all to be put to use for residents. A suitable brass bib cock with chromium coated not less than 400gms should be mounted on the wash basin.

## 26.0 Drainage of Domestic Water

Sewage disposal from WC & waste water from kitchen & Bathroom has to be taken out with suitable dia PVC pipe, “S/P” trap & fittings including steel/strainers as required. It shall be responsibility of contractor to make essential arrangements for disposal of rain water from terrace (roof slab) by providing proper gentle slope in the roof/ terrace slab and by providing appropriate PVC/uPVC pipes of size between 75 to 100mm dia conforming to IS 13592 and fittings conforming to IS 13591, free from cracks, flaws and defects and shall be able to withstand the water pressure all complete. The connection between two pipes shall be made with approved sealant and the joint should be leak proof. The PVC pipe should be fastened to the wall with suitable fasteners at desired location as per IS code in this regard. All the roof top water should be taken to the nearby rain water harvesting collection pit so that the water so collected can be gainfully utilized in recharging the water table.

## 27.0 Miscellaneous Items to be put in the Dwelling Units

Following items shall be provided by the contractor in each Dwelling Unit:-

- a) C.P. brass towel rail 600mm long and 20mm dia with two C.P brass bracket coated. The rail shall be coated with chromium plated of thickness not less than grade no. II of IS 4827.
- b) C.P. brass soap dish container medium quality with screw and hinges etc.
- c) C.P Brass towel ring of dia 175mm and thickness not less that 8mm.
- d) Stainless Steel A ISI 304 (18/8) Kitchen Sink (Inner dimension 550 x 400mm, depth 200mm) shall be provided in Kitchen with compatible Stainless steel drain board (min. thickness 1 mm) as per IS : 13983 with C.I. brackets and stainless steel plug 40 mm to be placed flushed with kitchen slab. The gap between board and platform/wall shall be finished with white/matching cement.

## 28.0 Other Attachments related to PHE works

Male ended 15mm dia brass bib cock shall be provided of approved quality (Wt. not less than 400 gms.) with extra socket all complete; One for Bathing purposes in the bathroom and one near I.W.C and one for Kitchen sink (This does not include the tower bib cock which will be put on the wash basin).

Duct portion up to plinth level shall be constructed as collecting chamber and covered with flag stone.

The above list may not be complete and suitable additions may be suggested with contractor has to comply with.

### **29.0 Internal Water Supply**

The internal water supply will be through PVC pipes (except for toilet where uPVC shall be used with fittings of specified dia including laying, fixing, cutting, jointing, painting etc for vent overflow, waste water pipeline etc. The pipe and fitting shall conform to series IV of IS 4985-1978 PVC pipes and fittings (Bend, Tees, Unions, reducers, etc) shall be free from cracks, flaws, defects and shall be able to withstand requisite pressure. 15mm CP brass bib cock not less than 400 gm with 15mm dia UPVC pipe. The water supply pipe connecting various floors should be 25 mm UPVC pipe. The distribution pipelines in various floors should be done with 20mm dia pipes unless until directed otherwise. The spacing between clamps for internal pipes shall be around 700mm for horizontal runs and 1000mm for vertical runs.

Construction/ Installation of RCC water tank/ polyethylene water storage tank(s), ISI: 12701 marked as approved by Engineer in charge on roof of every building. The capacity of the tank should be computed as per latest CPHEEO Manual for each Dwelling Unit. RCC water tank should have proper manhole (with CI cover) and flushing hole to dispose off water at the time of cleaning. Proper arrangement for a person to enter the water tank (for Cleaning shall be made). The RCC tank, if constructed, should be properly plastered from within by 20mm 1:3 cement mortar plaster with suitable waterproofing agent with 2mm thick cement punning on all the walls and bottom slab.

All other fitting and installations required for healthy living the residents in line with the Affordable Housing Policy need to be provided by the contractor at their cost if directed.

Although stated earlier, it is reminded that there should be 4 water points in each dwelling unit- 2 in bath room (1 near WC and 1 for bathing purpose), 1 in kitchen and 1 in the basin.

Gun metal full way valve with each Overhead tank shall be provided.

Unions, non- return valves and other fittings are to be provided as per requirement for ease of operation and maintenance.

The contractor will be wholly and solely responsible for providing house service connection joining the external pipeline with individual dwelling units of each block.

### **30. Internal Electrification and Panel Room**

- 30.1 : 5 nos. light points, 1 no tube light point, 2 nos. fan points and 4 nos. Plug socket points, all of 5 Amp in each dwelling unit all complete with Piano Type switch and socket.
- 30.2 15 Amp Plug Socket Point with fittings 2 Nos (1 for Kitchen and 1 for Hall), Telephone socket and T.V antenna socket in each dwelling unit.
- 30.3 pin ceiling rose on the junction box at suitable location needs to be in all building blocks
31. **Ceiling Fan and Fan Regulator-** 1200mm Sweep, double ball bearing, 2 canopy ceiling fan shall be provided along with electronic step mini fan regulator in each dwelling unit.
32. Bulb and Batten/ Angle holder- LED Bulbs of minimum 9/12W shall be provided at suitable locations along with batten/ angle holder all the building blocks.
33. Electronic Call bell shall be provided for each dwelling unit.
34. In addition, one light point shall be provided outside the main door of each DU.
35. 1.5 sq mm. stranded copper wiring with concealed PVC conduit pipe.
36. 16 Amp. M.C.B. including required size of Switch Board.
37. 2+4 way MCB 240 Volts SPN MCB-1 no for each DU
38. 6- 32 A SP MCB 240 volts, 'C' curve-2 nos for each DU
39. 40 A SP MCB 240 volts, 'D' curve-1 no for each DU

The internal as well as external wiring in the houses constructed under Smart City Mission will be fully concealed.

All material should be conforming to I.S.I. standard and relevant IS Codes and before using the same it shall be approved by Employers Representative.

4 nos. plate earthing with necessary fittings/ wiring all complete for every building shall be provided in each building.

Lightening conductor with all accessories shall also be provided as per relevant norms. Meter room should be constructed separately.

Contractor shall also provide all electrical works upto meter board panel.

Suitable Illumination at the following places in the building also will be the responsibility of the contractor:

- iv. Staircase at Suitable landings
- v. Roof at suitable place
- vi. Near Common Meter Panel
- vii. Back of the building

All other fitting, installations and wiring required for healthy living the residents in line with the Affordable Housing Policy need to be provided by the contractor at their cost if directed.

#### **40.0 Fan Hook**

Fan hooks of 16mm dia M.S. bar & suitable length, bent to required size and shape, placed in position and fixed in the R.C.C.slab/beam at the time of casting.

#### **41.0 Roof Top Rain Water Harvesting arrangement (including recharging pit)**

Rain water harvesting system associated with 80-100m deep, 100-150 mm dia tube well (extending upto fracture zone/ GW aquifer), recharge pit of length and width varying between 5-7 mt and depth about 6 metres with five layers of coarse sand & gravels upto natural ground level with stainless steel wire mesh suitably tied on the top of 10-15 cm and Rain Water Harvesting recharge Pit (As per Typical Drawing) for each block. Before the recharge pit, an inspection chamber (Pre-chamber) shall be constructed, where the water will be retained for some time before letting into the recharge pit. Water will be brought from the roof top catchment, first to the pre-chamber and then to the recharge pit through 75mm PVC pipe.

For designing the rainwater harvesting pit, the manual of CPWD on Rain water harvesting has to be referred to/ followed. The Ground Water Directorate of Water Resources Department, Government. of Jharkhand has also brought out a booklet on Rain Water Harvesting which can be obtained from them. Their email id is- dirgwdran-wrd-jhr@nic.in).

#### **42.0 Building Elevation**

Building elevation shall be strictly in accordance with the elevation details shown in approved execution drawing.

#### **43.0 Expansion Joint**

To be constructed as per relevant I.S. code in this regard.

#### **44.0 Internal Road Work**

The Cement Concrete road will be 200mm thick M-25 Concrete with proper camber laid over lean concrete of 100mm thick M-15 with extra 300 mm on each

side of the road. Lean concrete shall be laid on 150 mm sand filling. The width of the road ideally should be 4.5m but may increase as per the site condition. For details of footpath, drains along the road, etc,

#### **45.0 Sewer Drain**

Manhole- Brick masonry manhole chamber 800x900mm, R.C.C. Slab top in 1:1.5:3 concrete mix

P.C.C- 150 mm thick (P.C.C. 1:3:6).

Pipe- 150mm Dia, 225mm Dia & 300mm Dia RCC Hume Pipe including fitting accessories.

The house service connection between individual dwelling units and the sewer drain as well as the sewer drain and main truck drain will be the responsibility of the contractor.

#### **46.0 Landscapping/ Green Space/ Park** (Must be 10% of the total project area at each site)

i) Soil filling -Good Earth + cow dung / dump manure.

46.1 Plantation -Doob grass, Hedges &Furns, Adansonia digitata (Kalp vricksh), Bauhinia Acuminata shrub in earthen Pot, etc all complete on fine dressed ground.

46.2 Making Brick Side Edging, Lawn Turf etc all complete.

#### **47.0 Under Ground Water Tank/Sump Well Including Pumping Arrangement**

47.1 R.C.C. M-25 or more as per approved design with special water proofing.

47.2 150 mm thick (P.C.C. 1:4:8).

47.3 Crushed Stone Dust of Sand/Moorum filling around the water tank in case of clayey soils to avoid pressure on the tank due to expansion of soils.

47.4 The capacity of Sump should be computed as per latest revision of CPHEEO Manual each Dwelling Unit.

#### **48.0 Compound Fencing and Gate**

**Barbed Wire Fencing-** Fencing with R.C.C. post of mix 1:1.5:3 and 2m height placed at required distance, embedded in cement concrete blocks, every 15th post, last but one end post and corner post shall be strutted on both sides and end post

one side only, provided with horizontal lines and two diagonals of barbed wire weighing 9.38 kg per 100 metres (minimum), between the two posts fitted and fixed with G.I. staples on wooden plugs or G.I. binding wire tied to 6 mm bar nibs fixed while casting the post. With G.I. barbed wire.

**GATE-** Supplying, fitting & fixing 20 gauge G.C.I sheet gate of suitable width fitted on M.S Angle frame of size 60x60x6 mm including cost of fabrication, providing necessary locking arrangement with haskal and domny duly fixed in R.C.C. M-200 with normal mix of (1:1.5:3) in column of required size with approved quality of stone chips 20mm to 6mm size graded and clean coarse sand of F.M. 2.5 to 3, applying two coats of synthetic enamel paint over a priming red lead paint over steel work and two coats of exterior quality acrylic paint of approved shade over a coat of cement primer including 19mm thick water proof plaster over R.C.C column.

#### **49.0 Septic Tank**

R.C.C septic tank to cater to the needs of all residents shall be designed by the contractor as per CPHEEO Manual/ IS 2470 and got approved along with the building designs. The number of septic tanks and the locations will be site specific has to be got approved along with the building designs for which the computation needs to be provided by the contractor.

A suitable covered soak pit attached with every septic tank shall also be constructed by the contractor.

#### **50.0 Tube Well and Pump House**

*Attention of Contractor: It is brought to the knowledge of the contractor that the tube well and pump house is to be constructed in such a way if piped water supply is not available the tube well is capable of meeting the domestic water needs however related details but not limited to is provided below.*

Successful drilling of perfectly vertical bore hole of a diameter suitable to receive 150mm nominal diameter casing pipe upto desired depth to achieve required yield below ground level for transporting, lowering and fixing of 150mm nominal diameter G.I. casing pipe inside the bore hole including all works pertaining to drilling such as transportation, installation and removal of drilling machine, etc. all complete.

