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any work executed by him under it, the amount of such under payment shall be duly paid by the OWNER to the CONTRACTOR, without any interest thereon whatsoever.

### **31.2 Lien in respect of claims in other contracts**

Any sum of money due and payable to the CONTRACTOR (including the Security Deposit and/or Performance Guarantee returnable to him) under the Contract may be withheld or retained by way of lien by the PM/Engineer-in-Charge or the OWNER in respect of payment of a sum of money arising out of or under any other Contract made between the CONTRACTOR and the Government of India. It is an agreed term of the Contract that the sum of money so withheld or retained under this article by the PM/Engineer-in-Charge or the OWNER will be kept withheld or retained as such by the PM/Engineer-in-Charge or the OWNER or till his claim arising out of the same Contract or any other Contract is either mutually settled or determined by the Arbitration under GCC Article 43 or by the competent court, as the case may be and that the CONTRACTOR shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this article and duly notified as such to the CONTRACTOR.

## **ARTICLE – 32: SUB-CONTRACTING**

### **32.1 Assignment and sub-contracting**

32.1.1 The CONTRACTOR shall not subcontract the Contract work as a whole or a part to a third party for the performance of the Agreement.

32.1.2 The CONTRACTOR may subcontract a portion of the Contract work to third parties with the written approval of the OWNER. The CONTRACTOR shall furnish to the OWNER full particulars about the proposed Sub-contractors and the details of the portion to be subcontracted while seeking such approval. Thereafter, the CONTRACTOR shall notify the OWNER in writing all Sub-contracts awarded under the Contract if not already stipulated in the Contract. In its original bid or later, such notification shall not relieve the CONTRACTOR from any of its liability or obligation under the terms and conditions of the Contract or in any way affect the CONTRACTOR's direct responsibility to the OWNER nor shall it render the OWNER in any way responsible to such Sub-contractor.

32.1.3 The CONTRACTOR including PSUs/Govt. shall not, without consent in writing of the OWNER, sublet, transfer, or assign the contract or any part thereof or interest therein or benefit or advantage thereof in any manner whatsoever.

32.1.4 Sub-contract shall be only for bought out items, specialized and incidental Works/ Services. Sub-contracts must comply with and should not circumvent CONTRACTOR's compliance with its obligations under GCC Article 9, based on which the Contract was awarded to him.

32.2 If the CONTRACTOR sublets or assigns this contract or any part thereof without such permission, the OWNER shall be entitled, and it shall be lawful on his part, to treat it as a breach of contract and take measures/ action as per GCC Article- 40.

32.3 If the CONTRACTOR shall assign or sublet his contract, or attempt to do so, or become insolvent or commence any insolvency proceedings or make any composition with his creditors or attempt to do so, or if any bribe, gratuity, gift, loan, perquisite, reward or advantage pecuniary or otherwise, shall either directly or indirectly, be given, promised or offered by the CONTRACTOR, or any of his servants or agent to any public officer or person in the employ of Government in any way relating to his office or employment, or if

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any such officer or person shall become in any way directly or indirectly interested in the Contract, the OWNER shall have power to adopt the course specified in GCC Article 40.

32.4 The CONTRACTOR shall be responsible for any Sub-contractor who may carry out any work or supply any material in connection with the Contract as per Technical Specifications and List of Approved Makes. The CONTRACTOR shall make good any loss or damage suffered by Government by reason of any default, neglect or failure on the part of such person in relation to such work or material.

32.5 Where a list of approved Agencies for a subcontracting work is provided in the Contract, the CONTRACTOR shall inform the name of the Sub-contractor selected by him within a period as agreed with the PM/Engineer-in-Charge, however not later than thirty (30) days of the date of such selection.

32.6 The OWNER reserves the right to ask the CONTRACTOR to submit copies of relevant specifications included in all orders placed on Sub-contractors.

32.7 In the event certain obligations extended by a Sub-contractor to the CONTRACTOR beyond specified in the Agreement, the OWNER shall automatically be entitled to benefit thereof.

32.8 In no event shall the OWNER be deemed to have contractual obligation whatsoever in respect of Sub-contractors.

32.9 The total value of subcontracting works will not exceed percentage of Contract price as mentioned in SCC.

### **ARTICLE – 33: PASSAGE OF PROPERTY AND RISK**

33.1 Subject to provisions under GCC Article 24, the property and risk of the Contract work shall pass on to the OWNER upon issuance of the Completion certificate and Final Acceptance Certificate(FAC).

33.2 This Article shall not in any way adversely affect or derogate against the CONTRACTOR's obligations beyond Defect Liability Period as stipulated in the contract and provide to the OWNER, the contract work completed in all respects.

### **ARTICLE – 34: SAFETY AND SECURITY**

#### **SAFETY**

34.1 The Safety instructions and provisions for Construction, Erection, Testing & Commissioning shall be as per **Annexure-B** (RDCE safety code).

These Safety rules lay down the safety requirements for safe execution of project activities, responsibilities of the CONTRACTOR, and all concerned involved in construction. The CONTRACTOR, including his Sub-contractors, while executing the Work(s), shall strictly comply with these Safety rules and statutory requirements (including amendments thereof), as applicable, in respect of safety of personnel, equipment and materials at site area under execution of the CONTRACTOR.

#### **SECURITY**



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34.2 The CONTRACTOR shall provide at his own cost necessary watch and ward force as may be required by the OWNER to ensure security and safety of all buildings, structures, equipment and materials under his custody at the Site of work.

34.3 The CONTRACTOR shall abide by all security regulations at site promulgated by the OWNER from time to time. The CONTRACTOR shall provide identity badges to their personnel and workmen which must be properly displayed by them on their person.

34.4 The CONTRACTOR shall have to abide by all security and safety regulations of Lab/ Establishment at site for

- (a) Entry/ Exit of workmen, material, vehicles, electronic gadgets etc.
- (b) Movement inside the Lab/ Establishment including Prohibited/ Restricted area
- (c) Storage and stacking of construction materials/ equipment/ machineries etc.

The CONTRACTOR has to take all approvals for security and safety by USER Lab/ Establishment through OWNER.

34.5 In order to facilitate issue of Gate passes by the PM/Engineer-in-Charge for men, materials and equipment either during execution or the defect liability, the CONTRACTOR shall submit to the OWNER list of the personnel, construction / erection equipment, etc., and / or other materials that shall be taken by them inside the site time to time. Such movement of materials, equipment, tools, tackles etc., shall be subject to certification by the PM / Engineer- in - Charge.

34.6 The CONTRACTOR and his personnel / workmen shall be subjected to security check by security force of OWNER/ User Establishment/ Lab for the overall protection of the Project.

34.7 The CONTRACTOR shall not allow any visitor on the works except with the written permission of the OWNER.

### **ARTICLE – 35: DEDUCTIONS FROM CONTRACT PRICE**

35.1 The CONTRACTOR shall reimburse to the OWNER all costs, charges, damages or expenses which the OWNER may have paid or to which the OWNER may be entitled and to the extent to which the CONTRACTOR is obliged under the Agreement to do so within 30 (thirty) days upon written request of the OWNER, failing which such costs, charges, damages or expenses shall be deducted by the OWNER from any money due or becoming due by him to the CONTRACTOR under this Agreement.

35.2 Whenever any claim(s) for payment of sum of money arise(s) out of or under this Contract against the CONTRACTOR, the CONTRACTOR shall, on written demand make the payment of the same or agree for effecting adjustment from any amounts due to him by the OWNER. If, however, he refuses or neglects to make the payment on written demand, or does not agree for effecting adjustment from any amounts due to him, the OWNER shall be entitled to withhold an amount not exceeding the amount of the claim(s), from any sum when due or which at any time thereafter may become due to the CONTRACTOR, under this or any other contract with the OWNER or from any other sum due to the CONTRACTOR from the OWNER (which may be available with the OWNER) or from the CONTRACTOR's Security Deposit and Performance Guarantee bond, and retain the same by way of lien till such time payment is made by the CONTRACTOR or till the claim(s) is / are settled or adjudicated upon, or till the CONTRACTOR, at his



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expense furnishes "Fixed Deposit Receipt(s)" duly endorsed as directed by the Accepting Officer, or a Guarantee Bond from a scheduled commercial bank for an amount equal to the amount of the claim(s), in the form as directed by the OWNER.

35.3 The OWNER reserves the right to carry out post payment audit and technical examination of the works and Final Bill, including all supporting vouchers, abstracts etc. The OWNER further reserve the right to carry out the aforesaid examinations and enforce recovery when detected, notwithstanding the fact that the amount of the final bill may have been included by one of the parties as an item of dispute before Arbitration Tribunal appointed under the Arbitration article of the Contract and notwithstanding the fact that the amount of the final bill figures in the Arbitral Award.

35.4 If, as a result of such audit and technical examination, any over payment is discovered in respect of the work done under this Contract, the CONTRACTOR shall, on written demand to make payment of a sum equal to the amount of over payment or agree for effecting necessary adjustment from any amount(s) due to him by the OWNER. If, however, he refuses or neglects to make the payment on demand(s) or does not agree for effecting adjustment from any amount(s) due to him, the OWNER shall be entitled to take action as per GCC Article- 35.2.

35.5 Any other deductions mentioned elsewhere in the Contract shall also be made by the OWNER from the Contract price or payment due to the CONTRACTOR.

35.6 All notices under these conditions shall be given by the OWNER.

### **35.7 Recovery of Compensation paid to Workmen**

In every case in which by virtue of the provisions in the Workmen's Compensation Act, 1923, Employees compensation act (as amended), Government is obliged to pay compensation to a workman employed by the CONTRACTOR, in execution of the Work(s), the OWNER will recover from the CONTRACTOR, the amount of the compensation so paid and without prejudice to the rights of the OWNER under the said Act the OWNER shall be at liberty to recover such amount or any part thereof by deducting it from the Security Deposit and/or Performance Guarantee or from any sum due by the OWNER and Government to the CONTRACTOR whether under this Contract or otherwise. The OWNER shall not be bound to contest any claim made against it under the said Act, except on the written request of the CONTRACTOR and upon his giving to the OWNER full security for all costs for which the OWNER might become liable in consequence of contesting such claim.

## **ARTICLE - 36: INDEMNITY**

36.1 Notwithstanding all reasonable and proper precautions being taken by the CONTRACTOR at all items during the performance of the Contract work, the CONTRACTOR shall remain wholly responsible for all damages, whether to the Contract work executed by him or to any other OWNER's property or to the lives, persons or property of others during progress of the Contract work and DLP thereof and shall indemnify, defend and hold harmless the OWNER, PM/Engineer-in-Charge or their employees against all claims, loss, demands, proceedings, charges and expenses, liability for personal injury (including death), and / or damage to property incurred by reasons of any act or omission or default by the CONTRACTOR, his Sub-contractors, agents, servants or employees and arising out of or connected with the performance of this Contract.

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36.2 The CONTRACTOR shall execute and deliver and shall cause his Sub-contractors and Suppliers to execute and deliver such other further instruments and to comply with such requirements of such Statutes, Ordinances, Laws, Rules, Regulations or Bye-laws as may be necessary there under to confirm and effectuate the Contract and to protect the OWNER, the PM/Engineer-in-Charge or any employees of OWNER's organisation.

36.3 Notwithstanding anything herein before contained, the OWNER shall not accept any liability for the CONTRACTOR, his Sub-contractors, agents, servants or employees or any of them or for their / his property while on the premises or in service of, or used for / on behalf of the OWNER by any person.

### **ARTICLE – 37: INTELLECTUAL PROPERTY RIGHTS (IPR)**

37.1 The CONTRACTOR shall indemnify the OWNER, its representatives or its employees against any action, claim or proceeding relating to infringement or use of any patent or design or any alleged patent or design rights and shall pay any royalties or other charges which may be payable in respect of any article or material or part thereof included in the Contract. In the event of any claim being made or action being brought against the OWNER or its representatives or its employees, in respect of any such matters as aforesaid, the CONTRACTOR shall immediately be notified thereof. However, such indemnity shall not apply when such infringement has taken place in complying with the specific directions issued by the OWNER; but the CONTRACTOR shall pay any royalties or other charges payable in respect of any such use, the amount so paid being reimbursed to the CONTRACTOR only if the use was as a result of any drawings and/or specifications issued after the award of Contract by the OWNER, provided further that the CONTRACTOR has brought to the notice of the PM/Engineer-in-Charge, of such infringement immediately upon the instructions of the PM/Engineer-in-Charge or upon the CONTRACTOR becoming aware of such infringement.

#### **37.2 Indemnities for breach of IPR Rights**

37.2.1 The CONTRACTOR shall indemnify and hold harmless, free of costs, the OWNER and its employees and officers from and against all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which may arise in respect of this Contract, as a result of any infringement or alleged infringement of any patent, utility model, registered design, copyright, or other Intellectual Property Rights (IPR) or trademarks, registered or otherwise existing on the date of Contract arising out of or in connection with:

(a) Any design, data, drawing, specification, or other documents or Goods provided or designed by the CONTRACTOR for or on behalf of the OWNER.

(b) The installation of the equipments by the CONTRACTOR or the use of the materials at the OWNER's Site

37.2.2. Such indemnity shall not cover any use of the Goods or any part thereof or any products produced thereby:

(a) Other than for the purpose indicated by or to be reasonably inferred from the contract.

(b) In association or combination with any other equipment, plant, or materials not supplied by the CONTRACTOR.

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37.2.3 If any proceedings are brought, or any claim is made against the OWNER arising out of the matters referred above, the OWNER shall promptly give the CONTRACTOR a notice thereof. At its own expense and in the OWNER's name, the CONTRACTOR may conduct such proceedings and negotiations to settle any such proceedings or claim, keeping the OWNER informed.

37.2.4 If the CONTRACTOR fails to notify the OWNER within twenty-eight (28) days after receiving such notice that it intends to conduct any such proceedings or claim, then the OWNER shall be free to conduct the same on its behalf at the risk and cost to the CONTRACTOR or at the expense of the CONTRACTOR.

37.3 All deliverables, outputs, plans, drawings, specifications, designs, reports, and other documents and software submitted by the CONTRACTOR under the Contract shall become and remain the property of the OWNER and subject to laws of copyright and must not be shared with third parties or reproduced, whether in whole or part, without the OWNER's prior written consent. The CONTRACTOR shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the OWNER and the CONTRACTOR shall not use it for any purpose, commercial or otherwise.

37.4 This GCC Article- 37 shall survive the closure or termination of the contract for a period of five (05) years.

### **ARTICLE - 38: PRESERVATION OF PEACE**

38.1 The CONTRACTOR shall take adequate precautions and use his best endeavours to prevent any riotous or any unlawful behaviour by or amongst his workmen and / or others employed by him and for the preservation of peace and protection of the inhabitants and security of property at or in the neighbourhood of the site.

38.2 In the event of the OWNER requiring the maintenance of a special security force at or in the vicinity of site during the tenure of the contract in consequence of the riotous or unlawful behaviour by or amongst the CONTRACTOR's workmen and / or others employed by him, all expenses thereof, and costs of all damages due to such riotous or unlawful behaviour shall be borne by the CONTRACTOR and if paid by the OWNER, shall be recovered by the OWNER from any money due or that may become due to him.

### **ARTICLE – 39: CONFIDENTIALITY & SECRECY**

39.1 The provisions of this article shall not in any way modify any undertaking of confidentiality given by the CONTRACTOR before the date of the contract in respect of the Contract/ the Tender Document or any part thereof.

39.2 The provisions of this article shall survive completion or termination or cancellation, for whatever reason, of the Contract.

#### **CONFIDENTIALITY**

39.3 All documents, drawings, samples, data, associated correspondence or other information furnished by or on behalf of the OWNER to the CONTRACTOR, in connection with the contract, whether such information has been furnished before, during or following completion or termination of the contract, are confidential and shall remain the property of the OWNER and shall without the prior written consent of the OWNER

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neither be divulged by the CONTRACTOR to any third party, nor be used by him for any purpose other than the design, procurement, or other services and work required for the performance of this Contract.

39.4 All copies of all such information in original shall be returned on completion of the CONTRACTOR's performance and obligations under this contract.

### **SECRECY**

39.5 Any of the subject matter of the Contract falling within the purview of the Official Secrets Act, 1923 or if the Contract is marked or classified as "SECRET", the CONTRACTOR shall take all reasonable steps necessary to ensure that all persons employed in any connection with the contract, have acknowledged their responsibilities and penalties for violations under the Official Secrets Act and any regulations framed thereunder and also as per Standard Operating Procedure (SOP) for security and secrecy of Strategic Projects/Classified works enclosed with the Contract.

### **OBLIGATIONS OF THE CONTRACTOR FOR CONFIDENTIALITY AND SECRECY**

39.6 Without the OWNER's prior written consent, the CONTRACTOR shall not use the information mentioned above except for the sole purpose of performing this contract.

39.7 The CONTRACTOR shall treat and mark all information as CONFIDENTIAL and shall not, without the written consent of the OWNER, divulge to any person other than the person(s) employed by the CONTRACTOR in the performance of the contract. Further, any such disclosure to any such employed person shall be made in confidence and only so far as necessary for such performance for this contract.

39.8 Notwithstanding the above, the CONTRACTOR may furnish to its holding company or its Sub-contractor(s) such documents, data, and other information it receives from the OWNER to the extent required for performing the contract. In this event, the CONTRACTOR shall obtain from such holding company/Sub-contractor(s) an undertaking of confidentiality similar to that imposed on the CONTRACTOR under the above articles.

39.9 The obligation of the CONTRACTOR under this Article-39, however, shall not apply to information that:

- (a) The CONTRACTOR needs to share with the institution(s) participating in the financing of the contract;
- (b) Now or hereafter is or enters the public domain through no fault of CONTRACTOR, his representative, agent and employees or Sub-contractor(s);
- (c) Can be proven to have been possessed by the CONTRACTOR at the time of disclosure and which was not previously obtained, directly or indirectly, from the OWNER; or
- (d) Otherwise lawfully becomes available to the CONTRACTOR from a third party that has no obligation of confidentiality.

## **ARTICLE - 40: SUSPENSION & TERMINATION**

## **SUSPENSION OF WORK**

40.1 The OWNER may suspend the work in whole or in part at any time by giving the CONTRACTOR notice in writing to such effect stating the nature, the effective date and duration of such suspension.

40.2 The CONTRACTOR shall, on receipt of the order in writing of the OWNER or his authorised Representative, suspend the progress of the Work or any part thereof for such time and in such manner as the PM/Engineer-in-Charge may consider necessary for any of the following reasons: -

- (a) On account of any default on part of the CONTRACTOR; or
- (b) for proper execution of the Work or part thereof for reasons other than the default on the part of the CONTRACTOR; or
- (c) for safety of the Work or part thereof, for reasons other than those attributable to the CONTRACTOR.

40.3 The CONTRACTOR shall, during such suspension, properly protect and secure the Work to the extent necessary and carry out the instructions by PM/Engineer-in-Charge.

40.4 The OWNER, may at any time, cancel the suspension notice for all or any part of suspended work by giving written notice to the CONTRACTOR specifying the part of Work to be resumed and the effective date of withdrawal of suspension. The CONTRACTOR shall resume the suspended work after receipt of such withdrawal of suspension notice.

40.5 If the suspension is ordered for reasons (b) & (c) in GCC Article 40.2 above, in so far as it concerns suspension of part of the Works or whole of the balance work, the CONTRACTOR shall be entitled to an extension of time based on the period of suspension and as finalized by the OWNER. The CONTRACTOR shall not be eligible for any other compensation whatsoever for such suspension, except as otherwise provided in the Contract.

40.6 In the event, such suspension exceeds a period of three months, the OWNER and the CONTRACTOR shall consult each other to find out the remedial measures for completion of the work. If the suspension has been due to inclement weather, unsafe working condition & non-conformance to specifications, continued violations by the CONTRACTOR to OWNER's instructions & such other causes for which the CONTRACTOR is responsible, then no compensation shall be payable by the OWNER.

## **TERMINATION/ DETERMINATION OF CONTRACT**

40.7 The OWNER reserves the right to terminate the contract, in whole or in part for its (the OWNER's) convenience or CONTRACTOR's fault or frustration of contract as per sub-article below, by serving written 'Notice for Determination of Contract' to the CONTRACTOR at any time during the currency of Contract. The notice shall specify that the termination is for the convenience of the OWNER or CONTRACTOR's fault or frustration of the Contract. The notice shall also indicate inter-alia, the extent to which the CONTRACTOR's performance under the Contract is terminated, and the date with effect from which such termination shall become effective.

40.8 Such termination shall not prejudice or affect the rights and remedies accrued and/or shall accrue after that to the Parties.

40.9 Unless otherwise instructed by the OWNER, the CONTRACTOR shall continue to perform the contract to the extent not terminated.



40.10 All warranty obligations, if any, shall continue to survive despite the termination.

40.11 The Goods, Equipments and Works/ Services that are complete and ready in terms of the Contract for execution/ delivery and performance within thirty days after the CONTRACTOR's receipt of the notice of termination shall be accepted by the OWNER as per the Contract terms. For the remaining Goods and incidental Works/ Services, the OWNER may decide:

(a) To get any portion of the balance Work(s) completed and delivered at the contract terms, conditions, and prices; and/ or

(b) To cancel the remaining portion of the Goods, Equipments and Works/ Services and compensate the CONTRACTOR by paying an agreed amount for the cost incurred by the CONTRACTOR, if any, towards the remaining portion of the Goods, Equipments and Works/ Services.

#### 40.12 Termination of contract for owner's convenience

40.12.1 If at any time after award of Contract, the OWNER shall decide to abandon or reduce the scope of the Work(s) for any reason whatsoever and hence not require the whole or any part of the Work to be carried out by the CONTRACTOR, the PM/Engineer-in-Charge shall give notice in writing to that effect to the CONTRACTOR and the CONTRACTOR except as herein under provided, shall have no claim to any payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the Work in full but which he did not derive in consequence of the said termination of the whole or part of the Work.

40.12.2 The CONTRACTOR shall be paid at Contract rates full amount for works executed at Site and, in addition, a reasonable amount as certified by the PM/Engineer-in-Charge for the items hereunder mentioned which could not be utilised on the Work to the full extent because of the said termination:

(a) Any cost incurred on preliminary temporary site work, e.g. access, labour huts, staff accommodation, site offices, storage accommodation and water storage tanks, etc. to be reasonably determined on the basis of balance period of the contract from the effective date of termination.

(b) (i) The OWNER shall have the option to take over CONTRACTOR's facilities/ materials or any part thereof either brought to Site or of which the CONTRACTOR is legally bound to accept delivery from suppliers (for incorporation in or incidental to the Work), provided, however, the OWNER shall take over the materials or such portions thereof as the CONTRACTOR does not desire to retain. For materials taken over or to be taken over by the OWNER, cost of such materials shall, however, take into account purchase price, cost of transportation and deterioration or damage which may have been caused to materials whilst in the custody of the CONTRACTOR.

(ii) For CONTRACTOR's materials not retained by the OWNER, reasonable cost of transporting such materials from Site to CONTRACTOR's permanent stores or to his other Works, whichever is less. If materials are not transported to either of the said places, no cost of transportation shall be payable.

(c) If any materials issued by the OWNER are rendered surplus, the same except normal wastage shall be returned by the CONTRACTOR to the OWNER at

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rates not exceeding those at which these were originally issued less allowance for any deterioration or damage which may have been caused whilst the materials were in the custody of the CONTRACTOR. In addition, cost of transporting such materials from Site to the OWNER's stores, if so required by the OWNER.

(d) Reasonable compensation for transfer of CONTRACTOR's T&P from Site to CONTRACTOR's permanent stores or to his other Works, whichever is less. If T&P are not transported to either of the said places, no cost of transportation shall be payable.

40.12.3 The CONTRACTOR shall, if required by the PM/Engineer-in-Charge furnish to him wage books, time sheets and other relevant documents as may be reasonably necessary to enable him to certify the reasonableness of the amount payable under this Article.

40.12.4 In the event of action being taken under GCC Article 15 to reduce the scope of Work, the CONTRACTOR may furnish fresh Performance Guarantee on the same conditions, in the same manner and at the same rate for the balance tendered amount and initially valid up to the extended date of completion or stipulated date of completion if no extension has been granted plus minimum ninety (90) days beyond that. Wherever such a fresh Performance Guarantee is furnished by the CONTRACTOR, the OWNER may return the previous Performance Guarantee.

40.12.5. The OWNER, without prejudice to his rights as stipulated under GCC Article 40.7 to 40.12.4, shall also have the option to consult with the CONTRACTOR to arrive at a fair solution in determining the claims and payments due to the OWNER arising out of such termination. If no fair solution is reached within 3 (three) months from the effective date of termination, then the matter may be referred to resolution of dispute in terms of GCC Article 42.

### 40.13 Termination on CONTRACTOR's Death

If the CONTRACTOR is an individual or a proprietary concern and the individual or the proprietor dies and if the CONTRACTOR is a partnership concern and one of the partners dies, then unless the OWNER is satisfied that the legal representatives of the individual CONTRACTOR or of the proprietor of the proprietary concern and in the case of partnership, the surviving partners, are capable of carrying out and completing the Contract, the OWNER shall be entitled to cancel the Contract as to its incomplete part without the OWNER being liable in any way to payment of any compensation to the estate of the deceased CONTRACTOR and/or to the surviving partners of the CONTRACTOR's firm on account of the cancellation of the Contract. The decision of the OWNER that the legal representatives of the deceased CONTRACTOR or the surviving partners of the CONTRACTOR's firm cannot carry out and complete the Contract shall be final and binding on the parties. In the event of such cancellation the OWNER shall not hold the estate of the deceased CONTRACTOR and/or the surviving partners of the CONTRACTOR's firm liable for damages for not completing the Contract.