I.S.I. Marked G.I. Casing pipe (plain) medium class in 4 to 7 meters or required length one end fitted with socket as per I.S. 1239 (Part-2) 1992 with IVth revision (Up-to date amendments)

Conducting yield test or development of tube-well by operating the pumping set continuously for a desired time interval as per the direction of Engineer in charge including all complete.

Making hydrant pillar work with bricks of required crushing strength not less than 25kg/sq.cm in cement mortar 1:4 including 10cm thick coping 1:2:4 (stone aggregate, 12.5mm nominal size) rendered smooth with neat cement and plastered with 12mm cement mortar 1:4 including finishing with floating coat of neat

cement over 15cm thick foundation concrete 1:5:10 (stone aggregate 40mm nominal size) including earth work and disposal of surplus earth complete as per standard design.

Submersible pump of suitable HP 12 stages having discharge 300 ltr. / min. as per I.S.I. Specification with 4 Sq mm Cable wire and panel board with starter suitable for above 5 HP pumps shall be provided.

Mono block pump upto 5 HP as per I.S.I. Specification with 4 Sqmm Cable wire and panel board with starter suitable for above 5 HP pumps. as per site requirement shall be provided.

### **51.0 External Electrification**

External electrification work shall be suitably designed and provided to cater the requirements of all the dwelling units.

The contractor has to co-ordinate and follow-up with concerned BBVNL\Applicable local authority for obtaining necessary sanction towards the scheme. The scheme so sanctioned should be inclusive of required specification layer and other drawings etc. complete as per requirement.

All the respective charges to be paid to BSEB/BBVNL like strengthening, supervision charges etc. outside the transformer to be installed by contractor shall be borne by implementing agency however, the contractor shall facilitate and carry out the liaising work for getting demand notice and supporting documents along with approvals from BSEB/BBVNL. The contractor take note of this and they should not load the same unnecessarily in the price quoted for the work under consideration.

#### **The details scope of work related to aforementioned external electrification may include (but not limited to) the following:-**

- 51.1 Preparing & submission of 3 set of drawings after carrying as of survey & getting approval from Supervisor.
- 51.2 Obtaining necessary permission in respect of road/soil/footpath cutting from the external agencies namely PWD, RCD etc. as the case may be.
- 51.3 Preparation & submission of good for construction drawings.
- 51.4 The agency shall be responsible for submission of all documents to electrical inspection authority and other local body towards the completion of entire work at their own cost, failing which the work may not be treated complete.
- 51.5 Charging permission of the installation.

51.6 Inspection report of the various equipment and material required for external electrification.

51.7 The approval of Chief Electrical Inspector shall be taken by the contractor for installation of transformer and other equipment.

51.8 Arranging pre & post state wise & final testing and commissioning of the Installation from BBVNL/Applicable local authority and electrical inspector etc as required including any shutdowns if required.

51.9 All papers/required documents/drawings to be submitted by the bidder to BBVNL/Applicable Local Authority is to be submitted first to implementing agency and after taking their approval only, the same can be submitted BBVNL/Applicable Local authority.

## **52.0 Parking**

Providing and laying 60mm thick factory made cement concrete interlocking paver block of M -30 grade made by block making machine with strong vibratory compaction, of approved size, design & shape, laid in required colour and pattern over and including 50mm thick compacted bed of coarse sand, filling the joints with fine sand etc. all complete.

The paver block mentioned above shall be laid above random rubble masonry base properly compacted.

*Please note that as per Bihar Building Bye- Laws for affordable housing, 20% of the total Dwelling unit shall be provided with car parking and remaining 80% shall be two wheeler parking.*

## **53.0 Street Lighting**

Solar 30 W LED Street Light System including 30 W with inbuilt charge controller and dusk to dawn controller LED OSRAM or equivalent. Pole of M.S Material with powder coating and 6m height. Battery 12 V/ 75 A-h, suitable for 2 days autonomy/ service. Solar Panel 75 WP (MNRE approved with IDO 9001:2008 Certified). Battery with automatic Dusk-down on-off system.

## **54.0 Lifts**

Bihar Building Bye-laws makes provision of Lifts mandatorily in G+4 buildings or in buildings of height 12 m and above.

The number, type and capacity of lift shall be in accordance with Part VIII, Building services, Section-5, Lift, elevators and escalators in National Building Code (NBC) of India, 2016.

Out of the total number of lifts provided in accordance with NBC, one stretcher lift shall be mandatory for building more than 6 stories high.

The provision and make of lift has to be also got approved by the IIT/NIT / Govt. Engineering College as mentioned in the Bid documents while getting other designs approved.

### **55.0 Fire Fighting System**

All high rise buildings (15m or above height, irrespective of its occupancy) should be equipped with Fire Fighting System as per provisions indicated by NBC and that will be applicable in affordable housing buildings also. The building design shall comply to the applicable provisions (including Fire Exit Staircase) of Fire and Life safety as mentioned in National Building Code of India 2016, Volume-I, Part-IV –Fire and Life Safety and bidder shall submit compliance report of these provisions in their proposal.

Adequate nos. of detectors (smoke/optical), Sprinkler, Fire Extinguisher, Hose Reel, Wet/ Dry Riser, Down comer, Yard Hydrant and others shall be provided in every high rise building and shall be connected with Fire water tank of required capacity at the top of the roof.

The High Rise building can't be handed over by the contractor if the fire fighting system is not constructed and put to place as per National Building code/State Fire safety regulation/ norms.

#### **NOTE:**

**1. The above specifications to the extent practicable are in line with the Govt. of Bihar SOR. Some up gradations have been made on the basis of feedback received from various stakeholders by the decision makers. Any deviation from the policy/Bye- Laws must be got approved from the implementing agency before execution. The decision of the implementing agency will be final and binding to the constructing agency.**

**2. if any ambiguity arises in the above technical specifications, BCD/CPWD technical specifications to be followed for the Construction work. Nonetheless, CPWD Specifications will prevail over the above in case of any obligation on either side.**

## List of Approved Makes

### CIVIL ITEMS:

Sl. No.	Description of Approved Material	Approved Make
1 (a)	Cement (OPC- Grade 43/53)	Ultratech (L&T)/ Ambuja/ACC /Konark/ Birla Gold/ Emami Double Bull/JK/Coramandel /Lafarge etc.,
1 (b)	White Cement	JK White/ Birla White
2	Reinforcement Steel	SAIL/ TISCON(TATA)/ VIZAG (RINL) /JINDAL, ELECTROSTEEL or equivalent
3	Structural Steel	SAIL/ TISCON(TATA)/ VIZAG (RINL) /JINDAL, ELECTROSTEEL
4.	Glazed Ceramic Tile	KAJARIA / JOHNSON/ SOMANI/ CERA
5.	Ceramic Floor Tile	KAJARIA / JOHNSON/ SOMANI/ CERA
6.	Vitrified Tile	KAJARIA / JOHNSON/ SOMANI/ CERA
8.	Ply Wood, Shuttering Ply Conforming to IS 303-1989 / IS 4990-1993	M/s. Century Plyboards (I) Ltd. / M/s. Green Ply Industries Ltd.
9.	-	-
10.	Fire Door	Shakti Met-Door, Metaflex
11	Rolling Shutter	Bengal Rolling Shutter, ' Standard', 'Swastik', 'Diana', 'Hercules',
12.	Stainless Steel Section	SAIL/ TATA
13.	Stainless steel hardware for doors	Dorma /Haffelle
14	Glazing	Saint Gobain / Asahi Float Glass Ltd / Hindustan Safety Glass Works Ltd. / Modi.

15.	Injection waterproofing, water repellent coating, water based Conc. Admixtures. Plasticized membrane PVC	Sika Qualcrete Ltd./ Structural Waterproofing Co. / Pidilite Industries Ltd. / _Fosroc / BASF. (The applicator has to be certified by the waterproof vendor)
16.	Synthetic Enamel Paints, Distemper, Acrylic Emulsion Paints, Melamine Coating , Aliphatic Acrylate	I.C.I (I) Ltd. / Berger Paints (I) Ltd. / Jenson & Nicholson (I) Ltd. / Asian Paints (I) Ltd. / FOSROC Chemicals(I) Pvt Ltd .
17.	Flush door ( Factory made )	M/s. Century Plyboards (I) Ltd. / Green ply / Merino Industries
18.	Aluminium Sections and Extrusion shall conform IS:733-1983 and IS:1285-1975	HINDALCO / JINDAL
19.	General Hardware	
	a) Latches, hinges etc.	GODREJ / DORMA / HAFFELLE
	b) Locks , Flush bolt	GODREJ / DORMA / HAFFELLE
	c) Handles	GODREJ / DORMA/ HAFFELE
	d) Screw	Nettlefold / GKW / ND
	e) Door Closure	GODREJ / DORMA/HAFFELE
	f) Floor Spring	GODREJ / M/s. EVERITE Agencies Pvt. Ltd. / M/s.
		Garnish
	g) Aldrop	ISI Marked
	h) Tower bolt	ISI Marked

	I ) PVC Buffer block	ISI Marked
	J) Door Stopper	ISI Marked
	k) Patch fittings for toughened glass	Dorma Systems
20.	Laminates	—DECOLAM (Bakelite Hylam Ltd.) / —MERINOI (Century Laminating Co. Ltd.)/ GREENLAM (GREEN PLY)
21	<b>Kota stone</b> (Bluish grey/ Green )	Premiur
22	Waterproof Adhesive for Tile / Slab fixing to wall or floor	Terraco India (P) Ltd. / M/s. Pidilite Industries Ltd. / M/s. Roffe Construction Chemicals Pvt. Ltd.
23	Sealant	Rhodorsil-33, Pidiseal A-11 & B-11 : M/s. Pidilite Industries Ltd., Techseal RDL-600, Techseal RDL-940, Techseal RDL-1000 : M/s. Choksey Chemical (P) Ltd. Roffseal : M/s. Roffe Construction Chemicals Pvt. Ltd. or Fosroc ., Sikk Polysulphide/ Dr. Fixit Pidiseal PS (42 P) MYK.
24	<b>Tile Jointing Materials</b>	—RainbowTile Mate – HD (M/s. Roffe construction Chemicals Pvt. Ltd.). —Terragrout (M/s. Terraco India (P) Ltd.). or Fosroc
25	Decorative Ply (Teak / Cedar / Mahegony / Walnut Veneer)	M/s. Century Plyboards (I) Ltd./ GREEN PLY

26	Cement Based or Textured Paint	ICI ( I ) Ltd / Asian Paints / Berger Paint (I) Ltd ./ Jenson & Nicholson
27	Glass Mosaic tiles	Shon, Kent , Bisazza
28	Glass for structural glazing & canopy (Coloured Reflective toughened glass)	Saint Gobain / Hindustan Pilkington/ Ashai float glass .
29	Silicone Sealant	GE/Dow Corning
30.	Aluminium composite panel	Aluco bond ,Aludecor , Alstrong
31.	MS Conduit pipe	BEC /SUPREME/ AKG
32.	PVC Conduit pipe	PLAZA/PRECISION/POLYCAB/AKG/ Arkaylite/ Havells, JUVAS
33.	Pre-constructional Anti-termite (Chloropyriphos)	Pest Control India or approved by Engineer-in-charge
34.	Cement Primer	ICI / BERGER / ASIAN PAINTS/ JENSON & NICHOLSON
35.	Textured Paint	ICI / BERGER / ASIAN PAINTS/ JENSON & NICHOLSON
36.	Waterproofing acrylic emulsion exterior grade paint	ICI / BERGER / ASIAN PAINTS/ JENSON & NICHOLSON
37.	Acrylic Polymer waterproofing coat	SIKA / FOSROC / PIDILITE / ROFFE/ BASF
38.	Expanding grout admixture	SIKA / FOSROC / PIDILITE / ROFFE/ BASF
39.	Integral waterproofing compound	SIKA / FOSROC / PIDILITE / ROFFE