### 40.14 Termination for CONTRACTOR's Default

40.14.1 If the CONTRACTOR:

(a) at any time makes default in proceeding with the Works with due diligence and continues to do so even after a notice of seven (7) days in writing from the OWNER; or

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(b) commits default in complying with any of the terms and conditions of Contract and does not remedy it or take effective steps to remedy it within thirty (30) days after a notice in writing is given to him on that behalf by the OWNER; or

(c) fails to complete the Work(s) or items of Work with individual dates of completion, on or before the date(s) of completion, and does not complete them within the period specified in a notice given in writing on that behalf by the OWNER; or

(d) shall offer, or give or agree to give to any person in OWNER's service or to any other person on his behalf any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or having done or forborne to do any act in relation to the obtaining or execution of this or any other Contract for the OWNER; or

(e) shall enter into a contract with the OWNER in connection with which commission has been paid or agreed to be paid by him or to his knowledge, unless the particulars of any such commission and the terms of payment thereof have been previously disclosed in writing to the OWNER/ PM/Engineer-in-Charge; or

(f) shall obtain a Contract with the OWNER as a result of cartel formation or other non-bonafide methods of competitive bidding; or commits breach of integrity pact or

(g) being an individual, or if a firm, any partner thereof, shall at any time be adjudged insolvent or have a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation or composition (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) under any Insolvency Act for the time being in force or make any conveyance or assignment of his affective or composition or arrangement for the benefit of his creditors or purport so to do, or if any application be made under any Insolvency Act for the time being in force, for the sequestration of his estate or if a trust deed be executed by him for benefit of his creditors; or

(h) being a company, shall pass a resolution or the Court shall make an order for the liquidation of its affairs, or a receiver or manager on behalf of the debenture holders shall be appointed or circumstances shall arise which entitle the Court or debenture holders to appoint a receiver or manager; or

(j) assigns, transfers, sublets, attempts to assign, transfer or sublet the entire Work or any portion thereof without the prior written approval of the OWNER;

(k) having been given by the PM/Engineer-in-Charge a notice in writing to rectify, reconstruct or replace any defective work or that the work is being performed in an inefficient or otherwise improper or un-workman like manner shall omit to comply with the requirement of such notice for a period of seven (7) days thereafter.

(l) shall suffer an execution being levied on his goods and allow it to be continued for a period of 21 days.

(m) commits any breach to the condition of the contract, as specified or otherwise, the OWNER may, without prejudice to any other right to remedy which shall have accrued or shall accrue thereafter to the OWNER by written notice, cancel the Contract as a whole or only such items of the Work in default, from the Contract.

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### 40.14.2 Notice for Default

As soon as a breach of contract is noticed, a show-cause 'Notice of Default' shall be issued to the CONTRACTOR, giving two weeks' notice period, reserving the right to invoke contractual remedies. After such a show-cause notice, all payments to the CONTRACTOR would be temporarily withheld to safeguard needed recoveries that may become due on invoking contractual remedies.

### 40.14.3 Terminations for Default

#### (a) Notice for Termination

In the event of unsatisfactory resolution of 'Notice of Default' within two weeks of its issue as per Sub-article above, the OWNER, if so decided, shall by written Notice for Termination for default sent to the CONTRACTOR, terminate the contract in whole or in part, without compensation to the CONTRACTOR.

(b) Such termination shall not prejudice or affect the rights and remedies, including under GCC article below, which have accrued and/ or shall accrue to the OWNER after that.

(c) Unless otherwise instructed by the OWNER, the CONTRACTOR shall continue to perform the contract to the extent not terminated.

(d) All warranty obligations, if any, shall continue to survive despite the termination.

### 40.14.4. Contractual Remedies for Breaches/Defaults or Termination for default:

If there is an unsatisfactory resolution within this period, the OWNER shall take one; or more of the following contractual remedies: -

(a) Temporary withhold payments due to the CONTRACTOR till recoveries due to invocation of other contractual remedies are complete.

(b) Call back any loaned property or advances of payment, if any, with the levy of interest at the prevailing rate.

(c) Recover Liquidated Damages for delays.

(d) Encash and/ or Forfeit performance or other contractual securities.

(e) Prefer claims against insurances, if any.

(f) Terminate contract for default, fully or partially including its right for '**Risk-and-Cost Works**'.

(g) '**Risk and Cost Works**': In addition to termination for default, the OWNER has the rights to take possession of the Work and any material, construction plant, stores etc. and carry out the incomplete works by any means at the risk and cost of the CONTRACTOR. It shall be lawful on OWNER's part, to execute works/procure Goods similar to those terminated, with such terms and conditions and in such manner as it deems fit at the "**Risk and Cost**" of the CONTRACTOR. Upon breach of contract, such '**Risk and Cost Works**' shall be contracted by the OWNER. The CONTRACTOR shall be liable for any loss which the OWNER may sustain on that account. However, The CONTRACTOR shall not be entitled to any

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gain on such Work(s), and the manner and method of such Works shall be to the entire discretion of the OWNER.

The CONTRACTOR shall be deemed to be not eligible to participate in any manner either directly or indirectly in execution of such 'Risk and Cost Works'.

(h) Initiate proceedings in a court of law for the transgression of the law, tort, and loss, not addressable by the above means.

40.14.4 Any Penalties arising out of GCC Article 40.14 shall survive the closure or termination of the Contract.

### FRUSTRATION OF CONTRACT

#### 40.15 Notice of Frustration Event

Upon a supervening cause occurring after the effective date of the Contract, including a change in law, beyond the control of either party whether as a result of the Force Majeure article or within the scope of section 56 of the Indian Contract Act, 1872, that makes it impossible to perform the Contract within a reasonable timeframe, the affected party shall give 'Notice of Frustration Event' to the other party giving justification. The parties shall use reasonable efforts to agree to amend the contract, as may be necessary to complete its performance. However, if the parties cannot reach a mutual agreement within sixty (60) days of the initial notice, the OWNER shall issue a 'Notice for Determining the contract' and terminate the contract due to its frustration as above.

40.16 However, the following shall not be considered as such a supervening cause.

(a) Lack of commercial feasibility or viability or profitability or availability of funds

(b) if caused by either party's breach of its obligations under this Contract or failure to act in good faith or use commercially reasonable due diligence to prevent such an event.

### CANCELLATION OF THE CONTRACT AND REMEDIES

40.17 On cancellation of the Contract in full or in part, the OWNER shall determine the amount, if any, is recoverable from the CONTRACTOR for completion of Work or part of the Work or in case the Work or part of the Work is not completed, the loss or damage suffered by the OWNER. In determining the amount, credit shall be given to the CONTRACTOR for the value of the work executed by him up to the time of cancellation, the value of CONTRACTOR's material taken over as well as incorporated in the work, and use of Tools and Plants belonging to the CONTRACTOR. On cancellation of contract, the Performance Guarantee/Security and Retention Money up to the last paid RAR shall be forfeited.

40.18. Any excess expenditure incurred or to be incurred by the OWNER in completing the Work or part of the Work or the excess loss or damages suffered or may be suffered by the OWNER as aforesaid after allowing such credit shall be recovered from any money due to the CONTRACTOR on any account, and if such money is not sufficient the CONTRACTOR shall be called upon in writing to pay the same within thirty (30) days.

40.19. If the CONTRACTOR shall fail to pay the required sum within the aforesaid period of thirty (30) days, the OWNER shall have the right to sell any or all of the CONTRACTOR's unused materials, construction plant, implements, temporary buildings etc. and apply the proceeds of sale thereof towards the satisfaction of any sums due from the CONTRACTOR under the Contract and if thereafter there be any balance outstanding from the CONTRACTOR, it shall be recovered from him.

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40.20. Any sums in excess of the amounts due to the OWNER may be returned to the CONTRACTOR, provided always that if cost or anticipated cost of completion by the OWNER of the Work or part of the Work is less than the amount which the CONTRACTOR would have been paid had he completed the Work or part of the Work, such benefit shall not accrue to the CONTRACTOR.

In the event of above course being adopted by the OWNER, the CONTRACTOR shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any engagements or made any advance on any account or with a view to the execution of the work or the performance of the Contract.

40.21. After giving notice to the CONTRACTOR to measure up the Work of the CONTRACTOR and to take such whole, or the balance or part thereof, as shall be un-executed out of his hands and to give it to another CONTRACTOR to complete the Work. The CONTRACTOR, whose Contract is determined as above, shall not be allowed to participate in the tendering process for the balance work including any new items needed to complete the Work. In the event of above courses being adopted by the OWNER, the CONTRACTOR shall have no claim to compensation for any loss sustained by him by reasons of his having purchased or procured any materials or entered into any engagements or made any advances on account or with a view to the execution of the Work or the performance of the Contract. In case, action is taken under any of the provision aforesaid, the CONTRACTOR shall not be entitled to recover or be paid any sum for any work thereof or actually performed under this Contract unless and until the PM/Engineer-in-Charge has certified in writing the performance of such work and the value payable in respect thereof and he shall only be entitled to be paid the value so certified.

40.22 In case, the Work cannot be started due to reasons not within the control of the CONTRACTOR within 1/8th of the stipulated time for completion of Work or one month whichever is higher, either party may close the contract by giving notice to the other party stating the reasons. In such eventuality, the Performance Guarantee of the CONTRACTOR shall be refunded.

Neither party shall claim any compensation for such eventuality and shall not come under the purview of breach of the contract by either party.

### **ARTICLE - 41: FORCE MAJEURE**

41.1 This article shall not effect or alter the rights and liabilities of the parties which have already accrued by virtue of or in consequence to the obligations already performed.

#### **DEFINITION OF FORCE MAJEURE**

41.2 "**Force Majeure(FM)**" shall mean any event beyond the control of the OWNER or of the CONTRACTOR, as the case may be (but excluding 'Excepted Risks', which shall be dealt in accordance with the Contract and which they could not foresee or with a reasonable amount of diligence could not have foreseen and which substantially affect the performance of Contract).

41.3 Notwithstanding the generality of the above, the following events shall be termed as "Force Majeure" events in respect of the Contract

(a) Terrorist acts,



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(b) Confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any Government or de jure or de facto authority or ruler or any other act of failure to act of any local, state or national Government authority,

(c) National/sectoral embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, epidemics, quarantine and plague,

(d) Conditions beyond control of either parties like war (whether declared or not), hostility, invasion, act of foreign enemies, acts of public enemy, civil war, rebellion, revolution, insurrection, military or usurped power, acts of God such as earthquake, lightning, cyclone, cloud -burst, land-slides, unprecedented floods come under the legal concept of Force Majeure.

### **NOTICE OF FORCE MAJEURE**

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

41.5 The party who has given such notice shall be excused from the performance or punctual performance is prevented, hindered or delayed.

41.6 Notwithstanding any other provision of the Article, Force Majeure shall not apply to any obligations of the OWNER to make payments to the CONTRACTOR herein.

### **DUTY TO MINIMIZE DELAY**

41.7 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfil its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under GCC Article 40.

### **CONSEQUENCE OF FORCE MAJEURE**

41.8 If the CONTRACTOR is prevented from performing its obligations under the Contract by reason of Force Majeure of which notice has been given under GCC Article 4, and suffers delay by reason of such Force Majeure, the CONTRACTOR shall be entitled to an extension of time for any such delay, if the Completion is or will be delayed, in accordance with GCC Article entitled "Extension of Time" for completion as excusable delay.

41.9 Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not,

(a) constitute a default or breach of the Contract,

(b) give rise to any claim for damages or additional cost or expense occasioned thereby if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.

### **TERMINATION FOR REASONS DUE TO EXTENDED FORCE MAJEURE**

41.10 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than Ninety (90) days or an aggregate period of more than one hundred and eighty (180) days or any such extended period as may be agreed to

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between the parties on account of one or more events of Force Majeure during the currency of the Contract, the parties will attempt to develop a mutually satisfactory and amicable solution, failing which either party may terminate the Contract by giving a thirty (30) days' notice to the other.

41.11 In the event of termination pursuant to GCC Article- 41.1, the rights and obligations of the OWNER and the CONTRACTOR shall be as specified hereunder:

(a) the CONTRACTOR shall be paid at Contract rates for the work already executed by him.

(b) The OWNER shall have an option to take over the CONTRACTOR's facilities/materials or any part thereof brought to site by the CONTRACTOR's facilities/materials or any part thereof brought to site by the CONTRACTOR, at such rates as are determined reasonable by the PM/Engineer-in-Charge.

41.12 All Force Majeure events/circumstances shall be authenticated with order or by concerned Authorities.

### **ARTICLE – 42: RESOLUTION OF DISPUTE**

#### **DISPUTES AND EXCEPTED MATTERS**

42.1 All disputes and differences between the parties hereto, as to the construction or operation of this Contract, or the respective rights and liabilities of the parties on any matter in question; or any other account whatsoever, but excluding the Excepted Matters as per GCC Article 42.2, arising out of or in connection with the contract, after aggrieved Party notifying the other Party of such matters; whether before or after the completion/ termination of the Contract, that cannot be resolved amicably between the OWNER and the CONTRACTOR, shall be hereinafter called the “**Dispute**”. The Dispute shall be resolved without recourse to courts through dispute resolution mechanisms detailed in the sequence as mentioned below, and the next mechanism shall not be invoked unless the earlier mechanism has been invoked or has failed to resolve it within the deadline mentioned therein.