40.	Waterproofing admixture	SIKA / FOSROC / PIDILITE / ROFFE
41.	Plasticizer	SIKA / FOSROC / PIDILITE / ROFFE
42.	APP Modified Bituminous membrane	SIKA / FOSROC / PIDILITE / ROFFE
43.	Aluminium anodized louver	HUNTER DOUGLAS
44.	Structural glazing	JINDAL/HINDALCO .
45.	Stainless steel handrail with balluster	GODREJ / DLINE
46.	Floor hardener	Ironite/ Feronite

### WATER SUPPLY, SEWERAGE & DRAINAGE

Sl. No.	Description of Approved Material	Approved Brand / Manufacturer
1.	G.I. Pipes - medium class (As per IS- 1239, P - I )	TATA/JINDAL
2.	G.I. Pipe fittings (as per IS-1239, P - II) ; of material with Galvanised Cast Iron Fillings, with material code conforming to IS- 1879	HB/ "NB' /"ZOLOTO"/Leader / -"JSI" fittings ISI approved Heavy
3.	<b>C.P. on brass fittings</b>	

	CP Bib cock	JAJUAR-Continental /CERA /ESSCO = Delux' or = something special' / —Marcl//—Hindwarell or as approved by ENGINEER-IN-CHARGE
	CP 'Long Nose' /or' Long Body' Bib cock	- Do -
	CP Angle valve	- Do -
	CP 'Concealed' Stop cock 'Heavy' type with adjustable CP wall Flange	- Do -
	CP Shower Rose	- Do -
4.	Bronze /Gun metal-body—Pressure-	—Zolotol- 1040A / Leaderll/ —Santll / —Neta
	Release valve with threaded screwed ends, class (PN-1.0) / or (PN-1.6) class	
5.	Gun metal body Ball Float valve with PVC (High pressure) Ball Float	Zolotol / Leaderll/ —Santll / —Neta
6.	15 mm dia. PVC Connector pipe with Symet nuts at both ends. - ( for Wash Basin	PRAYAG or as approved by ENGINEER-IN- CHARGE

	Pillar tap &W.C. &Urinal Cistern	
	connections)	
7.	Wall Outlet Connection Flexible Pipe - 15mm dia	"Jaquar" / —Esscol/ —Hindware
8.	Bronze /Gun metal-body Gate valve with threaded screwed ends, "Non-rising Spindle" type (PN-1.0) / or (PN- 1.6) class	—Leader / —Zoloto-for Bronze Sant / body / —Netal / SBM – —Peglar type
9.	Bronze -body Globe valve with BSPT(F), threaded screwed ends, "Non-rising Spindle" type (PN-1.0) (PN-1.6) class	Valves of 'Zoloto', or 'Sant' or as approved by ENGINEER-IN-CHARGE.
10.	CI body Gate /Sluice valve with flanged ends rising Spindle" type (PN- 1.0) / or (PN-1.6) class	—Sant' / —Zoloto' /Leader / —Hawa'
11.	Pump for water supply .	'Willo' / —KSB / —CRI / —Grundfos / DP.pump

12.	CP Spreader-Urinal15mm (for Urinals only)	for all Toilets :- Hindware / "Parryware" or as approved by ENGINEER-IN-CHARGE.
13.	Soil, waste & vent pipes / and Pipe Fittings & Specials :- C.I. Centri cast (as per IS-153989)	NECO' / 'HEPCO' / 'KAPILANSH DHATU UDYOG (P) L TD.'
14.	<b>C.P. on brass fittings</b>	JAQUAR/ESSCO =-Delux'/Marc /Hindware /CERA/
15.	C.P. on brass fittings C.P. Waste Coupling, ii) C.P. Bottle Trap, iii) C.P Robe Hook, iv) C.P. Towel Rail. v) CP Two way Bib Tap	JAQUAR/ESSCO =-Delux'/Marc/ Hindware /CERA
16.	CP Toil. Paper Holder	- Do -
17.	CP Towel Ring	- Do -
18.	CP Soap Dish Holder	- Do -
19.	CP Bottle CP Trap with wall connection Pipe	- Do -

20.	Sanitary Fixtures & Fittings	
	CP Robe Hooks	- Do -
	CP "Two-way" Bib cock	- Do -
	CP Shower Rose	- Do -
21.	Rigid PVC (Concealed) Waste pipe, [Schdl.-40], (as per ASTM D 1785)- (concealed or exposed)	Supreme / Oriplast / Finolex/ Utkarsh
22.	Rain Water Pipe Fittings :- 'Sand cast Iron' - "SWR" class, as per (IS: 1792)	DO
23.	'Salem' Stainless Steel Sink as per AISI 304 (18/8) conforming to I.S.- 13983	"Hindware" "Hafele" "Nirali", 'Parryware'
24.	<b>Stone- Ware Pipes, and S.W. Pipe Fittings</b>	Sonali / GINNI / NIRALI / Hind
25.	C. I. Manhole Cover ( I.S. - 1726)	NECO' / 'HEPCO'/ Swastika / BPL'/ —BICL.

	"Medium" or "Heavy" Grade' (Light duty only on Oil/Grease Trap Chamber)	
26.	NP-2 class R.C.C. Pipes and Pipe Fittings  (i.e., RCC Collars etc.)	/ West Bengal Eastern Spuncrete Concrete  / HINDUSTAN' Industries(P) Ltd. SUR'./or equivalent ISI approved Make.
27.	Stone- Ware Gully Trap	Sonali / GINNI / NIRALI / Hind / or equivalent ISI approved make.
28.	C. I. Grating- (Over Catch Pit / Yard Gully Chamber), (I.S. - 1726) - "Medium" or "Heavy" Grade	NECO' / 'HEPCO' / BPL'//Kapilansh Dhatu Udyogll
29.	<b>Rain Harvesting Pump/Agriculture Pump of required capacity -.</b>	'Willo'/   KSB   / —CRI   / —Grundfos  / DP pumps/
30.	"Enclosed" Analogue type Water Meter ("Bulk" Type), conforming to IS-2373 with Calibration Certificate, including all necessary accessories.	"Dashmesh" / 'Kaycee" / "Capstan"/ —Kentll.

31.	Bronze body "Parallel Slide" "Blow-off valve ("Spring loaded, blow-off pressure sellable" type), with flanged ends, also with matching Flanges (PN-1.0) / or (PN- 1.6) class	Zoloto' / Sant –make / Leader.
32.	<b>Air-Release Valve</b>	Zoloto' / Sant –make / Leader.
	Bronze body "Parallel Slide" "Blow-off valve ("Spring loaded, blow-off pressure	
	sellable" type), with flanged ends, also with matching Flanges (PN-1.0) / or (PN- 1.6) class	
	Bronze / Gun metal -body Ball valve with "BSPT(F), threaded screwed ends, "quarter turn Lever operated" type (PN-1) / or (pN- 1.6) class	Valves of Bronze body :-'Leader', 'Zoloto' – Metal only:- Sant make / Leader.

33.	Gaskets-CAF 'Full face' conforming to IS-2712, Gr.- C; (3mm thick)	"Klinger" / "Permanite" / "Champion".
34.	CPVC and uPVC and HDPE pipe including fittings	Ori-Plast /Suprim/Alom
35.	Pressure Reducing Valve , Blow-off VALVE : Bronze / Gun metal Body, Bronze/Gun metal Body, Non-Return Valve (N.R.V) : C.I. Body	Zoloto, / "Sant" / —Leader / —Amcol / —Hawal)
36.	(Vitreous Sanitarywares chinaware):- i) W.C. - (Indian type/ European Type) - with 'S' / 'P' - Trap - Floor mounted type, without PVC Flushing Cistern ii) Wash Basins - "Flat-back" type rectangular pattern with —Esscol CP Pillar Tap / or —Swan neck type Mixer iii) Urinal - Flat back "Small" with CP Spreader, CP Waste coupling, CP Bottle Traps with waste pipes.	Hindware, / —Parryware/ —CERA / KOHLER

37.	Wall Mirror	6mm thick 'Modiguard' / 'Ashai' / or equivalent as approved by ENGINEER-IN-CHARGE, with 12mm thick hard-board backing
38.	W.C.:- Floor mounted "Pedestal" type- W.C. -	'Hindware- /'Parryware'/'Cera' :-
39.	Wash Basin	'Hindware- /'Parryware'/'Cera'
40.	For WC flushing :- PVC 'Low-level' "Dual- Flush" Cistern	'Hindware' "SLEEK" or equivalent Parryware or 'Cera' Model.

**ELECTRICAL ITEMS:**

Sl.	ITEM	APPROVED MAKES
1	Diesel engine	CUMMINS / CATERPILLAR / KIRLOSKAR
2	Alternator	KIRLOSKAR / STAMFORD / AREVA
3	LT Cable termination materials	DOWELLS / COMET / LOTUS
4	Air Circuit Breaker	SCHNEIDER / ABB / L&T
5	MCCB / Contactor	SCHNEIDER / ABB / L&T
6	MCB Distribution Board	SCHNEIDER / ABB / L&T
7	MCB / RCCB / RCCBO	SCHNEIDER / ABB / L&T
8	Power Factor Correction Relay	SCHNEIDER // L&T/EPCOS

9	Power Factor Correction Capacitors	SCHNEIDER / EPCOS / L&T
10	Relays	SCHNEIDER / SIEMENS / L&T
11	Meters	SCHNEIDER /ENERCON/ AEI
12	Ammeter/Voltmeter selector switch	L&T/ KAYCEE / SALZER
13	Indicating Lamp	SCHNEIDER /SIEMENS/VAISHNO/ L&T
14	Push Buttons / Indicating Lamps	SCHNEIDER /L & T (RISHAB) / SIEMENS
15	CT	KAPPA / AUTOMATIC ELECTRIC / BCH
16	L. T. Power, control and signal cable	HAVELLS / POLYCAB / CRYSTAL
17	Cu. Wires	MESCAB / FINOLEX /HAVELLS
18	M.S.Conduit	JINDAL / TATA / GST
19	PVC conduit & Accessories	ISI Marked
20	Industrial Power Socket Outlets	SCHNEIDER / ABB / L&T
21	Switches and Sockets modular type	LEGRAND / CRABTREE / L&T
22	Lighting Fixture	WIPRO / CG / PHILIPS
23	Wall/ Ceiling / Exhaust Fans	USHA / CROMPTON / HAVELLS
24	Ductable Split Units	LG / PANASONIC / CARRIER
25	Wall Mounted Split Unit	LG / PANASONIC / CARRIER
26	Cable Tray	FABRICATED / LEGRAND
27	EPABX	UNIFY / CISCO / AVAYA
28	RJ 11 SOCKET	LEGRAND/L&T/SCHNEIDER
29	RJ 45 SOCKET	LEGRAND/L&T/SCHNEIDER
30	LAN Cable & Accessories	HAVELLS / POLYCAB / CRYSTAL