(a) Dispute Resolution Board (Within 60 Days of Notice, to be extended by another 30 days, if agreed mutually)

(b) Adjudication (Within 60 Days of appointment of Adjudicator, to be extended by another 30 days, if agreed mutually)

(c) Conciliation (Within 60 Days of appointment of Conciliator, to be extended by another 30 days, if agreed mutually)

(d) Arbitration

#### **42.2 Excepted Matters**

Matters for which provision(s) has been made in the Contract shall be deemed as Excepted Matters (All matters mentioned as Final and binding on the CONTRACTOR and not disputable/ arbitrable), and decisions of the OWNER, thereon shall be final and binding on the CONTRACTOR. The Excepted Matters shall stand expressly non-disputable and excluded from this Article, including Arbitration.

Unless otherwise stipulated in the contract, Excepted Matters shall include but not limited to:

(a) any controversies or claims brought by a third party for bodily injury, death, property damage or any indirect or consequential loss arising out of or in any way related to the performance of this Contract (Third Party Claim), including, but not

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limited to, a Party's right to seek contribution or indemnity from the other Party in respect of a Third-Party Claim.

(b) Issues related to the pre-award tender process or conditions

(c) Issues related to ambiguity in contract terms shall not be taken up after a contract has been signed.

(d) Provisions incorporated in the contract, which are beyond the purview of The OWNER or are in pursuance of policies of Government, including but not limited to

(i) Provisions of restrictions regarding local content and purchase preference to Local suppliers in terms of Make in India policy of the Government

(ii) Provisions regarding restrictions on Entities from Countries having land-borders with India in terms of the Government's policies in this regard purchase preference policies regarding MSEs and Start-ups.

### **DISPUTE RESOLUTION BOARD (DRB)**

42.3. Dispute Resolution Board shall comprise Chairman and Members as per the contract. All dispute resolution matters shall be addressed by the OWNER/CONTRACTOR to the Chairman of the DRB with a copy endorsed to the other party.

42.4. The aggrieved party/ claimant shall give in first place a 'Notice of Dispute' indicating the Dispute and claims citing relevant contractual provision to Director, DCW&E/ the Dispute Resolution Board as per the contract and requesting for invoking the following dispute resolution mechanisms.

42.5. The claimant shall submit to the DRB with copies to the respondent his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim.

42.6. On receipt of such claims, the respondent shall submit its defence statement and counter claim(s) to the DRB.

42.7. No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during proceedings.

42.8. After going through statement of claims, counterclaims and defence, proceedings of DRB shall be completed within sixty (60) days of Notice, to be extended by another 30 days, if agreed mutually.

### **ADJUDICATION**

42.9. After exhausting efforts to resolve the dispute, the aggrieved party/ claimant shall give a 'Notice of Adjudication' specifying the matters which are in question, or subject of dispute or difference indicating the relevant contractual article, and also the amount of claim item-wise to the Director, DCW&E through Accepting officer of the Contract, for invoking resolution of the dispute through adjudication. The Director, DCWE shall inform the name of the appointed Adjudicator to both the parties.

42.10. During adjudication, the Adjudicator shall give adequate opportunity to the aggrieved party/ claimant to present his case. Within 60 Days of appointment of Adjudicator, to be extended by another 30 days, if agreed mutually, the Adjudicator shall make and notify decisions in writing on all matters referred to him. The parties shall not initiate, during the adjudication proceedings, any conciliation or arbitral or judicial proceedings in respect of a dispute that is the subject matter of the adjudication proceedings. If not satisfied by the decision in adjudication, or if the Adjudicator fails to

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notify his decision within the above mentioned time-frame, the aggrieved part/ claimant may proceed to invoke the process of Conciliation.

### CONCILIATION

42.11. Any party may invoke Conciliation by submitting "Notice of Conciliation" to the Secretary DDR&D & Chairman DRDO through Accepting Officer of the contract & Director, DCW&E. Within 30 days of receipt of "Notice of Conciliation", the Secretary DDR&D & Chairman DRDO shall notify a sole Conciliator if the other party is agreeable to enter Conciliation.

42.12. If the parties reach an agreement on a dispute settlement, within 60 days from the date of appointment of the Conciliator, to be extended by 30 days, if mutually agreed, they shall draw up a written settlement agreement duly signed by both the parties and Conciliator. When both the parties sign the settlement agreement, it shall be final and binding on the parties. The dispute shall be treated as resolved on the date of such agreement.

42.13. The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings.

#### 42.14. Termination of Conciliation

Disputes shall remain alive if the Conciliation is terminated as follows:

(i) By written declaration of the Conciliator, after consultation with both the parties, to the effect that further efforts at Conciliation are no longer justified, on the date of such declaration; or

(ii) By a written declaration of any party to the Conciliator to the effect that the Conciliation proceedings are terminated, on the date of such declaration; or If the parties fail to reach an agreement on a settlement of the dispute, within 60 days (extendable by 30 days) of the appointment of Conciliator.

42.15. On termination of Conciliation, if the dispute is still alive, the aggrieved party shall be free to invoke Arbitration.

### ARBITRATION

42.16. If an amicable settlement is not forthcoming, recourse may be taken to the settlement of disputes through Arbitration as per the Arbitration and Conciliation Act 1996, and as amended for the time being in force.

#### 42.17. Arbitration Agreement

42.17.1 This Arbitration Agreement relating to the Contract is made under the provisions of The Arbitration and Conciliation Act, 1996 amended 2015 and further amended from time to time and the rules thereunder (hereinafter called The Arbitration Act). This Agreement shall continue to survive termination, completion, or closure of the Contract.

42.17.2. Subject to aforesaid provisions, relevant articles of the contract shall apply to the appointment of Arbitrators and Arbitration proceedings under this Agreement.

42.17.3. The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 (as amended) provides parties to a dispute (where one of the parties is a Micro or Small

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Enterprise) to be referred to Micro and Small Enterprises Facilitation Council if the dispute is regarding any amount due under Section 17 of the MSMED Act, 2006 (as amended). If a Micro or Small Enterprise, being a party to dispute, refers to the provisions in MSMED Act 2006 (as amended), these provisions shall prevail over this Agreement.

### 42.17.4. Notice for Arbitration

(a) Authority to appoint Arbitrator(s): For this Arbitration Agreement 'The Appointing Authority', to appoint the arbitrator shall be the Secretary, DD (R&D) & Chairman DRDO or his authorized officer.

(b) The aggrieved party/ claimant shall submit a "**Notice for Arbitration**" in writing to The Secretary DD (R&D) & Chairman, DRDO through Accepting Officer and Director, DCW&E and request that the dispute or difference be referred to Arbitration.

(c) The "**Notice for Arbitration**" shall specify the matters in question or subject of the dispute or difference indicating the relevant contractual article, as well as the amount of claim item-wise.

### 42.17.5. Reference to Arbitration

After appointing Arbitrator(s), the Appointing Authority shall refer the dispute to them. Only such dispute or difference shall be referred to Arbitration regarding which the demand/claim has been made, together with counter-claims or set off. Other matters as per GCC Article 42.2 shall be beyond the jurisdiction of Arbitrator(s).

### 42.17.6. Appointment of Arbitrator

(a) Qualification of Arbitrators:

(i) In the case of retired officers of DCWE, he shall have retired in the rank of CCE/ Scientist- 'F'/ Scientist- 'G' (or equivalent) and shall have retired at least 1 years prior and must not be over 75 years of age on the date of Notice for Arbitration.

(ii) He/ they shall not have had an opportunity to deal with the matters to which the contract relates or who, in the course of his/ their duties as officers of the DCWE, expressed views on any or all of the matters under dispute or differences. The proceedings of the Arbitral Tribunal award made by such Tribunal shall, however, not be invalid merely for the reason that one or more Arbitrators had in the course of his service, an opportunity to deal with the matters to which the contract relates or who in the course of his/ their duties expressed views on all or any of the matters under dispute.

(iii) An Arbitrator may be appointed notwithstanding the total no. of arbitration cases in which he has been appointed in the past.

(iv) Not be other than the person appointed by The Appointing Authority and that if for any reason that is not possible, the matter shall be dealt as per Arbitration and Conciliation Act, as amended.

(b) Replacement of Arbitrators: If one or more of the Arbitrators appointed as above refuses to act as Arbitrator, withdraws from his office as Arbitrator, or in the event of the Arbitrator dying, neglecting/ unable or unwilling or refusing to act for any reason, or his award being set aside by the court for any reason, or in the opinion of The Appointing Authority fails to act without undue delay, the Appointing Authority shall appoint new Arbitrator(s) to act in his/ their place in the same manner in which the earlier Arbitrator(s)

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had been appointed. Such a re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous Arbitrator(s).

(c) Appointment of Arbitrator:

(i) If the Contract amount is less than Rs.100 crores, the dispute may be referred for adjudication by a sole Arbitrator. For this purpose, The Appointing Authority shall send to the claimant/ respondent, within 60 days from the day of receipt of a written and valid notice for arbitration, a panel of at least four (4) names of retired officers, duly indicating their retirement dates. The claimant/ respondent shall be asked to nominate at least two names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by the Appointing Authority. The Appointing Authority shall appoint one out of them as the sole arbitrator, mutually agreed by both the parties, within 30 days from the receipt of the names of the claimant's nominees.

(ii) If the Contract amount is Rs.100 crore or more, the dispute may be referred to an Arbitral Tribunal of three Arbitrators. For this purpose, The Appointing Authority shall send a panel of at least four (4) names of such Officer(s) empanelled to work as Arbitrators duly indicating their retirement date to the Claimant/ respondent within 60 days from the day when the Appointing Authority (through Director, DCW&E/Accepting Officers) receives valid demand for Arbitration.

The claimant/ respondent shall be asked to nominate at least 2 names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint one out of them as the claimant's nominee and other as respondent's nominee. The two appointed Arbitrators shall appoint the third Arbitrator who shall act as a Presiding Arbitrator, within 30 days from the receipt of the names of claimant/ respondent's nominees.

(iii) If the CONTRACTOR does not suggest his nominees for the Arbitral Tribunal within the prescribed timeframe, the Appointing Authority shall proceed for appointment of the Arbitral Tribunal within 30 days of the expiry of such time provided to the CONTRACTOR.

### 42.17.7. Failure to appoint Arbitrators.

If the Appointing Authority fails to appoint an Arbitrator within 60 (sixty) days, then subject to the survival of this Arbitration Agreement, the Supreme Court of India or High Court shall designate the Arbitral institution for the appointment of Arbitrators. These Arbitral institutions must complete the selection process within thirty days of accepting the request for the Arbitrator's appointment.

42.17.8. **The Arbitral Procedure:** the procedure shall be as per the Arbitration and Conciliation Act, 1996 and amendment for the time being in force. Following steps shall be taken for the Arbitral procedure: -

(a) Effective Date of entering reference: The Arbitral Tribunal shall be deemed to have entered the reference on the date on which the Arbitrator(s) have received notice of their appointment. All subsequent time limits shall be counted from such date.

(b) Seat and Venue of Arbitration: The seat of Arbitration shall be the place from which the Letter of Award or the Contract is issued. The venue of Arbitration shall be the same as the seat of Arbitration.

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(c) The claimant shall submit to the Arbitrator(s) with copies to the respondent, his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim.

(d) On receipt of such claims, the respondent shall submit its defence statement and counter claim(s).

(e) No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during arbitration proceedings subject to acceptance by the Tribunal having due regard to the delay in making it.

(f) Award within 12 (twelve) months: The Arbitral Tribunal is statutorily bound to deliver an award within 12 (twelve) months from the date when the Arbitral Tribunal enters reference. The award can be delayed by a maximum of six months only under exceptional circumstances where all parties consent to such extension of time.

(g) Confidentiality: All the details and particulars of the Arbitration proceedings shall be kept confidential, except in certain situations like if the disclosure is necessary for the implementation or execution of the Arbitral Award.

(h) Obligation during pendency of Arbitration: Performance of the contract shall, unless otherwise directed by the OWNER, continue during the Arbitration proceedings, and no payment due or payable by the OWNER shall be withheld on account of such proceedings, provided; however, it shall be open for Arbitral Tribunal to consider and decide whether or not the performance of Contract or payment therein should continue during Arbitration proceedings.

### 42.17.9. The Arbitral Award

(a) In the case of the Tribunal comprising of three members, any ruling on award shall be made by a majority of members of the Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.

(b) The Arbitral Award shall state item-wise the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award can be inferred from it.

(c) It is further a term of this Arbitration Agreement that where the Arbitral Award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.

(d) The Award of the Arbitrator shall be final and binding on the parties to this Contract.

(e) A party may apply for corrections of any computational errors, typographical or clerical errors, or any other error of similar nature occurring in the award or interpretation of a specific point of the award to the Tribunal within 60 days of receipt of the award.

(f) A party may apply to the Tribunal within 60 days of receiving the award to make an additional award as to claims presented in the arbitral proceedings but omitted from the Arbitral Award.

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(g) In cases where the OWNER has challenged an Arbitral Award and, as a result, the amount of the Arbitral Award has not been paid, 75% of the Arbitral Award shall be paid by the OWNER to the CONTRACTOR against an equal value of Bank Guarantee (BG). The BG shall only be for the said 75% of the Arbitral Award as above which may become payable to the OWNER should the subsequent court order require refund of the said amount.

(h) The payment may be made into a designated **Escrow Account** with the stipulation that the proceeds will be used first, for payment of lenders' dues, second, for completion of the Work and then for completion of other works of the same OWNER as mutually agreed/ decided. Any balance remaining in the Escrow Account subsequent to settlement of lenders' dues and completion of works of the OWNER may be allowed to be used by the CONTRACTOR with the prior approval of the lead Banker and the OWNER. If otherwise eligible and subject to contractual provisions, Retention Money and other amounts withheld may also be released against equal value of BG.

(j) No interest shall be payable on any Arbitral Award, whatsoever.

### 42.17.10. **Cost of Arbitration and fees of the Arbitrator(s)**

The concerned parties shall bear the cost of Arbitration in terms of section 31 (A) of The Arbitration Act, as amended. The cost shall inter-alia include fees of the Arbitrator. Further, the fees payable to the Arbitrator shall be governed by instructions issued on the subject by the Government from time to time, in line with the Arbitration and Conciliation Act (as amended).

## ARTICLE - 43: LIQUIDATION

43.1. In case the CONTRACTOR undergoes insolvency or receivership; neglects or defaults, or expresses inability or disinclination to honour his obligations relating to the performance of the Contract or ethical standards or any other obligation that substantially affects the OWNER's rights and benefits under the Contract, it shall be treated as a 'Breach of Contract' and OWNER reserves the right of termination of the Contract as per GCC Article 40. Such defaults could include inter-alia:

(a) Insolvency: If the CONTRACTOR being an individual or if a firm, any partner thereof, shall at any time, be adjudged insolvent or shall have a receiving order or order for the administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or enter into any assignment or composition with his creditors or suspend payment or if the firm be dissolved under the Partnership Act, or

(b) Liquidation: if the CONTRACTOR is a company being wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the Debenture-holders is appointed, or circumstances shall have arisen which entitle the Court or Debenture-holders to appoint a Receiver, Liquidator or Manager.

43.2. If the CONTRACTOR commences to be wound up, for the purpose of amalgamation or reconstruction, or carries on his business under a Receiver for the benefits of his creditor the OWNER shall be at liberty to:

- a) Give such receiver the Liquidator or other person the option of carryout the performance under the Contract, subject to the Receiver, Liquidator or the person



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providing a guarantee up to an amount to agreed upon by the OWNER and such Receiver, Liquidator or other person for the due and faithful performance of the CONTRACTOR's obligations under this Contract, or

- b) If the Receiver, Liquidator or other person fails within 30 (thirty) days to exercise any one option to carry out performance of the Contract then the OWNER may terminate the Contract and give notice in writing to the CONTRACTOR or to the Receiver, Liquidator or to any person in whom the Contract may have become vested.

### **ARTICLE – 44: EFFECTIVE DATE OF AGREEMENT**

44.1. The Contract Agreement shall become effective from the date of issue of letter of intent by the OWNER or the effective date mentioned in the Contract whichever is later. The dates of completion of milestones and works shall be counted from such dates.

### **ARTICLE - 45: ANNEXURES TO THE CONTRACT**

45.1. Following Annexure shall constitute an integral part of the Contract Agreement:

Annexure – I	:	Invitation to Tender,
Annexure – II	:	Instruction to Tenderer/Bidder
Annexure – III	:	General Conditions of Contract (GCC)
Annexure – IV	:	Special conditions of Contract (SCC)
Annexure – V	:	Bid data sheets (such as Site description, brief of Work, soil investigation report, etc.)
Annexure – VI	:	Scope of Work
Annexure – VII	:	Period of completion, completion milestones, construction programme, manpower and equipment mobilisation.
Annexure – VIII	:	Schedule of Items, Bill of Quantities, Financial Bid/Price Bid.
Annexure – IX	:	Tender Drawings.
Annexure – X	:	Technical Specifications.
Annexure – XI	:	Particular Technical Specifications
Annexure- XII	:	List of Approved Makes
Annexure – XIII	:	Forms

45.2. If annexures other than as specified above as referred to elsewhere in the Contract, such Annexures shall also form an integral part of the Contract.

### **Article – 46: CODE OF INTEGRITY AND INTEGRITY PACT**

#### **CODE OF INTEGRITY**

46.1. OWNER as well as Bidders/ CONTRACTORS should observe the highest standard of ethics and should not indulge in following prohibited practices, either directly or indirectly, at any stage during the Tender process or during the execution of resultant contracts:

- (a) "Corrupt practice" - making offer, solicitation or acceptance of a bribe, reward or gift or any material benefit, in exchange for an unfair advantage in the Tender process or to otherwise influence the Tender process;

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(b) "Fraudulent practice" - any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. Such practices include a false declaration or false information for participation in a tender process or to secure a contract or in the execution of the contract;

(c) "Anti-competitive practice" - any collusion, bid-rigging or anti-competitive arrangement, or any other practice coming under the purview of the Competition Act, 2002, between two or more bidders, with or without the knowledge of the OWNER, that may impair the transparency, fairness, and the progress of the Tender process or to establish Bid prices at artificial, non-competitive levels;

(d) "Coercive practice" - harming or threatening to harm persons or their property to influence their participation in the Tender process or affect the execution of Contract;

(e) "Conflict of interest" - participation by a bidding firm or any of its affiliates who are either involved in the Consultancy Contract to which this procurement is linked; or if they are part of more than one bid in the procurement; or if their personnel have a relationship or financial or business transactions with any official of the OWNER who are directly or indirectly related to tender or execution process of contract; or improper use of information obtained by the (prospective) Bidder from the OWNER with an intent to gain unfair advantage in the Tender process or for personal gain;

(f) "Obstructive practice" - materially impede OWNER's investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/ or by coercive practices mentioned above, to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the OWNER's rights of audit or access to information;

### 46.2. Obligations for Proactive Disclosures

(a) OWNER, Bidders/ CONTRACTORS are obliged under this Code of Integrity to suo-moto proactively declare any conflict of interest (coming under the definition mentioned above pre-existing or as and as soon as these arise at any stage) in any Tender process or execution of the Contract. Failure to do so shall amount to a violation of this code of integrity.

(b) Bidder must declare, whether asked or not in a bid-document, any previous transgressions of such code of integrity during the last three years under any category of debarment by the central Government or by the Ministry/ Department of the Procuring Organisation from participation in Tender processes. Failure to do so shall amount to a violation of this code of integrity.

### 46.3. Misdemeanours and Penalties

The following shall be considered misdemeanours. If a Bidder/ CONTRACTOR commits any of the following, either directly or indirectly, at any stage during the Tender process or during the execution of resultant contract:

(a) violates the code of Integrity and the Integrity Pact included in the Tender/ Contract;

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(b) any other misdemeanour, e.g., supply of substandard quality of material/ services/ work or non-performance or abandonment of Contract or failure to abide by the Declarations submitted.

(c) has been convicted of an offence or Under the Prevention of Corruption Act, 1988; or the Indian Penal Code or any other law for the time being in force for causing any loss of life or property or causing a threat to public health as part of the execution of a public procurement contract.

(d) is determined by the Government of India to have doubtful loyalty to the country or National Security consideration.

(e) employs a Government servant, who has been dismissed or removed on account of corruption or employs a non-official convicted for an offence involving corruption or abetment of such an offence, in a position where he could corrupt Government servants or employs a Government officer within one year of his retirement, who has had business dealings with him in an official capacity before retirement.

### 46.4. Penalties for Misdemeanours

Without prejudice to and in addition to the rights of the OWNER to other remedies as per the Contract, If the OWNER concludes that a (prospective) Bidder/ CONTRACTOR directly or through an agent has committed a misdemeanour in competing for the Tender or in executing a Contract, the OWNER shall be entitled, and it shall be lawful on his part to take appropriate measures, including the following:

(a) if his bids are under consideration in any procurement of works: -

(i) Enforcement of Bid Securing Declaration in lieu of forfeiture or encashment of Bid Security.

(ii) calling off of any pre-contract negotiations, and;

(iii) rejection and exclusion of Bidder from the Tender process after issue of Debarment Order.

(iv) In case a debarred Bidder becomes L-1, the next eligible lowest Bidder shall be considered as L-1.

(b) if a Contract has already been awarded

(i) Termination of Contract for Default and availing all remedies prescribed thereunder;

(ii) Encashment and/ or Forfeiture of any contractual security or bond relating to the procurement of works;

(iii) Recovery of payments including advance payments, if any, made by the OWNER along with interest thereon at the prevailing rate as per Contract.

**46.5. Remedies in addition to the above:** In addition to the above penalties, the OWNER shall be entitled, and it shall be lawful on his part to:

(a) File information against Bidder or any of its successors, with the Competition Commission of India for further processing, in case of anti-competitive practices;

(b) Initiate proceedings in a court of law against Bidder or any of its successors, under the Prevention of Corruption Act, 1988 or the Indian Penal Code or any other law for transgression not addressable by other remedies listed in this GCC Article.

(c) Remove Bidder or any of its successors from the list of enlisted CONTRACTOR for a period not exceeding two years. CONTRACTOR removed

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from the list of enlisted CONTRACTOR or their related entities may be allowed to apply afresh for enlistment after the expiry of the period of removal.

(d) Initiation of suitable disciplinary or criminal proceedings against any individual or staff found responsible.

(e) Debar a Bidder/ CONTRACTOR/ Firm from participation in future Tenders without prejudice to OWNER's legal rights and remedies after giving reasonable opportunities/ notice to represent against such debarment. Debarment shall automatically extend to all the "Allied Firms" of the debarred Firm. However, debarment in any manner shall not impact any other contractual or other legal rights of the OWNER. "Allied Firm" means all concerns which come within the effective influence of the Firm.

(f) The Ministry/ Department (or any of its CPSUs, attached offices, autonomous bodies) may debar a bidder or any of its successors from participating in any Tender process undertaken by all its procuring entities for a period not exceeding two years commencing from the date of debarment for misdemeanours listed above.

### **INTEGRITY PACT**

46.6. Integrity Pact shall have to be signed by Bidder as per Annexure mentioned in the Tender Document and be submitted along with the Tender Documents.

### **ARTICLE – 47: LUMP SUM PROVISION IN TENDER**

When the estimate on which a Tender is made includes lump sum in respect of parts of the work, the CONTRACTOR shall be entitled to payment in respect of the items of work involved or the part of the work in question at the same rates as are payable under this contract for such items, or if the part of the work in question is not, in the opinion of the PM/Engineer-in-Charge payable of measurement, the PM/Engineer-in-Charge may at his discretion pay the lump-sum amount as per the contract rate, and such payment by PM/Engineer-in-Charge shall be final and conclusive against the CONTRACTOR with regard to any sum or sums payable to him under the provisions of the Contract.

### **ARTICLE – 48: CLOSURE OF CONTRACT**

48.1. **"No Demand Certificate" and Release of Contract Securities:** The CONTRACTOR shall submit a "No Demand certificate" to the OWNER requesting the release of its contractual securities, if any, after DLP. The OWNER shall release the contractual securities without any interest if no outstanding obligation, asset, or payments are due from the CONTRACTOR. The CONTRACTOR shall not be entitled to make any claim whatsoever against the OWNER under or arising out of this Contract, nor shall the OWNER entertain or consider any such claim, if made by the CONTRACTOR, after he shall have signed a "No Demand Certificate", in favour of the OWNER. The CONTRACTOR shall be debarred from disputing the correctness of the items covered by the "No Demand Certificate" or demanding a clearance to Arbitration in respect thereof.

48.2. The Contract shall stand closed upon:

(a) Successful performance of all obligations by both parties, including completion of DLP obligations as per Contract and final payment.

(b) Termination and settlements after that, if any, as per GCC Article 40.

48.3. **Completion of Contract**

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48.3.1 The Contract is not to be treated as completed until a Final Acceptance Certificate (FAC) has been issued by the OWNER. There will be only one FAC. It will be issued when the CONTRACTOR has completed all his obligations under the contract.

48.3.2 OWNER will ensure that there is nothing outstanding from the CONTRACTOR, and "No Demand Certificate" has been taken from the CONTRACTOR.

### **ARTICLE – 49: LIST OF MANUALS / STANDERD OPERATING PROCEDURE(SOP)**

49.1. Following list of codes/manuals/ SoP(s) shall be referred to and enclosed as a part of Tender/ Contract:

- (I) RDCE Contractor's Labour Regulations
- (II) RDCE Safety Code

49.2. Any other SOP on security, secrecy and working in restricted area shall be as per other terms and conditions of the Contract.

### **ARTICLE - 50: RISK DISTRIBUTION**

#### **OWNER'S AND CONTRACTOR'S RISKS AND INSURANCE**

50.1. The OWNER carries risks which this Contract states as OWNER's risks, and the CONTRACTOR carries risks which this Contract states as CONTRACTOR's risks, under this article.

50.2. Irrespective of the OWNER's Risks or CONTRACTOR's Risks the CONTRACTOR shall execute the Work(s) as per the Contract and as directed by the OWNER.

#### **OWNER'S RISK:**

50.3. "Excepted Risk" are risks over which the CONTRACTOR has no control. If the OWNER examines and finds that such events, mentioned below, are not caused by the CONTRACTOR, then the OWNER may accept these risks as such.