31	UPS	ETON/EMERSON
32	CCTV CAMERAS	L&T/SCHNEIDER/ABB
33	PA SYSTEM along with all accessories	BOSCH / HONEYWELL
34	TRANSFORMER	VOLTAMP / SCHNEIDER /
35	HT BREAKER	SCHNEIDER/ABB/L&T
36	HT XLPE CABLE	HAVELLS / POLYCAB / CRYSTAL
37	11 KV RUBBER MAT	ISI MARKED
38	11 KV HAND GLOVES	ISI MARKED
39	ELECTRONIC LIGHTING ARRESTER	PROLITE/
40	Fan	Havells, Crompton, Bajaj
41	LED Lights	Havells, Crompton, Bajaj,Surya

### FIREFIGHTING MAKES

<u>Sl. No.</u>	<u>Description of Material/Item</u>	<u>Approved Make</u>
1	Relays	Siemens / Schneider / L & T
2	Meters	IMP / Neptune
3	Ammeter/Voltmeter selector switch	Kaycee / Salzer / AE
4	Indicating Lamp	Siemens/ Schneider
5	Wires (copper conductor)	Mescab / Polycab/ Havells/ Nicco / Gloster
6	MCCB	Siemens/ Schneider / L & T

7	CT	Kappa
8	<b>MS-Black Main Pipes-Hydrant ERW (IS-1239)</b> <b>Butt weldable /threaded IS:1239</b> <b>Part-I (Heavy)</b>	<b>JINDAL /</b> <b>TATA/ Nezone/</b> <b>_Skipper‘</b>
9	<b>Gate valve(IS:210,GR-210) ,</b>	<b>Crawlie &amp; Ray</b>
10	<b>Butter fly valve in C.S. lever / Wheel</b>	<b>/Leader /Intervolve/Sant/ Zoloto/L&amp;T</b>
	<b>operated to be fitted between flanges, PN-1.0 BS-5155</b>	<b>Kirloskar/</b>
11	<b>Foot Valve with Strainer as per IS-4038</b>	
12	Sluice / Gate Valve.	
13	N.R.V.	
14	R.C.C. pipes (NP-3	Eastern Spuncrete / Ltd. W.B. Concrete Industries Pvt. / Hindustan
15	Hydrant Valve IS-5290	Shield Fire/Minimax, Surex –all ISI marked
16	CP fire Hose with G.M. Nozzle.	FireShield /Minimax, Surex – all ISI marked
17	Pressure Gauge	FireShield /Minimax, Surex – all ISI marked
18	Hose Box	FireShield /Minimax, Surex – all ISI marked
19	<b>Fire Extinguishers</b> <b>D.C.P.- 5 Kg.- including MS fastening Clamps for mounting on walls/columns CO<sub>2</sub> 4.5 Kg.-</b>	<b>FireShield /Protector/ /Surex /Minimax-all ISI approved</b>

	including MS fastening Clamps for mounting on walls/columns Water CO <sub>2</sub> including MS fastening Clamps for mounting on walls/columns A B C – Powder type	
	(Mono Ammonium Phosphate base) - including MS fastening Clamps for mounting on walls/columns	
20	Pump	Pumps/Kirloskar/KSB/ SAM TURBO BE /WPIL /Grundfos or Equivalent
21	Y'-strainer	Kirloskar/Lead er/ Sant /Zoloto
	Pressure Release Valve	Kirloskar/Lead er/ Sant /Zoloto
23	Fire Sprinklers (both pendent & Up-Right type)	TYCO' / VIKING' / Omex' / Centrall-ELO 16/ Crawlie & Ray
24	FIRE ALARM PANEL DETECTORS 3	HONEYWELL-ESSER, Notifire, Simplex, Morley-Edward
	MODULES/ MCP (system sensor)	
25	RESPONSE INDICATOR	Approved matching Brand.
26	CABLE	Finolex or equivalent
27	PVC CONDUIT	Ori-Plast or other equivalent
28	FIRE ALARM PANEL	HONEYWELL-ESSER,
29	Smoke Detector	Siemens/Esser/Tyco
30	Heat Detector	Siemens/Esser/Tyco
31	Manual Call Box	ISI Approved Make

32	PC	HP/Dell
33	Pressure Switch	Indfoss ,/ Switzer
34	Lift	OTIS/KONE/JOHNSON

**All material must conform to relevant BIS specifications.**

**CODES & STANDARDS.**

All the systems and equipment's within the scope of this tender shall be of reputed proven makes, designed and manufactured in accordance with the stipulations of latest versions of Indian Codes.

When an equipment is offered conforming to standards other than those listed below, it shall be clearly brought in notice of engineer in charge.

S. No	IS Code	Description
1	IS:1646	Code of practice for fire safety of building (general), Electrical Installations.
2	IS:1648	Code of Practice for fire safety of buildings (general), Fire Fighting Equipment and its Maintenance.
3	IS:3034	Code of Practice for Fire of Industrial Buildings, Electrical Generating and Distributing Stations.
4	IS:884	First Aid Hose Reel for Fire Fighting ( For Fixed Installations).
5	IS:2171	Portable Fire Extinguisher, Dry Powder Type
6	IS:2878	Portable Fire Extinguishers, CO2 type.
7	IS:1239	Part - I : Mild Steel Tubes (upto 150mm). Part - II : Mild Steel tubulars and other wrought steel pipe fittings.
8	IS:778	Gunmetal gate, globe and check valves for general purposes.
9	IS:13095	Butter Fly Valve
10	IS:14846	Sluice Valve for water works purposes (50 to 1200mm size) – Specification.
11	IS:5312	Swing Check type Reflux (Non-Return) Valves.
12	IS:940	Portable Fire Extinguisher ,Water CO2 Type.
13	IS:10204	Portable Fire Extinguisher, Foam Type.
14	IS:2190	Code of practice for selection, installation and maintenance of portable First -

		Aid Fire Appliances.
15	IS:1520	Horizontal Centrifugal Pumps for clear, cold and fresh water.
16	IS:5290	Landing / Hydrant Valve
17	IS:8423	Controlled Percolation Hose for fire fighting.
18	IS:903	Fire Hose Delivery Couplings, Branch Pipe, Nozzles & Nozzle spanner.
19	IS:2062	Structural Steel (Fusion / Welding Quality ).
20	IS:325	Three Phase Induction Motor.
21	NBC	National Building Code, Chapter – IV (Amendment No.3, January 1997).
22	IS:2189	Code of practice for selection, installation and maintenance of Automatic Fire Detection and Alarm System.
23	IS:732	Code of practice for electrical wiring installations
24	IS:2217	Recommendations for providing first aid fire fighting arrangements in public buildings.
25	IS:3844	Code of practice for installation of internal fire hydrant in multistoried buildings.
26	IS:3589	Mild Steel Tubes (200mm and above).

**VOLUME-III**

**SECTION 8**

**FORM OF BID**

**FORM OF BID**

Description of the Works:

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BID

To :

Address :

1.0 We offer to execute the Design, Plan and Build Works described above and remedy any defects therein in conformity with the Conditions of Contract, specification, drawings ( Concept layout), Price Bid ( Lumpsum format) and Addenda for the sum(s) of \_\_\_\_\_

2.0 We undertake, if our Bid is accepted, to commence the Works as soon as is reason- ably possible after the receipt of the Engineer's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the document.

3.0 We agree to abide by this Bid for the period of ..... days from the date fixed for receiving the same, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

4.0 Unless and until a formal Agreement is prepared and executed this Bid, together with your written acceptance thereof, shall constitute a binding contract between us.

5.0 We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2019

-

Signature \_\_\_\_\_ in the capacity of \_\_\_\_\_ duly

authorized to sign bids for and on behalf of (In block capitals or typed)  
\_\_\_\_\_

Address  
\_\_\_\_\_

Witness  
\_\_\_\_\_

Address  
\_\_\_\_\_

Occupation  
\_\_\_\_\_

## **SECTION 9**

### **PRICE BID**

## PRICE BID

### Preamble

- 1.0 The Price Bid shall be read in conjunction with the Instructions to Bidders, Conditions of Contract, Technical Specifications and Drawings (Concept Layout).
- 2.0 The numbers of dwelling units and buildings together related infrastructure and are given to provide a common basis for bidding. The payment will be based upon the actual quantities in respect of dwelling unit completed and carried out, as measured by the Contractor in sqm of carpet area and verified by the Engineer and valued at the rates and prices tendered in the Price Bid, within the terms of the Contract.
- 3.0 The rate tendered in the Price Bid shall, except in so far as it is otherwise provided under the Contract, including all planning, designing, preparing of structural drawings, getting the drawings vetted from Indian Institute of Technology /National Institute of Technology (NIT)/Govt. Engineering College, constructional plant, labour, supervision, materials, erection, maintenance, insurance, profit, taxes and duties, together with all general risks, liabilities and obligations set out or implied in the Contract.
- 4.0 The rates or prices shall be quoted entirely in Indian Currency.
- 5.0 The rates or prices per sqm of carpet area shall be entered in the price bid which will be taken to have included in the cost of water supply/ plumbing, internal and external electricity/lighting, construction of overhead tanks/ sumps at ground level, barbed wire fencing, internal roads, landscaping work, etc within the premises/ land under Smart City Limited is to come up in Bihar.
- 6.0 The whole cost of constructing the housing scheme as mentioned in above para shall be included as there will be no item provided for which the rate can be given and the cost quoted shall be deemed to be inclusive of costs of all the related Items of Work.
- 7.0 General directions and descriptions of work and materials are not necessarily repeated or summarized in the Price Bid. References to the relevant sections of the contract documentation shall be made before entering rates or price in the Price Bid.
- 8.0 The method of measurement of completed work shall be on carpet area basis for which payment shall be made as per milestone indicated in the bid documents.
- 9.0 Errors will be corrected by the Employer for any arithmetic errors pursuant to Clause 29 of the Instructions to Bidders.
- 10.0 Rock is defined as all materials which, in the opinion of the Engineer, require blasting, or the use of metal wedges and sledgehammers, or the use of compressed air drilling for its removal, and which cannot be extracted by ripping with a tractor of at least 150 kW with a single rear mounted heavy duty ripper.

**PRICE BID**

I/we hereby tender to execute the whole of the work described in the:

**Name of the Work:-“Design, Engineering, Procurement & Construction of ICCB Building (G+5 floors) including structural design in Bhagalpur Municipal Premises under Bhagalpur Smart City Mission at Bhagalpur, Bihar”**

Scope of work, but not limited to Architectural Planning & Design, Engineering, Procurement, preparation of detailed structural design & drawing, Construction of G + 5 Building (total built up area 4332 sqm) after obtaining approval from competent authority including water supply and sanitation, sewer network, Internal & External Electrification works, storm water drainage, rain water harvesting, landscaping, boundary wall with barbed wire fencing, street lighting, Construction of internal roads & parking, 1000 KVA Generator sets in two nos., Firefighting System, HVAC & Office Furniture etc. for ICCB Building on EPC basis (complete in all respect internal and external finish) including two (2) years of defect liability period.