50.3.1. The 'Excepted Risks' are

(a) In so far as they occur in the Union of India and directly affect the execution of the Works:

- (i) Riot (other than those on account of CONTRACTOR's employees), commotion or disorder, sabotage, lockout unless solely restricted to employees of the CONTRACTOR or of his Sub-contractors and arising from the conduct of the Works;
- (ii) Ionising radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive, toxic, explosive, or other hazardous properties of any explosive, nuclear assembly or nuclear component;
- (iii) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speed;
- (iv) Any acts of Government, damages from aircraft, serious loss or damage by fire and/or explosions
- (v) The causes solely due to use or occupation by the OWNER of the part of the Work(s) in respect of which a certificate of completion has been issued.

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- (b) A cause due to the design of the Work(s), other than the CONTRACTOR's design.

50.3.2. In the event of any loss or damage to the Work or any part thereof and/or to any materials or articles at the Site from out of any occurrence of Excepted Risks, the following provisions shall have effect:

(a) The CONTRACTOR shall, as may be directed in writing by the PM/Engineer-in- Charge, remove from the Site any debris and so much of the Work(s) as shall have been damaged, take the same to the place identified by the OWNER.

(b) The CONTRACTOR shall, as may be directed in writing by the PM/Engineer-in- Charge, proceed to rectify, repair, reconstruct or replace the damaged articles, materials and the Work(s) under and in accordance with the Conditions of the Contract.

(c) If the CONTRACTOR is prevented from performing its obligations under the Contract by reason of Excepted Risks of which notice has been given under GCC Article 4, and suffers delay by reason of such Excepted Risks, the CONTRACTOR shall be entitled to an extension of time for any such delay, if the completion is or will be delayed.

50.3.3. The CONTRACTOR shall not be entitled to payment under the above provisions in respect of so much loss or damage as has been occasioned by any failure on his part to perform his obligations under the Contract or not taking precautions to prevent loss or damage or minimise the amount of such loss or damage.

### **CONTRACTOR'S RISKS**

50.4. All risks of loss of or damage to the physical property and of personal injury and death, which arise during and in consequence of the performance of the Contract, other than those covered under the Excepted Risks, will be the liability of the CONTRACTOR, except as otherwise provided in the Contract.

50.5. From commencement to completion of the Work, the CONTRACTOR shall take full responsibility for the care thereof and for taking precautions to prevent loss or damage and to minimise loss or damage to the greatest extent possible and shall be liable for any damage or loss that may happen to the Work or any part thereof from any cause whatsoever (save and except due to Excepted Risks) and shall at his own cost repair and make good the same so that at completion the Works shall be in good order and condition and in conformity in every respect with the requirements of the Contract and instructions of the PM/Engineer-in-Charge.

50.6. The CONTRACTOR shall indemnify and keep indemnified the OWNER against all losses and claims for injuries or damage to any person or any property whatsoever which may arise out of or in consequence of the construction and maintenance of the Work and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of or in relation thereto, provided always that nothing herein contained shall be deemed to render the CONTRACTOR liable for or in respect of or to indemnify the OWNER against any compensation or damage caused by any occurrence of the Excepted Risks.

### **ARTICLE - 51: COMPLIANCE TO CARRIAGE BY ROAD RULES**

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51.1. All T&P and Materials required for theWork(s), whether bought by CONTRACTOR or issued by the OWNER, if required to be transported by Road, must necessarily be transported through a registered common carrier as per Carriage by Road Rules 2011 of Government of India (as amended).

### **ARTICLE - 52: LIMITATION OF LIABILITY**

52.1. Except in cases of criminal negligence or wilful misconduct:

(a) Neither Party shall be liable to the other Party, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, which may be suffered by the other Party in connection with the Contract, provided that this exclusion shall not apply to any obligation of the CONTRACTOR to pay liquidated damages to the OWNER.

(b) The aggregate liability of the CONTRACTOR to the OWNER, whether under the Contract, in tort or otherwise, shall not exceed the total Contract price, provided that this limitation shall not apply to any obligation of the CONTRACTOR to indemnify the OWNER.

(c) The aggregate liability of the OWNER to the CONTRACTOR, whether under the Contract, in tort or otherwise, at any point of time during the execution/performance of the Contract, shall not exceed the total Contract price less payments already released to the CONTRACTOR.

### **ARTICLE-53: AMENDMENTS**

53.1 No provision of this contract shall be changed or modified in any way, including this article, either in whole or in part except by an instrument in writing made after the effective date of agreement and signed by both the parties with expression to amend the contract.



**ANNEXURE 'A'**

# **GCC 2023**

## **RDCE** **CONTRACTOR'S LABOUR REGULATIONS**

**DIRECTORATE OF CIVIL WORKS AND ESTATES (DCW&E)**  
**2023**

## CONTRACTOR'S LABOUR REGULATIONS

1. During the entire period of Contract, the CONTRACTOR and his Sub-contractors shall, at all times abide by all existing and as amended from time to time labour codes, enactments, rules made therein, regulations, notifications and bye-laws by the appropriate Government, local authority or any other labour laws or notification that may be issued under any labour law published by the State or Central Government or Local Authorities. An illustrative list of acts, notifications, rules etc. in connection with the labour wherever applicable is provided in Clause No.1.1 below. This list is not in any way exhaustive and shall not absolve the CONTRACTOR from any of his liabilities or responsibilities in compliance with any other laws/regulations/notifications etc. as applicable during Contract period.

### 1.1. Acts/ Statutes/codes related to Human Resources:

- (a) Building and other construction workers act, 1996 (BOCWA).
- (b) Building and other construction workers Central Rules, 1998 (BOCWR) as adopted by various state Govt.
- (c) (i) Factories Act. 1948, (within as existing Lab/Estts premises registered under applicable Factory/Industrial act).
- (ii) Factories rules as adopted by state governments.
- (d) EPF & Miscellaneous Provisions (MP) Act, 1952;
- (e) Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996;
- (f) ESI Act, 1948;
- (g) Minimum Wages Act, 1948 and Minimum Wages (Central) Rules, 1950;
- (h) Payment of Wages Act, 1936;
- (j) Payment of Bonus Act, 1965;
- (k) Payment of Gratuity Act, 1972;
- (l) Workmen's Compensation Act, 1923;
- (m) Industrial Disputes Act, 1947;
- (n) Maternity Benefit Act, 1961;
- (o) Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979;
- (p) Fatal Accidents Act, 1855
- (q) Model Welfare Schemes by Ministry of Labour & Employment, Central Govt.
- (r) Unorganised Works Social Security Act-2008.
- (s) The Personal Injury Act-1963.
- (t) Workmen's Compensation Occupational Rule-1964.
- (u) Part-III (Article 12-35) benchmark for labour law of Constitution of India.
- (v) Code on Wages, 2019.
- (w) Industrial Relations code, 2020.
- (x) Occupational Safety, Health and Working conditions code, 2020.
- (y) Equal Remuneration Act, 1976.
- (z) Contract Labour Act, 1970.
- (aa) Contract Labour (Regulation and abolition) Central Rules, 1971.
- (ab) Bonded Labour System (Abolition) Act, 1976.
- (ac) The Child Labour (Provisions & Regulations) Act, 1986.
- (ad) Sexual Harassment at Works Place Act 2013
- (ae) Employees State Insurance Act 1948.
- (af) Employers Liability Act 1938.
- (ag) Building and other construction workers welfare cess act, 1996;

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- (ah) The code on wages, 2019 and Code on wages (Central advisory board) rules, 2021;
- (aj) The code on social security, 2020

The laws, acts, rules, codes and regulations mentioned at Clause No. 1.1 shall be deemed to be a part of this Contract and any breach thereof shall be deemed to be a breach of this Contract.

### 2. **Independent CONTRACTOR**

The Contractor's status shall be that of an independent CONTRACTOR and Primary Employer of staff and workman deployed during the Contract by him or his Sub-contractors or other associates. The CONTRACTOR, its employees, and Sub-contractors performing under this Contract are not employees of the Owner or Central Government, simply by Services delivered under the Contract.

3. The CONTRACTOR shall obtain a valid licence under the applicable Labour acts, codes and the rules as modified from time-to-time before the commencement of the Contract and continue to have a valid licence until the completion of Contract. Any failure to fulfil this requirement, the OWNER shall treat it as a breach of Contract for default as per the Contract and avail any or all remedies thereunder. It is specifically agreed that the CONTRACTOR and his Sub-Contractors shall obtain all the necessary registration, licenses, permits, authorizations etc. required under various enactments/ regulations enforced from time to time, specifically registration as employer under Provident Fund Act and Contract Labour Regulation & Abolition Act, and the OWNER shall not be liable for any violation by the Contractor in this regard.

4. In respect of all labour directly or indirectly employed for the performance of the Contract, the CONTRACTOR shall comply with or cause to comply with the provisions of the aforesaid Labour codes and the rules wherever applicable. The contractor shall be solely responsible for submitting all the necessary returns under these codes and the rules. Nevertheless, the CONTRACTOR shall submit returns after each payment made by the OWNER or as directed by PM/Engineer-in-Charge to confirm compliance with such Codes and rules. Failure to do so shall entitle OWNER to take any measure to ensure compliance to such codes and rules by the CONTRACTOR and his associates, including, but not limited to, withholding Contractor's subsequent on-account bills.

### 5. **Payment of Wages**

5.1 The CONTRACTOR shall pay the wages as per the applicable codes, rules and regulation on Wages to their workers not below the rate of minimum wages, as notified by the State Government or Central Government, whichever is higher. Failure to do so shall entail OWNER taking up any measure to ensure the payment of wages including, but not limited to, withholding/making recovery from Contractor's on- account bills. The decision of the OWNER regarding the amount actually recoverable from the CONTRACTOR shall be final and binding on the CONTRACTOR.

5.2 The CONTRACTOR shall, notwithstanding the provisions of any Contract to the contrary, ensure payment of fair wages to labour directly or indirectly engaged on the Work, including any labour engaged by his Sub-contractors in connection with the said Work, as if the labour had been immediately employed by him.

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5.3 Whatever is the minimum wage for the time being, or if the wage payable is higher than such wage, such wage shall be paid by the CONTRACTOR to the workmen/labour directly without the intervention of Agent/Agency and that any Agent/Agency shall not be entitled to deduct or recover any amount from the minimum wage payable to the workmen as and by way of commission or otherwise.

5.4 (a) The CONTRACTOR shall fix wage periods, not exceeding one month, in respect of which wages shall be payable.

(b) The wages of every person employed as contract labour in an establishment or by the CONTRACTOR where less than one thousand such persons are employed shall be paid before the expiry of seventh day and in other cases before the expiry of tenth day after the last day of the wage period in respect of which the wages are payable.

(c) **Display of Notice Regarding Wages etc.**

The CONTRACTOR shall, before he commences his work on Contract, display and correctly maintain and continue to display and correctly maintain in a clear and legible condition in conspicuous places on the Work, notices in English and in the local Indian languages spoken by the majority of the workers giving the minimum rates of wages fixed under Minimum Wages Act, the actual wages being paid, the hours of work for which such wage are earned, wages periods, dates of payments of wages and other relevant information and a copy of the same may be sent by the CONTRACTOR to the PM/Engineer-in-Charge.

5.5. **Minimum Wages Act**

The CONTRACTOR shall comply with all the provisions of the Minimum Wages Act, 1948, and Contract Labour (Regulation and Abolition) Act, 1970, amended from time to time and rules framed there under and other labour laws affecting contract labour that may be brought into force from time to time.

6. The obligation of Contractor is to ensure awareness of Labour acts, codes & rules to all their labour/workers/employees and compliance to be included in his return submitted to the OWNER.

7. **Sub-contractors**

7.1 The Contractor and his Sub-contractor shall indemnify the OWNER, from any action taken against the OWNER by any Competent Authority in connection with the enforcement of the applicable laws, regulations, notifications, on account of contravention of any of the provision therein, including amendments thereto.

7.2 The CONTRACTOR shall indemnify and keep indemnified the OWNER against payments to be made under and for the observance of the laws mentioned at Clause No.1.1 and the RDCE Contractor's Labour Regulations without prejudice to his right to claim indemnity from his Sub-contractors.

8. If the OWNER, is held liable as 'PRINCIPAL EMPLOYER' or otherwise to incur any expenditure or to make any contributions under any legislation of the Government or Court's decision, in respect of the employees of the Contractor or his Sub-contractors, then the OWNER shall be entitled to recover such amount from the Contractor, or otherwise take any measure(s) to recover the same.

9 **Accident or Injury to Workmen**

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9.1 The CONTRACTOR shall be solely liable for any accident or injury to any of the personnel engaged by him or by his Sub-contractors in connection with the Contract work.

9.2 The CONTRACTOR or his Sub-contractor shall forthwith report to the OWNER all cases of accidents to any of their personnel / workmen and shall make every arrangement to render all possible assistance and aid to the victim of the accident.

### **10. Recovery of Compensation paid to Workmen**

In every case in which by virtue of the provisions in the Workmen's Compensation Act, 1923, Government is obliged to pay compensation to a workman employed by the contractor, in execution of the works, OWNER will recover from the CONTRACTOR, the amount of the compensation so paid and without prejudice to the rights of the OWNER under the said Act, OWNER shall be at liberty to recover such amount or any part thereof by deducting it from the Security Deposit or from any sum due to the CONTRACTOR.

### **12. Health and Sanitary arrangements**

In respect of all labour directly or indirectly employed in the works for the performance of the Contract, the CONTRACTOR shall comply with or cause to be complied with acts, codes and rules as mentioned in Clause No 1.1 and the rules framed by Government time to time for the protection of health and sanitary arrangements for workers employed by the CONTRACTORS and their Sub-contractors.

### **13. Maternity Leave and pay**

In respect of all female labour directly or indirectly employed in the works for the performance of the Contract, the CONTRACTOR shall comply with or cause to be complied with acts, codes and rules as mentioned in Clause No 1.1 and the rules framed by Government time to time for maternity leave and payment towards delivery-leave, mis-carriage leave etc.

14. If it appears to the PM/Engineer-in-Charge that the CONTRACTOR and its Sub-contractors is/are not properly observing and complying with the provisions of the RDCE Contractor's Labour Regulations and referred laws, acts, rules therein, the PM/Engineer-in-Charge shall have right to give notice in writing to the CONTRACTOR requiring that the said rules be complied with and the payments/compensation and all amenities prescribed therein be provided to the work-people within a reasonable time.

15. The CONTRACTOR shall provide, at his cost, to all staff and workmen directly or indirectly employed on the works all amenities such as living accommodation, sanitation facilities, water supply, drainage, health services, sewage disposal for securing proper working and living conditions at the site and at the labour camp. The CONTRACTOR shall also provide medical facilities at the site as per BOCW Act, 1996 and BOCW Central Rules, 1998.

### **16. Contribution of EPF and ESI**

The ESI and EPF contributions in respect of the Contract shall be paid by the CONTRACTOR as an employer. The contractor shall submit documentary proof of such payments provided to OWNER as per contract condition.

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17. The CONTRACTOR shall give all notices and pay all fees and taxes required to be given or paid under any Central or State Statues Ordinance or other Laws or any Regulations or Bye-Laws of any local or other constituted authority in relation to the Contract Work.

18. The CONTRACTOR shall ensure that no child labour is employed or permitted to work in any activity covered under the Contract Agreement.

### 19. Labour Records

The CONTRACTOR shall maintain all Registers required under the Contract as per the applicable acts/ rules/ regulations as mentioned in clause 1.1.

All labour records shall be preserved in original for a period of three years from the date of last entries made in them and shall be made available for inspection by the PM/Engineer-in-Charge or Labour Officer or any other officers authorised by the OWNER in this behalf.

20. The report comprising of investigation or enquiry of visiting Labour Officer (Central) or other persons authorised shall be submitted by the CONTRACTOR to the PM/ Engineer-in-Charge. If the said report states that any default has been made, then necessary deductions from the CONTRACTOR's bill shall be made by the OWNER and the wages and other dues shall be paid to the labourers concerned.

### 21. Prohibition Regarding Representation Through Lawyer

(a) A workman shall be entitled to be represented in any investigation or enquiry under these regulations.

(b) The CONTRACTOR or his representative shall be entitled to be represented in any investigation or enquiry under these regulations.

(c) No party shall be entitled to be represented by a legal practitioner in any investigation or enquiry under these regulations.

### 22. Inspection of Book & Slips

The CONTRACTOR shall allow inspection of all the prescribed labour records to any of his workers at a convenient time and place after due notice is received or to the Labour Officer or any other person, authorised by the Central Government or his representative.



**RDCE**  
**SAFETY CODE**

**DIRECTORATE OF CIVIL WORKS AND ESTATES (DCW&E)**  
**2023**



# GCC 2023

## 1. Responsibilities of CONTRACTORS for implementation of safety rules:

1.1. The Safety Rules for Construction & Erection as outlined hereunder, while setting out a broad parameter of safety norms, are not exhaustive. The CONTRACTOR and his agencies are advised to refer to safety rules in the following statutory provisions as amended from time to time for details and strict compliance therewith.

(a) Building and Other Construction Workers (regulation of employment and conditions of service) Act, 1996 (briefly referred to as BOCW Act),

(b) Building and other construction workers (regulation of employment and conditions of service) Central Rules, 1998 (briefly referred to as BOCW Rules) as adopted by the various State Governments,

(c) Factories Act, 1948, (Applicable to construction work and safety measures at the site in Lab/Estts register under the factory act as per Contract.

(d) Factories Rules, as adopted by the various State Governments

The CONTRACTOR is also required to ensure compliance with all the relevant Acts/Rules in addition to above. Reference list of IS Codes is enclosed at APPENDIX 'A'.

1.2. It shall be incumbent on the CONTRACTOR to ensure that the requirements of safety, statutory or otherwise specified, are fully met. Thus the onus of implementation of the norms so prescribed shall squarely rest with the CONTRACTOR concerned or, on his behalf, his Sub-contractor or any other agency deployed by him, indemnifying OWNER from all the liabilities that may arise out of any failure to comply with the above mentioned Acts/Rules or any contravention thereof by the CONTRACTOR or any other Sub-contractor on his behalf.

1.3. It shall also be the responsibility of the CONTRACTOR to provide amenities and safety requirements on each construction job in order to reduce or to eliminate hazards of construction activities and also to provide necessary first aid facilities as well as Ambulance van (in case of major project works) for prompt transportation of injured persons to a physician or hospital.

## 2. Safety manual and safety policy

2.1. The Safety policy of the CONTRACTOR should reflect the commitment towards safety and health of the workers specified for the particular site.

2.2. The Safety Manual including safety policy duly signed by the CONTRACTOR or his authorized representative shall be submitted to the concerned PM/Engineer-in-Charge before start of their project activities at site.

2.3 Each CONTRACTOR shall have facilities for conducting the above safety management programme, commensurate with magnitude of the work under the Contract.

## SAFETY MANAGEMENT PROGRAMME

### 3. Appointment of safety officer/ safety supervisor

3.1. The CONTRACTOR shall provide a sufficient number of qualified, suitable and experienced persons to manage all safety related matter on Sites. Irrespective of

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manpower employed by the CONTRACTOR or his Sub-contractor whether temporary, casual, regular or permanent or on Contract, the CONTRACTOR shall deploy/ nominate a Safety Officer/Executive, responsible for carrying out the safety management programme, before start of the work.

### 3.2. Meeting for safety after award of the Contract

Representatives of CONTRACTOR along with safety Officer/Executive shall meet PM/Engineer-in-Charge of the particular activity prior to start of construction activities for the purpose of discussing safety standards and requirements applicable to the works under Contract.

### 3.3. Personal Protective Equipment (PPE)

3.3.1 The CONTRACTOR should ensure sufficient inventory of Personal Protective Equipment prior to initial mobilization as specified in the Contract. After identifying the need of the required PPEs for various activities performed at the site, an additional inventory of approx. 20% of required PPEs should be maintained during the execution of the work. A PPE plan shall be prepared which gives fair idea regarding issue of PPEs to various personnel as per the following 'PPE Selection Matrix'.

**PPE Selection Matrix (apart from mandatory PPEs, i.e., Safety Helmet & Safety Shoes)**

Activity	Type of Protection						Remarks, if any
	Hand	Eye	Ear	Body	Respiratory	Others	
Gas Welding & Cutting	LG	WG	-	LA	*SCBA/O LBA	-	* for confined space
Electric Arc Welding	LG	HMWS	-	LA	*SCBA/O LBA	-	* for confined space
Rigging	CG	SG	-				--
Working at Height	-	SG	-	D LFBH	-	*FAS	*for vertical columns
Grinding & Chipping	CG	FS/SG	-	LA	-	-	--
Working in High Noise	-	-	EP/EM	-	-	-	--
Handling of cement concrete	RG	SG	-	-	DM	-	
Blasting	CG	SG	EP*	-	-	-	*at noise area
Excavation	CG	SG	-	-	DM	-	*Gum boot in place of Safety

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							shoe for foot
Chemical Handling	PVCG	CSG	-	PVCA	-	-	*Full body rubber suit with hood
Electrical and C&I	ERG*	SG	-	-	-	-	*For high voltages
Sand/Shot blasting	CG	-	EP/EM	CA	SAMH	-	

**ABBREVIATIONS:** FS: Face Shield, CSG: Chemical splash goggles, HMWS: Helmet mounted welder's shield, GB: gum boot, DLFBH: Double lanyard full body harness, SG: Safety goggles, DM: Dust mask, SAMH L Supplied air mask/hood, EP/EM: Ear plug/Ear Muff, CG: Cotton hand gloves, LG: Leather hand gloves, LA: Leather apron, RG: Rubber gloves, PVCG: PVC Gloves, PVCA: PVC Apron, SCBA: Self-contained breathing apparatus, WG: Welding goggles, ERG: Electrical Rubber Gloves. OLBA: Online breathing apparatus

3.3.2. **Mandatory PPEs:** Wearing of Safety Helmet, Safety Shoes and reflective jacket is mandatory for all works at site and it should be ensured that all employees and project visiting personnel shall invariably wear safety helmet, safety shoes & reflective jacket.

3.3.3. The above-mentioned PPEs should be made available with CONTRACTOR at site and issued to the concerned workers on the day of employment. All PPEs shall comply with ISI standards with valid test certificates.

3.3.4. At least two breathing apparatus sets (complying requirement as per IS: 10245) shall be provided at each site where excavation/tunnelling works and Welding/ Cutting operations in confined areas are being carried out, to rescue the victims under exposure to harmful gases/vapours, if any.

### 3.4. Safety Committee

3.4.1. Safety Committee shall be formed within CONTRACTOR's setup comprising of worker representatives with equal no. of management representatives as per the provisions of BOCW Act/rules. This Committee in each agency shall meet at least once in every month. The safety officer of the CONTRACTOR shall coordinate these meetings. OWNER's nominated Safety Officer shall be special invitee for Safety Committee meetings. The Safety Committee functioning shall be in line with the provisions of BOCW Act/Rules.

3.4.2. Apart from the above, each agency shall organize safety meetings every day before start of day's work to educate & motivate the workers about the necessity of safety. Case study of accident/ incident can be shared in these meetings.

3.4.3. The CONTRACTOR shall also regularly organize safety meetings for all job supervisors/foremen with participation of the OWNER's representative.

### 3.5. Safety message propagation

3.5.1. CONTRACTOR shall arrange for display of safety hoardings depicting suitable safety cartoons/messages/ cautionary notices at appropriate places of project site to remind the workers to perform their duties safely.

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3.5.2. Apart from safety hoardings, the CONTRACTOR shall maintain a safety bulletin board at all their work locations. Such safety bulletin boards should depict the activities being planned for the day, good practices, permit details etc.

3.5.3. Safety suggestion boxes shall be kept at each CONTRACTOR's office at site for obtaining safety suggestions from the workers. Best suggestions should be implemented and may be rewarded suitably to encourage the workers for safety.

### 3.6. Competency of employees/workers

3.6.1. Throughout the course of the Contract, persons employed by the CONTRACTOR shall be physically fit, qualified/experienced to perform their assigned duties/ jobs.

3.6.2. Employees shall not, knowingly be permitted to work in a manner that their ability or alertness is so impaired because of fatigue, illness or any other reason, that it may expose them and or others to injury.

3.6.3. The vehicle operator shall have a valid license as per requirements of Motor Vehicle Act.

3.6.4. The CONTRACTOR shall comply with all applicable state/central laws and codes related to employment of operators for Hoist, Shovel, Crane, Tractor, Bull-dozer, any other howling heavy equipment/vehicle.

### 3.7. Safety induction and training

3.7.1. The CONTRACTOR shall adhere to the requirements of imparting Safety training as per BOCW Act/Rules.

3.7.2. The CONTRACTOR shall maintain written record of Safety trainings imparted to its employees/ workmen. These records shall be available for review of PM/Engineer-in-charge.

3.8. Drinking of alcoholic beverages is strictly prohibited. Employees under the influence of any intoxicants, even to the slightest degree, shall not be permitted to remain at work. Each CONTRACTOR should maintain 'breath analyser' to determine the intoxicated workers at site.

### 3.9. Safety audit

3.9.1. Internal Safety Audit once in every six months, or as decided by the PM/Engineer-in-Charge, shall be conducted by the CONTRACTOR, with prior intimation to PM/Engineer-in-Charge. The audit report along with time bound action plan shall be submitted to the PM/Engineer-in-Charge.

3.9.2. Apart from above, **Electrical Safety Audit** shall be conducted quarterly by a team comprising of Electrical engineer and Safety representative of the CONTRACTOR and OWNER's Electrical representative covering the following: -

- (a) Electrical incidents, investigation findings and remedial measures implemented.
- (b) Adequacy of power supply requirements
- (c) Power distribution system in place
- (d) Updated electrical single line diagram including the IP44 DBs arrangement.
- (e) Electrical protection devices – ELCBs, Overhead Line (O/L) protections etc.
- (f) Earth or ground connection and earth pit maintenance details
- (g) Education and training of electrical personnel undertaken
- (h) Any other point appropriate to the work and site conditions.

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The Electrical safety audit report shall be submitted by the CONTRACTOR to the PM/Engineer-in-Charge.