## PRICE BID FORMAT

SL. NO.	Description of Work	Rate per sqm of Built-up Area Inclusive of all taxes and GST. (in Rupees)	
		In figure	In words
01.	<p>Scope of work include Architectural Planning &amp; Design, Engineering, Procurement, preparation of detailed structural design &amp; drawing, Construction of G + 5 Building (total built up area 4332 sqm) after obtaining approval from competent authority including water supply and sanitation, sewer network, Internal &amp; External Electrification works, storm water drainage, rain water harvesting, landscaping, boundary wall with barbed wire fencing, street lighting, Construction of internal roads &amp; parking, 1000 KVA Generator sets in two nos., Firefighting System, HVAC &amp; Office Furniture etc. for ICCB Building on EPC basis (complete in all respect internal and external finish) including two (2) years of defect liability period.</p> <p><i>(The bidder need to quote the rate per sqm of Built-up area in such a way that it include entire cost of the building Project in it as no separate payment will be made for associated works.)</i></p>		
<p><b>(In Figures): ----- (In Words) Rupees: (-----) And</b> should this tender be accepted, I/we do hereby agree and bind myself/ ourselves to abide by and fulfill all the conditions annexed to the said specifications in default thereof to or forfeit and pay to BSCL, the penalties of sums of money mentioned in the said condition viz: -----</p>			
<p><b>Note:- 1. The Quantity mentioned under description is only indicative and not final and it cannot be considered as basis of any claim. This quantity is subject to increase or decrease by 20%.</b></p>			
<p><b>Note:-2. Rate quoted will be lump-sum but on basis of Sqm (Built-up area basis of all floor areas of the Building as One unit)</b></p>			
<p><b>Note:-3 The rate quoted by the bidder shall be inclusive of all taxes and GST.</b></p>			
Dated: -			
<p><b>Note:</b> Price Bid is available online on the website <a href="http://www.eproc.bihar.gov.in">http://www.eproc.bihar.gov.in</a>. Bidder shall fill Price Bid as per instruction given in Instruction to Bidder through online.</p>			

## **SECTION 10**

### **SECURITIES AND OTHER FORMS**

**BID SECURITY (BANK GUARANTEE)**

WHEREAS, [name of Bidder] (hereinafter called "the Bidder") has submitted his Bid dated [date] for the construction of [name of Contract hereinafter called "the Bid"].

KNOW ALL PEOPLE by these presents that We \_\_\_\_\_ [name of Bank] of \_\_\_\_\_

[name of country] having our registered office at (hereinafter called "the Bank") are bound unto \_\_\_\_\_

[name of Employer's Representative] (hereinafter called "the Employer's Representative") in the sum of \* for which payment well and truly to be made to the said Employer's Representative the Bank itself, his successors and assigns by these presents.

SEALED with the Common Seal of the said Bank this \_\_\_\_\_ day of .... 2019

THE CONDITIONS of this obligation are:

1.0 If after Bid opening the Bidder withdraws his bid during the period of Bid validity specified in the Form of Bid;

OR

2.0 If the Bidder having been notified to the acceptance of his bid by the Employer during the period of Bid Validity:

3.0 fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or

4.0 fails or refuses to furnish the Performance Security, in accordance with the Instructions to Bidders; or

5.0 does not accept the correction of the Bid Price pursuant to Clause 27.

We undertake to pay to the Employer up to the above amount upon receipt of his first written demand, without the Employer having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by him is due to him owing to the occurrence of one or any of the three conditions, specifying the occurred condition or conditions.

This Guarantee will remain in force up to and including the date \_\_\_\_\_\*\* days after the deadline for submission of Bids as such deadline is stated in the Instructions to Bidders or as it may be extended by the Employer, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this guarantee should reach the Bank not later than the above date.

DATE

SIGNATURE

WITNESS

SEAL

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

[Signature, name and address]

6.0 The Bidder should insert the amount of the guarantee in words and figures denominated in Indian Rupees. This figure should be the same as shown in Clause 16.1 of the Instructions to Bidders.

7.0 45 days after the end of the validity period of the Bid. Date should be inserted by the Employer before the Bidding documents are issued.

**PERFORMANCE BANK GUARANTEE**

To

\_\_\_\_\_ [name of Employer's Representative]

\_\_\_\_\_ [address of Employer's Representative]

WHEREAS, \_\_\_\_\_ [name and address of

Contractor](hereafter called "the Contractor") has undertaken, in pursuance of

Contract No. \_\_\_\_\_ dated \_\_\_\_\_ to execute

\_\_\_\_\_ [name of Contract and brief description of Works] (hereinafter called "the Contract").

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligation in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you on behalf of the Contractor, up to a total of \_\_\_\_\_

[amount of guarantee]\* (in words), such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of \_\_\_\_\_ [amount of guarantee] as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract

documents which may be made between your and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until 28 days from the date of expiry of the Defect Liability Period. Signature and Seal of the guarantor

\_\_\_\_\_

Name of Bank

\_\_\_\_\_

Address

\_\_\_\_\_

Date

\_\_\_\_\_

\_\_\_\_\_

\*An amount shall be inserted by the Guarantor, representing the percentage the Contract Price specified in the Contract including additional security for unbalanced Bids, if any and denominated in Indian Rupees.

**BANK GUARANTEE FOR ADVANCE PAYMENT**

**PERFORMANCE BANK GUARANTEE**

To

\_\_\_\_\_ [name of Employer’s Representative]

\_\_\_\_\_ [address of Employer’s Representative]

\_\_\_\_\_ [name of Contractor]

Gentlemen:

In accordance with the provisions of the Conditions of Contract, sub-clause 14.2 ("Advance Payment") of the above-mentioned Contract, [name and address of Contractor] (herein after called "the Contractor") shall deposit with [name of Employer’s Representative] a bank guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of

\_\_\_\_\_

[amount of Guarantee]\* [in words].

We, the [bank of financial institution], as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to [name of Employer’s Representative] on his first

demand without whatsoever right of obligation on our part and without his first claim to

the Contractor, in the amount not exceeding \_\_\_\_\_ [amount of guarantee]\* [in words]. \_\_\_\_\_

We further agree that no change or addition to or other modification of the terms of the Contractor or Works to be performed there under or of any of the Contract documents

which may be made between \_\_\_\_\_ [name of Employer's Representative] and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall remain valid and in full effect from the date of the advance

payment under the Contract until [name of Employer's Representative] receives full repayment of the same amount from the Contractor.

Yours truly,

Signature and Seal : \_\_\_\_\_

Name of Bank / Financial Institution : \_\_\_\_\_

Address : \_\_\_\_\_

\*An amount shall be inserted by the Bank or Financial Institution representing the amount of the Advance Payment, and denominated in Indian Rupees.

**LETTER OF ACCEPTANCE****(Letter head paper of the Employer's Representative)**

(Date) \_\_\_\_\_

To

(Name and address of the Contractor)\_\_\_\_\_  
\_\_\_\_\_

Dear Sirs,

This is to notify you that your Bid dated \_ \_ \_ for  
execution of \_\_\_\_\_

the \_\_\_\_\_ (name of the contract and identification  
number, as given in the Instructions to Bidders) for the Contract  
Price of Rupees \_\_\_\_\_ (  
\_\_\_\_\_ )

(amount in words and figures), as corrected and modified in accordance with the  
Instructions to Bidders<sup>1</sup> is hereby accepted by our agency.

You are hereby requested to furnish Performance Security, in the form detailed in Para

32.1 of ITB for an amount equivalent to Rs. \_\_\_\_\_ within 21 days of the receipt of this letter of acceptance valid up to 28 days from the date of \_\_\_\_\_ expiry of defects Liability Period i.e. up to \_\_\_\_\_ and sign the contract, failing which action as stated in Para 32.4 of ITB will be taken.

Yours faithfully,

Authorized Signature

Name and title of Signatory

(Employer's Representative)

---

<sup>1</sup>.Delete "corrected and" or "and modified" if only one of these actions applies. Delete as corrected and modified in accordance with the Instructions to Bidders, if corrections or modifications have not been affected.

**ISSUE OF NOTICE TO PROCEED WITH THE WORK**

**(Letter head of the Employer’s Representative)**

(Date) \_\_\_\_\_

To

(Name and address of the Contractor)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Sirs,

Pursuant to your furnishing the requisite security as stipulated in ITB Clause 32.1 and signing of the Contract for the construction of

\_\_\_\_\_ at Bid Price of Rs. \_\_\_\_\_

You are hereby instructed to proceed with the execution of the said works in accordance with the contract documents.

Yours faithfully,

(Signature, name and title of  
Employer’s Representative)

**AGREEMENT FORM**

Agreement

This agreement, made the \_\_\_\_\_ day of \_\_\_\_\_ between \_\_\_\_\_

(name and address of Employer) [hereinafter called "the Employer] and \_\_\_\_\_

\_\_\_\_\_ (name and address of contractor) hereinafter called "the

Contractor" of the other part.

Whereas the Employer is desirous that the Contractor execute \_\_\_\_\_

(name and identification number of \_\_\_\_\_ Contract) (hereinafter called "the

Works") and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein, at a cost of Rs. \_\_\_\_\_.

NOW THIS AGREEMENT WITNESSETH as follows :

1. In this Agreement, words and expression shall have the same meanings as are respectively assigned to them in the conditions of contract hereinafter referred to and they shall be deemed to form and be read and construed as part of this Agreement.

2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all aspects with the provisions of the contract.

3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying the defects wherein Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

4. The following documents shall be deemed to form and be ready and construed as part of this Agreement viz.

- a. The Contract Agreement
- b. Letter of Acceptance, notice to proceed with the works
- c. Contractor’s Bid
- d. Contract Data
- e. Conditions of Contract including Special Conditions of Contract
- f. Employer’s Requirements
- g. Technical Specifications
- h. Concept Drawings & Data along with Tender documents
- i. Any other document listed in the Contract Data as forming part of the Contract

In witnessed whereof the parties there to have caused this Agreement to be executed the day and year first before written.

The Common Seal of \_\_\_\_\_ was hereunto affixed in  
the presence of : \_\_\_\_\_

Signed, Sealed and Delivered by the said  
\_\_\_\_\_  
\_\_\_\_\_

in the presence of:

Binding Signature of Employer’s Representative \_\_\_\_\_

Binding Signature of Contractor \_\_\_\_\_

**UNDERTAKING**

I, \_\_\_\_\_ The undersigned do hereby undertake that \_\_\_\_\_ our firm M/s \_\_\_\_\_ agree to abide by this bid for a period \_\_\_\_\_ days for the date fixed for receiving the same and it shall be binding on us and may be accepted at any time before the expiration of that period.

\_\_\_\_\_  
(Signed by an Authorized Officer of the Firm)

Title of Officer  
\_\_\_\_\_

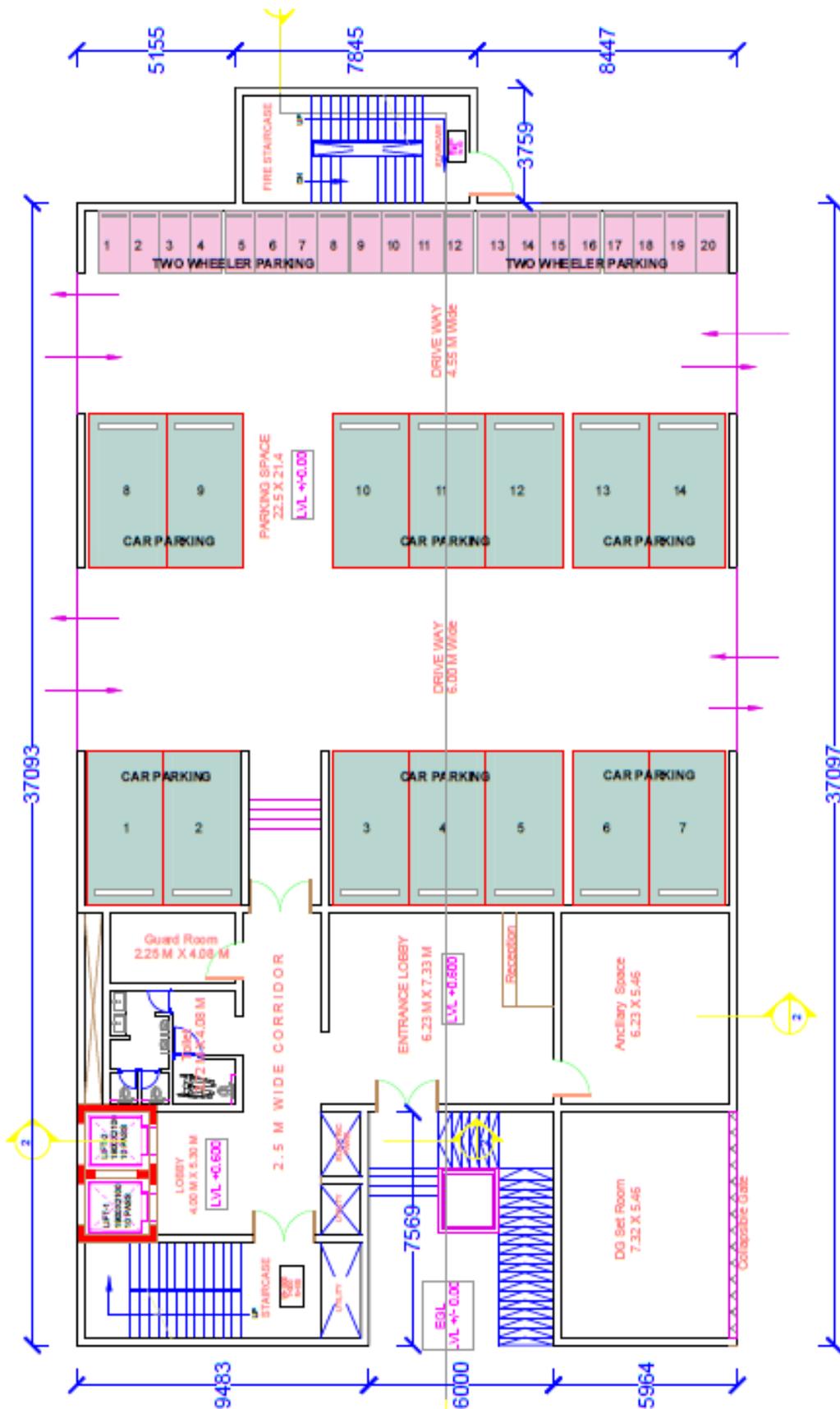
Name of Firm  
\_\_\_\_\_  
\_\_\_\_\_

DATE

## **VOLUME-IV**

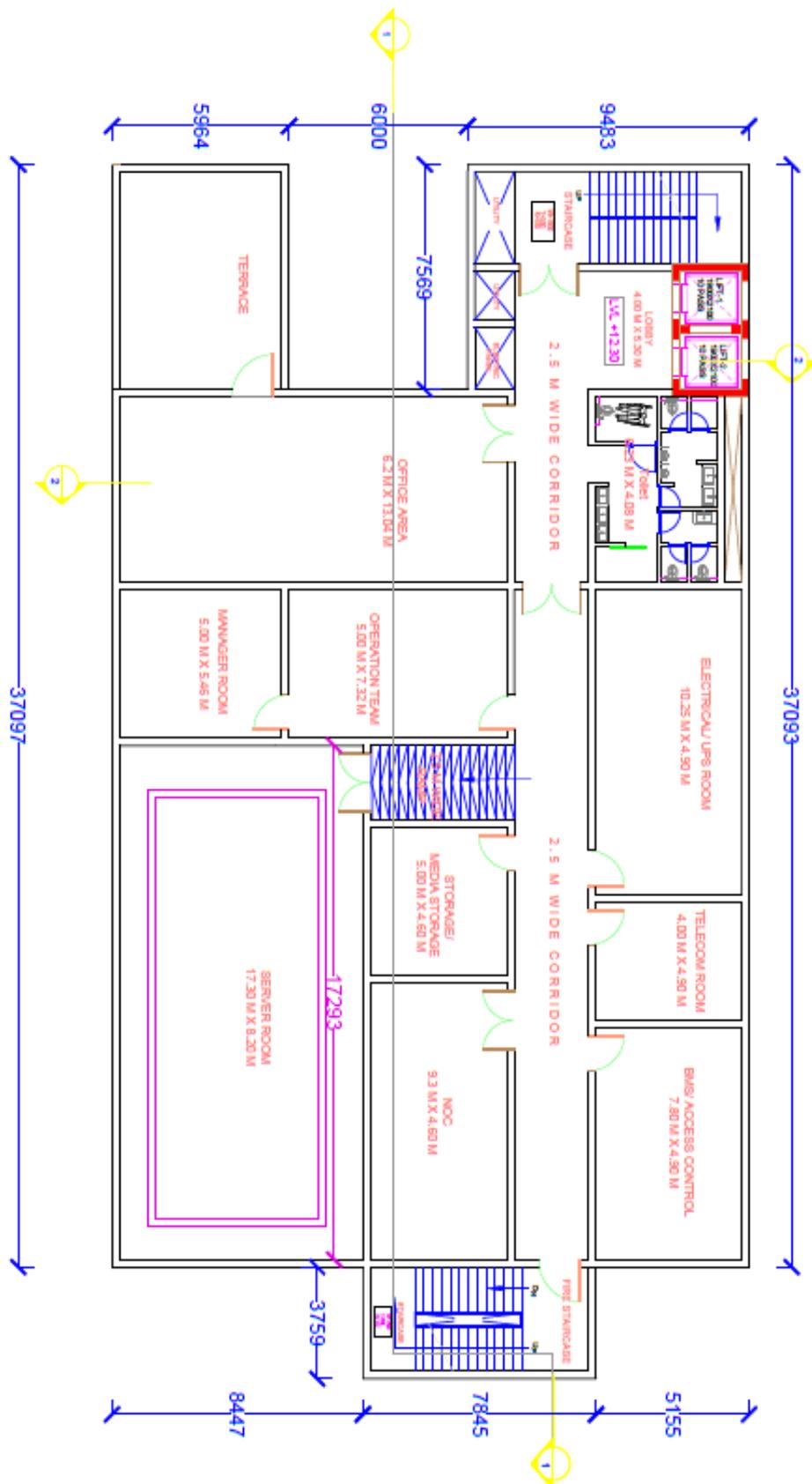
### **SECTION 11**

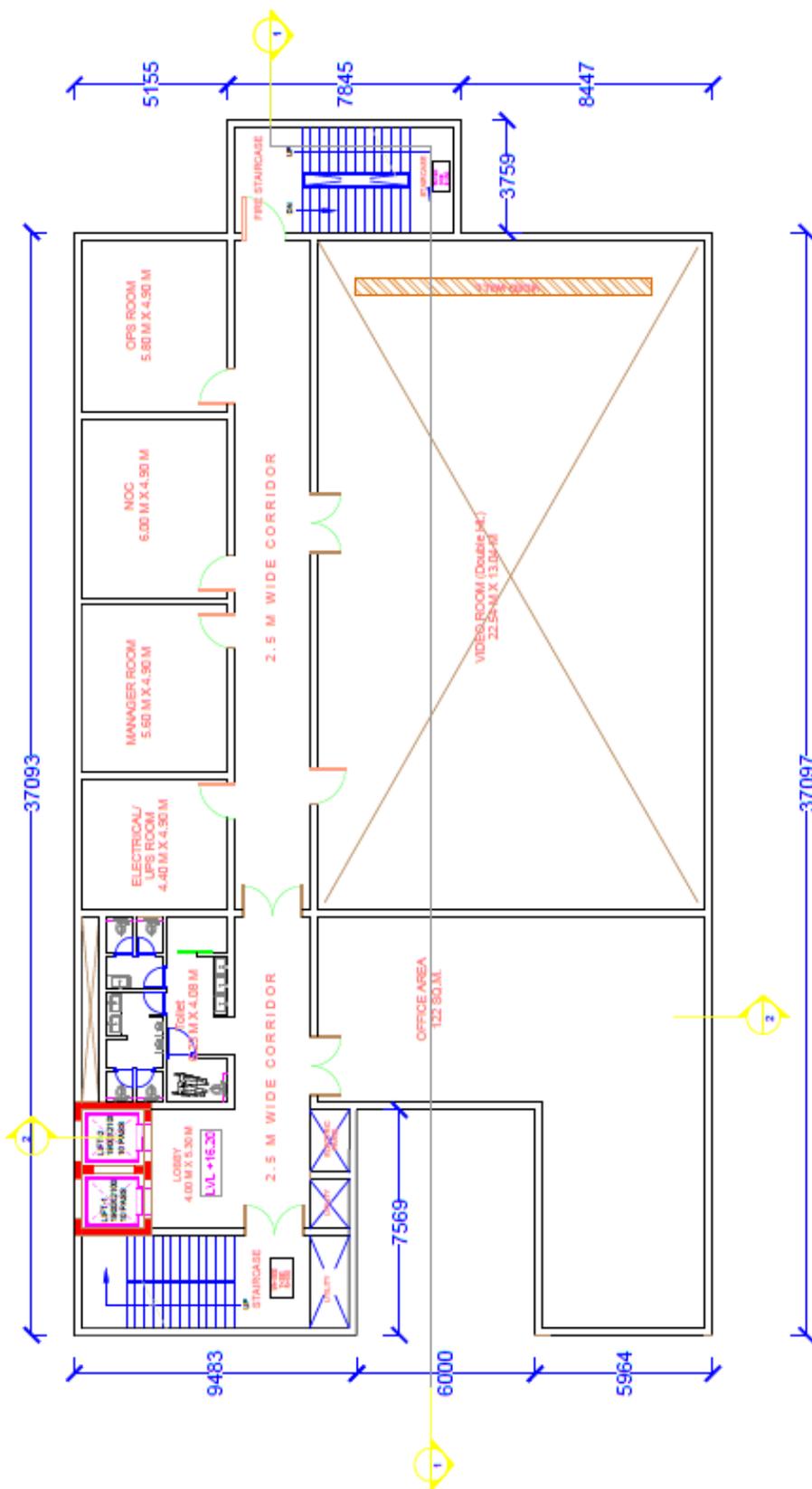
### **DRAWINGS**



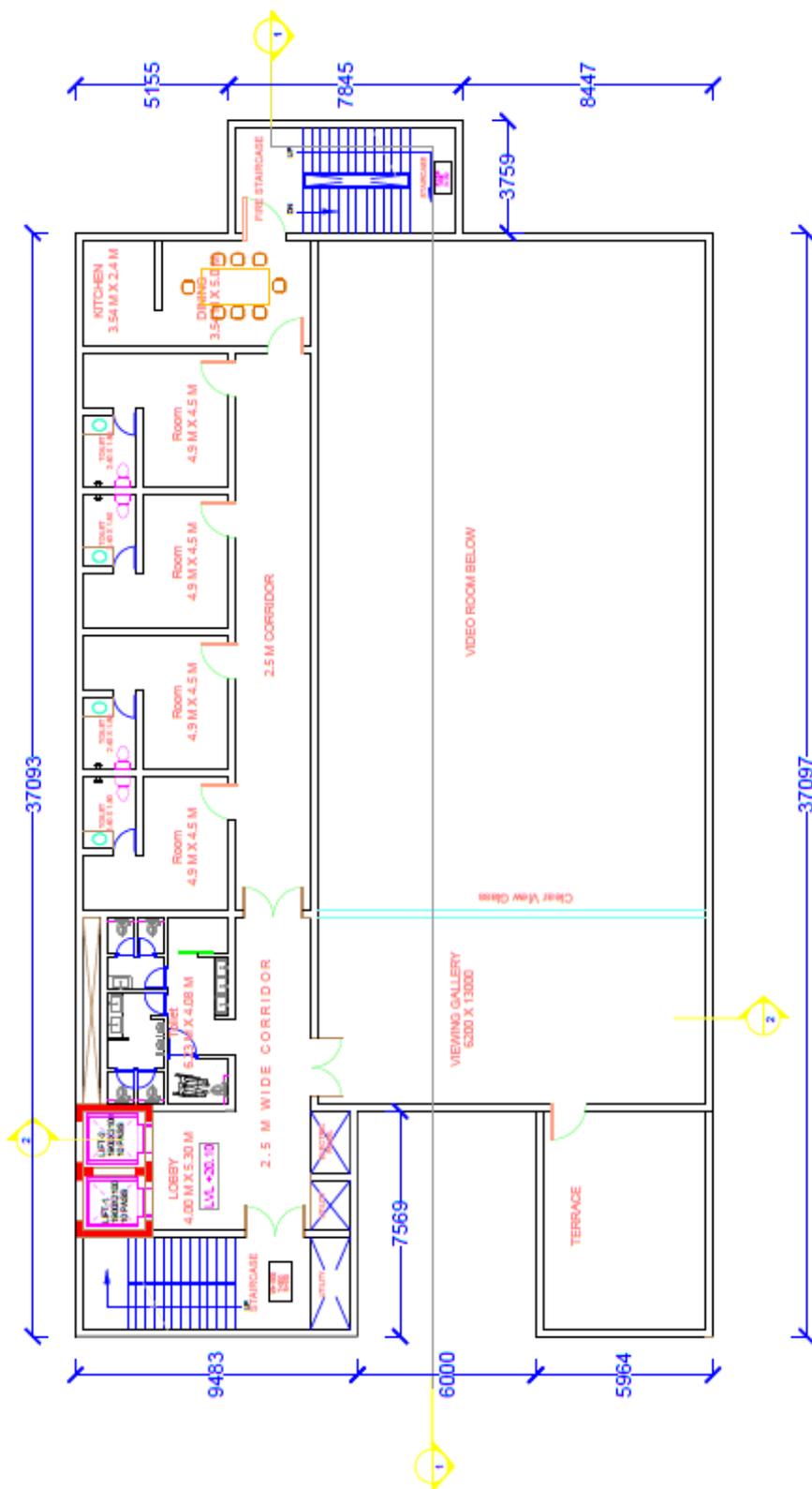
GROUND FLOOR PLAN

FIRST FLOOR PLAN

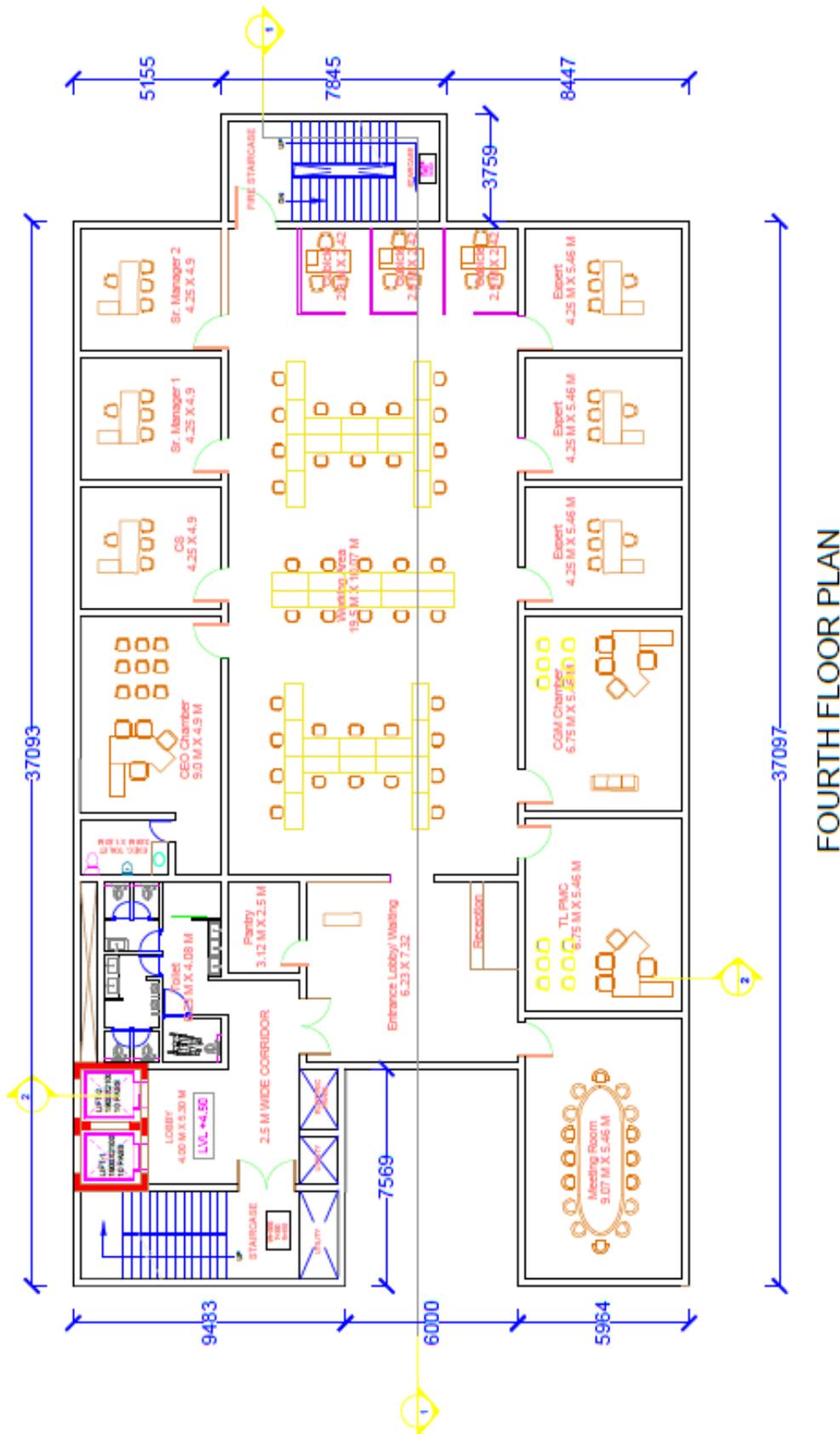




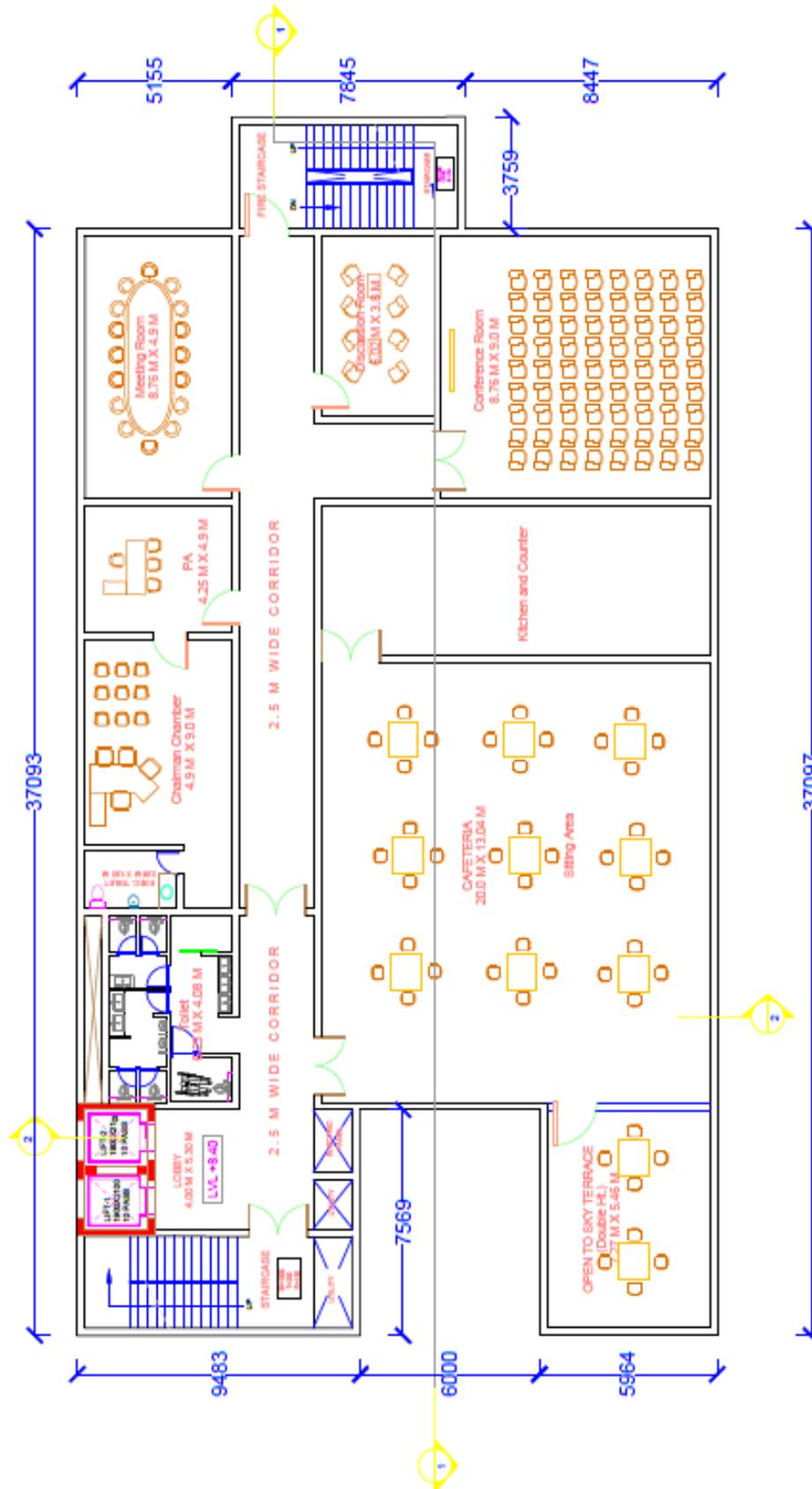
SECOND FLOOR PLAN



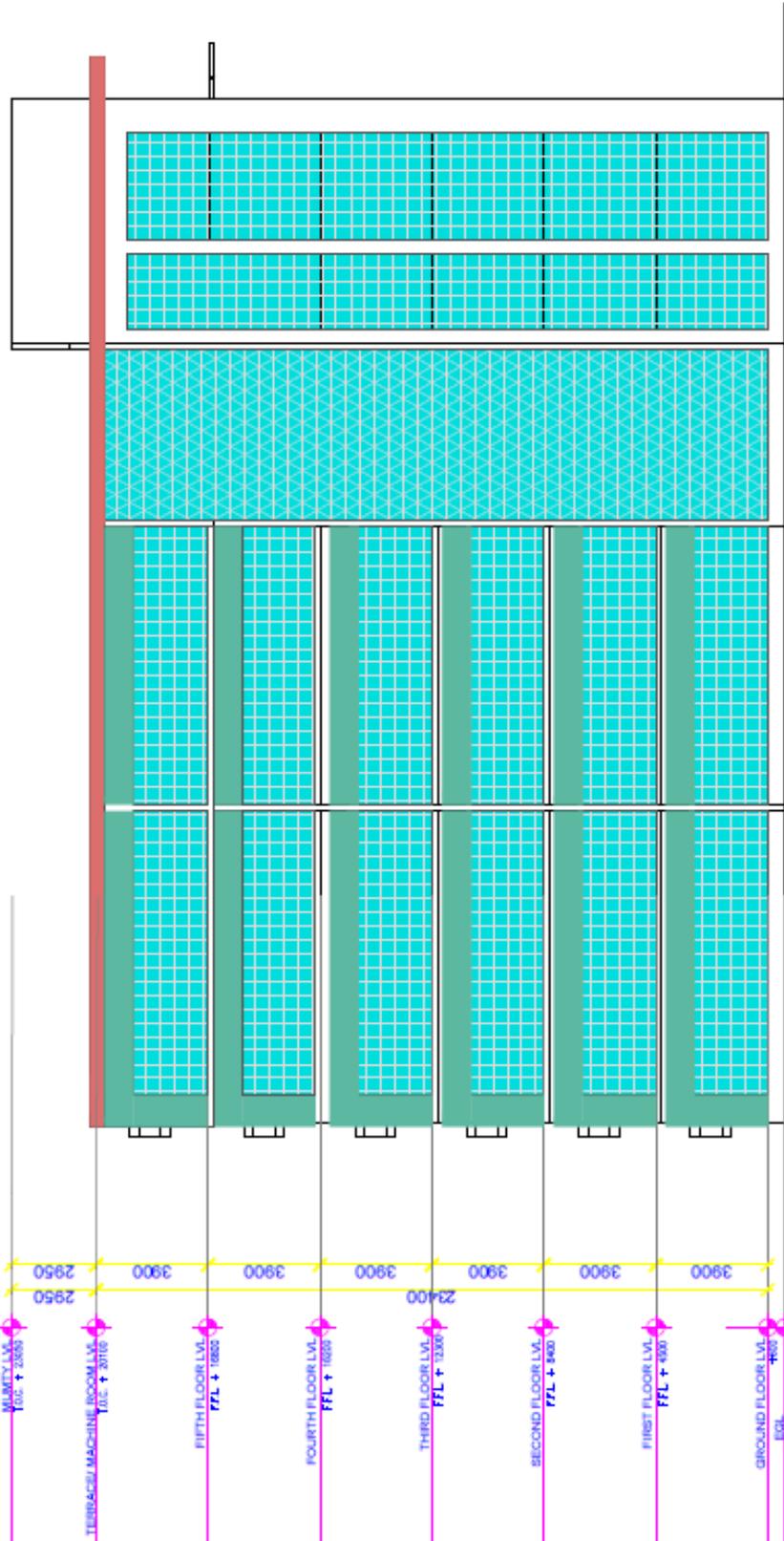
THIRD FLOOR PLAN



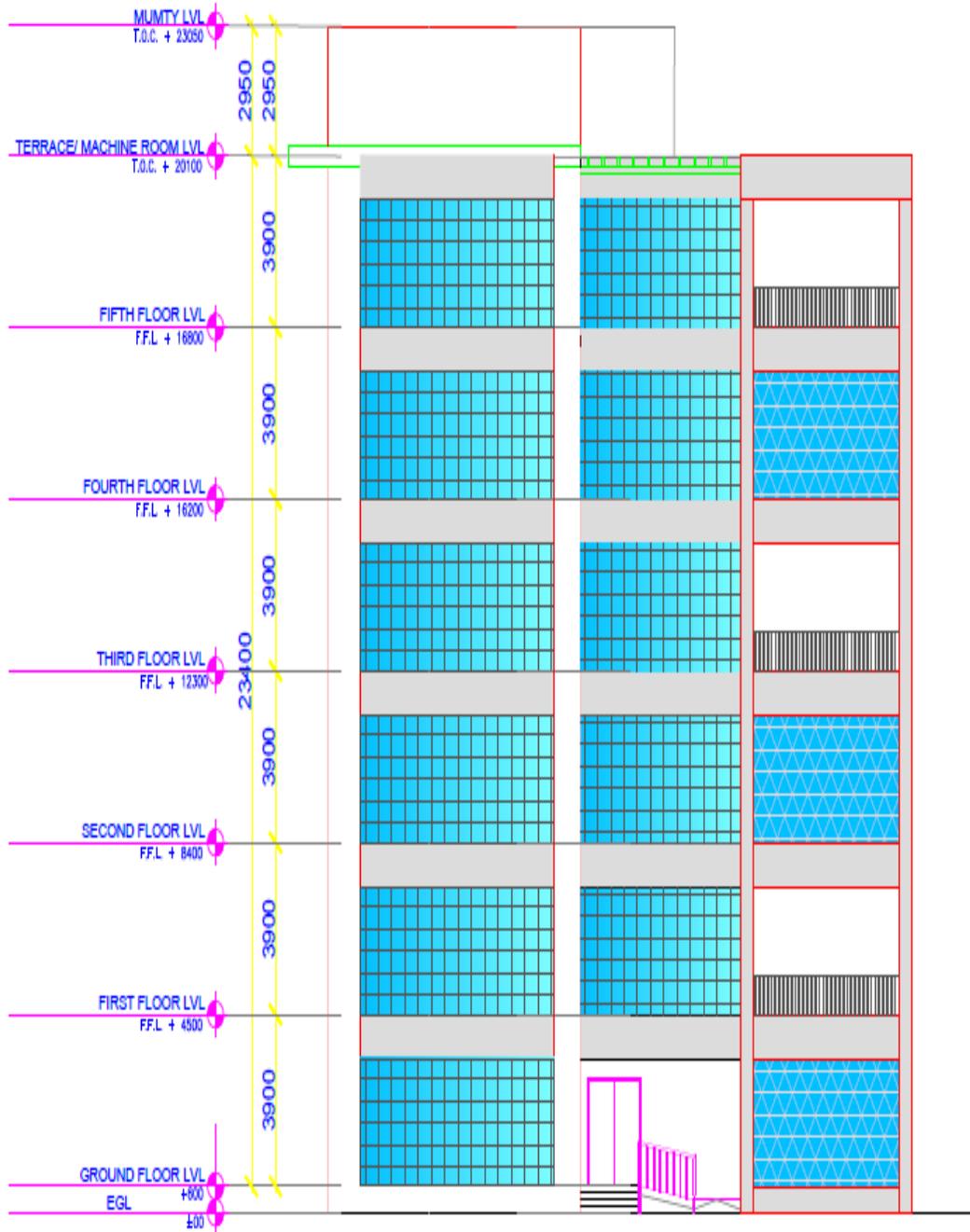
FOURTH FLOOR PLAN



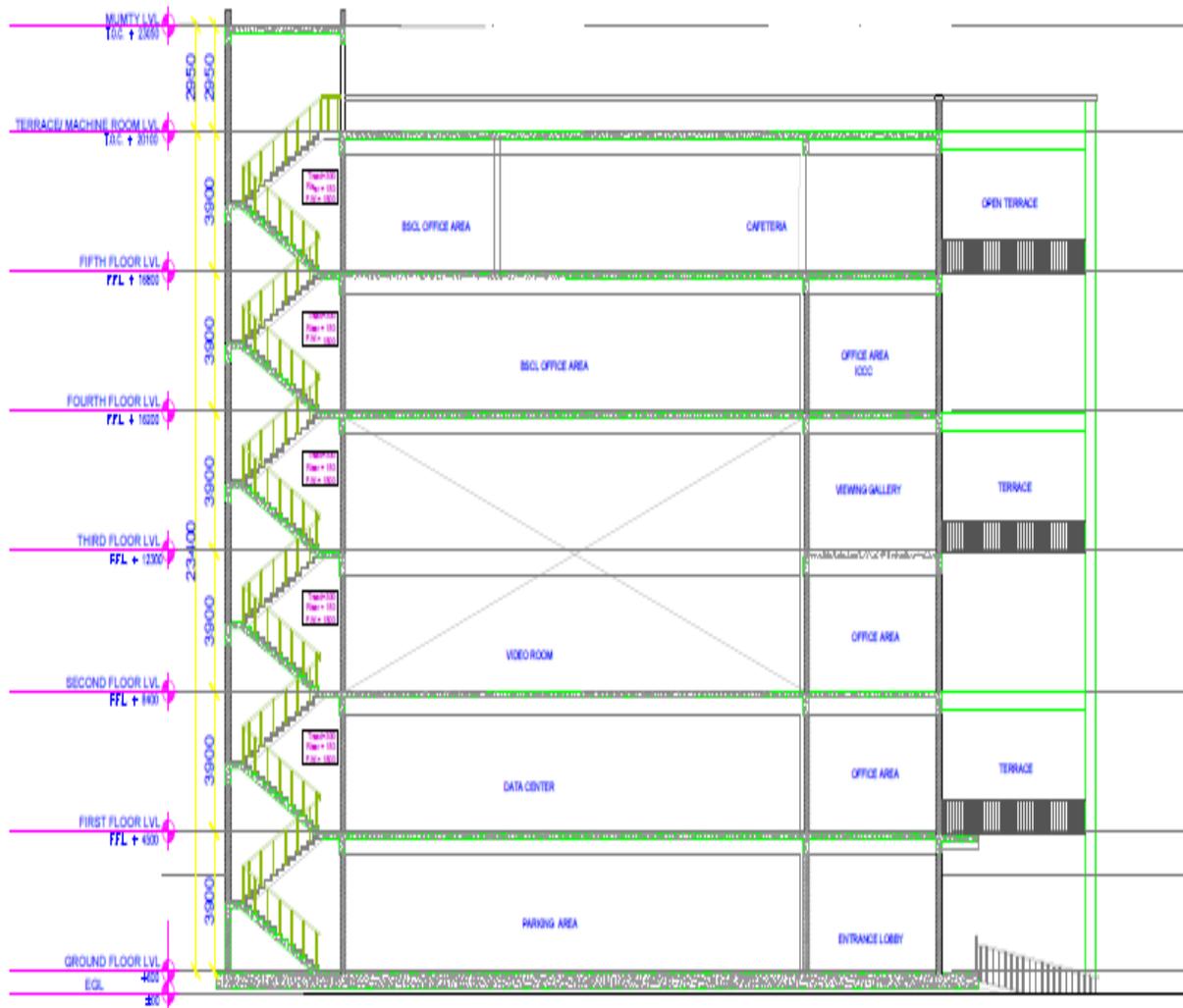
FIFTH FLOOR PLAN



NORTH ELEVATION



WEST ELEVATION



SECTION 1-1'



**VOLUME-V**

**SECTION 12**

**DOCUMENTS TO BE FURNISHED BY BIDDER**

**Refer to Addendum to ITB**

**Format - 1**

**(For BHAGALPUR SMARTC CITY LIMITED, BHAGALPUR, BIHAR)**

Name of the work	.....	
Tender Ref. No.		
Name of the Procurement Officer	.....	
Sl. No.	Name and address of responsive bidders in technical evaluation	
1		
2		
3		
4		
	Name and address of the non-responsive bidders	Reason for their non-responsiveness

1		
2		
3		

**Signature of the tender approving authority**

**Format - 2****(For BHAGALPUR SMARTC CITY LIMITED, BHAGALPUR, BIHAR)**

Name of the work	.....	
Tender Ref. No.		
Name of the Procurement Officer	..... .....	
Sl. No.	Name and address of the successful bidder  In financial evaluation	Amount of award of work
1		
Sl. No.	Name and address of the unsuccessful bidders	Reason for unsuccessful bid
1		

2		
3		

**Signature of the tender approving authority**

\* \* \* \* \*