### 3.10. Reporting and investigation of accidents and dangerous occurrences

3.10.1. Reporting of accidents: Notice of any accident to a worker at the building or construction site that

(a) Causes loss of life; or

(b) Disables a worker from working for a period of 48 hours or more immediately following the accident;

shall forthwith be sent by Telephone, Fax, Email or similar other means including special Messenger within four hours in case of fatal accidents and 72 hours in case of other accidents, besides the PM/Engineer-in-Charge, to the OWNER.

3.10.2. Where any accident causing disablement that subsequently results in death, notice thereof in writing of such death, shall be sent to the OWNER and all concerned authorities within 72 hours of such death.

3.10.3. In case of an accident causing minor injury, first-aid shall be administered and that resulting in disability of 48 hours or more, the injured worker shall be given first-aid and immediately transferred to a Hospital or other place for medical treatment.

3.10.4. All near-miss accidents shall be reported to the PM/Engineer-in-Charge, giving brief of accident.

### 3.10.5. Reporting of dangerous occurrences

The following classes of dangerous occurrences shall be reported to the PM/Engineer-in-Charge whether or not any disablement or death caused to the worker, namely:

(a) Collapse or failure of lifting appliances, or hoist, or conveyors, or similar equipment for handling of building or construction material or breakage or failure of rope, chain or loose gears; or overturning of cranes used in construction work;

(b) Falling of objects from height;

(c) Collapse or subsidence of soil, any wall, floor, gallery, roof or any other part of any structure, platform, staging, scaffolding or means of access including formwork;

(d) Collapse due to excavation, collapse of transmission;

(e) Explosion of receiver or vessel used for storage of any gases or any liquid or solid used as building material;

(f) Fire and explosion causing damage to any place on construction site where building workers are employed;

(g) Spillage or leakage of any hazardous substance and damage to their container;

(h) Collapse, capsizing, toppling or collision of transport equipment;

(i) Leakage or release of harmful toxic gases at the construction site;

(j) In case of failure of a lifting appliance, loose gear, hoist or building and other construction work, machinery and transport equipment at a construction site, such appliances, gear, hoist, machinery or equipment and the site of such occurrence shall, as far as practicable, be kept undisturbed until inspected by the OWNER & Authorities;

3.10.6. Every notice given for fatal accidents shall be followed by a written report to the concerned Statutory Authorities and the PM/Engineer-in-Charge.

3.10.7. Incident / injury statistics shall be maintained by the CONTRACTOR cause wise.

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3.10.8. **Investigation of accidents and dangerous occurrences:** Besides reporting, it shall be the responsibility of the CONTRACTOR to constitute a team (members as per the gravity of the incident) of responsible person to thoroughly investigate all incidents involving near-miss accidents, lost-time and reportable accidents and dangerous occurrences with a view to find out the causative factor, taking remedial measures and fixing responsibility, and make a copy of the investigation report along with action-plan, specifying a definite time-frame for implementation of the findings, available to the PM/Engineer-in-Charge forthwith.

### 3.11. **MEDICAL AND FIRST AID AMENITIES:**

3.11.1 It is the responsibility of CONTRACTOR to ensure the availability of following suitable arrangements at their work site for rendering prompt and efficient First aid to injured persons: -

(a) Arrange one trained and certified first aid medical professional in each shift.

(b) Ambulance with proper equipment for prompt transportation of the injured persons to a physician or a hospital shall be provided before start of the work in cases where 500 or more than 500 workers are employed. For smaller contracts, where less than 500 workers are employed, the CONTRACTOR shall have a tie-up with suitable Agency for providing Ambulance with proper equipment for prompt transportation of the injured persons to a physician or a hospital in case of an Accident / Emergency. Further, the CONTRACTOR shall submit a proof of the same to the PM/Engineer-in-Charge.

(c) Deploy one full time construction medical officer (qualification as per Schedule XI of BOCW Central Rules -1998) for cases where 500 or more workers are employed (up to one thousand workers) and one additional construction medical officer for additional one thousand workers or part thereof. For smaller contracts, where less than 500 workers are employed, the CONTRACTOR shall have a tie-up with suitable Hospital / Nursing home in the vicinity of the Project/Site where Work is being executed, for providing adequate medical treatment by qualified medical officers and nursing staff, as and when required. Further, the CONTRACTOR shall submit a proof of the same to PM/Engineer-in-Charge. Notwithstanding anything stated above, the CONTRACTOR shall strictly comply with the requirements of relevant BOCW Act/ BOCW Rules/ Factory Act/Factory Rules/ any other statutory Act/Rules/Law with regards to providing suitable medical facilities to the workers.

In case, the CONTRACTOR fails to employ the required construction medical officer along with additional staff, the same shall be treated as one of the condition of breach of Contract.

(d) The Telephone nos. of Medical officer, Hospital(s) or ambulance shall also be conspicuously displayed at each work site.

(e) First-aid kits as approved by medical officer shall be provided at accessible points in the ratio of at least one kit for every 50 employees/ workmen.

### 3.11.2. **Health Management**

The Site manager of the CONTRACTOR shall implement health examinations for employees/ workmen periodically.

### 3.12. **Testing & examination of lifting, tools, tackles, pressure vessels and other equipment**

3.12.1 All the lifting equipment, tools, tackles, pressure vessels etc. shall be tested & examined as per BOCW or Factories Act and rules made there under.

3.12.2 The records & certificates of such testing & examination shall be maintained and readily available for reference to Statutory Authorities/PM/Engineer-in-Charge.

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3.12.3 Proper colour coding system should be maintained and marking should be done accordingly on all lifting tackles.

3.12.4 Regular testing of ELCBs and RCCBs by competent electrician must be ensured by Contractors and record should be maintained.

### 3.13. EMERGENCY MANAGEMENT PLAN

3.13.1 The CONTRACTOR shall ensure that an Emergency Management Plan is prepared to deal with emergencies arising out of:

- a. Fire and explosion;
- b. Collapse of lifting appliances and transport equipment;
- c. Collapse of building, sheds or structure, tunnels during excavation, chimney formation/ sky lighting or otherwise etc.;
- d. Gas leakage or spillage of dangerous goods or chemicals;
- e. Drowning of workers, sinking vessels, and
- f. Landslides getting workers buried; floods, storms and other natural calamities.

3.13.2. While arrangements shall be made for emergency medical treatment and evacuation of the victims in the event of an accident or dangerous incident occurring, the chain of command and the responsible persons of the CONTRACTOR with their telephone numbers and addresses for quick communication shall be adequately publicized and conspicuously displayed in the workplace at all times.

3.13.3 It is also required that there is a tie-up with the Hospitals and Fire stations located in the neighbourhood for attending to the casualties promptly and emergency vehicle kept on standby duty during the working hours for the purpose.

3.13.4. It shall be the responsibility of the CONTRACTOR to keep the Local Law & Order Authorities informed through the OWNER and seek urgent help, as the case may be, so as to mitigate the consequences of an emergency. Prompt communication to the OWNER, telephonically initially and followed by a written report, shall be made by the CONTRACTOR.

### 3.14. Access to and from the workplace

3.14.1. Safe, clean, well lit, unencumbered access and egress to and from work areas shall be maintained at all times in normal operating conditions.

3.14.2. The number and location of accesses and egresses from and to the workplace shall be adapted to the number of people likely to be present at any time, and therefore to evacuate from the workplace in case of emergency.

3.14.3. If access and egress to work areas are restricted due to operational conditions, alternative access and egress ways must be implemented, so far as is reasonably practicable. If this is not reasonably practicable, all concerned organizations and persons must be informed of the access restrictions, and work scheduling must be adapted in consequence.

3.14.4. Temporary access to height or into ground openings shall be of purpose made material such as scaffolds, stair cases/towers and ramps, which incorporate guardrails.

### 3.15. Housekeeping

- (a) The CONTRACTOR shall ensure that their work area is kept clean, tidy and free from debris generated by their activities. All debris/scrap should be stored in separate bins. The work areas must be cleaned on a daily basis and a full cleaning session of each area shall be conducted on a weekly basis. All equipment, materials and vehicles shall be stored in an orderly manner. Access to

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emergency equipment, exits, telephones, safety showers, eye wash stations, fire extinguishers, pull boxes, fire hoses, etc. shall not be blocked or otherwise disturbed, restricted or delayed.

(b) The CONTRACTOR shall be primarily responsible for maintaining good housekeeping and safety standards in the workplace; Loose materials that are not required for use shall not be placed or left behind so dangerously as to obstruct workplaces or passageways; All projecting nails shall be removed or bent to prevent injury; Equipment, tools and small objects shall not be left lying unattended or unsecured from where they could fall or cause a person to trip; Scrap, waste or rubbish shall not be allowed to accumulate in the site as the combustibles can create serious fire hazards and affect safe working. Workplaces and passageways that become slippery owing to spillage of oil or other causes shall be cleaned up or strewn with sand, ash or the like; Portable equipment shall be returned after use to their designated storage place.

### 3.16. Stacking and storage practice

3.16.1. CONTRACTOR shall ensure stacked material is bonded on a stable and level footing capable of carrying the mass of the stack. Adequate clearances shall be provided between the sides of the stack and top to facilitate unimpeded access to service equipment like overhead wiring, cranes, forklifts and fire-fighting equipment, and hoses. Circular items shall be sufficiently choked with wedges not with odd bits of materials. Free-standing stacks of gunny bags and sacks such as Cement bags shall be stacked to prescribe safe stacking heights with layers formed for stable bonding, preventing slippage causing accidents. Stacking against walls shall not be permissible.

3.16.2. The CONTRACTOR shall maintain the premises and surrounding areas in clean and clear manner with safe access and egress. There shall be sufficient and adequate storage racks, shelving, bins and pallets and material handling equipment to stack his construction materials such as pipes, structural and his construction enabling materials. Unwanted materials shall be promptly moved away for efficient material movement.

3.16.3. Any temporary store shed will be built in conformity with structural safety and fire safety requirements. The stores must be provided with adequate lighting arrangement (Flame proof / intrinsically safe depending upon the Zone category) and must be equipped with sufficient fire extinguishing arrangement. "No Smoking" and other relevant signage must be displayed conspicuously at strategic locations and safety precautions must be strictly enforced.

3.16.4. All material should be kept at least 150mm above the ground by providing wooden packing below. Maximum height of material stacking should not be greater than 3 meter. All loose material must be kept in wooden box or in sharp edge protected drum and material identification details to be displayed. Materials inside store room should be kept on scaffold rack.

3.16.5. Gas cylinder storage area must be at a safe distance away from the hot work zone and separate storage facility must be available for empty and full cylinder with proper shed. Storage area must be designed in a way that 6-meter distance between LPG/DA and oxygen maintained.

### 3.17 Confined spaces

The CONTRACTOR shall clearly identify all confined space at site and same shall be got approved by the PM/Engineer-in-Charge.

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The following requirements in confined space shall be met at any time:

- (a) Only competent and trained workers can participate to work in confined spaces (as a minimum as per local Law). A Confined Space Entry Log (or equivalent) must be used to identify the person inside the Confined Space at any time;
- (b) Air Analysis tests must be carried out to determine if the Confined Space is oxygen deficient and/or contains flammable substances, toxic agents, carbon monoxide and/or harmful physical agents. The air shall be analysed before starting work, during work and after work. Adequate ventilation must be provided;
- (c) Working in the confined space without a watcher is strictly forbidden. An adequate means of communication is required and shall enable easy and clear communication:
  - (i) Between those inside the space,
  - (ii) Between those inside the space and those outside,
  - (iii) To summon help in case of emergency;
- (d) Adequate emergency provisions must be in place. In particular, necessary rescue equipment must be ready, pre inspected and available. The arrangements need to be suitable and sufficient for the rescue of persons in the event of an emergency.

### 3.18. Fire protection and prevention

- 3.18.1. Routine/ non-routine fire hazard works shall be described in the CONTRACTOR's Risk Control Plan of Safety Manual mentioned at Sl.No.2
- 3.18.2. Full and unrestricted access to emergency exits, fire-fighting equipment, fire control and emergency vehicles shall be maintained at all times.
- 3.18.3. Fire extinguishers shall be inspected and certified at least annually by a certified person and visually inspected monthly and documented by the CONTRACTOR.

### 3.19. Electrical safety

- 3.19.1. Without CONTRACTOR's authorization validated by PM/Engineer-in-Charge, no CONTRACTOR's employee shall undertake electrical works.
- 3.19.2. No live work on high voltage or medium voltage is allowed. All high voltage and medium voltage electrical works must be performed on isolated equipment and only after verification of absence of voltage with suitable equipment.
- 3.19.3. Low voltage and very low voltage live work is only allowed for measurement tests and checks of equipment.
- 3.19.4 Work practices must protect against direct or indirect body contact by means of tools or materials and be suitable for safe work conditions and the exposed voltage level.
- 3.19.5. Energized panels will remain locked with a specific key or tool whenever they are unattended and tagged with the signs and warnings indicating the presence of danger. If not reasonably practicable, a restricted area delimited with physical barriers and supported by warning signs must be implemented around the opened equipment.
- 3.19.6. Only qualified Electrical CONTRACTOR's personnel may enter substations and/or transformer vaults and only after being specifically authorized by PM/Engineer-in-Charge.
- 3.19.7. All joints (Both terminal and intermediate) in cable should be made using lugs and joint area should be crimped using crimping tools.
- 3.19.8. All temporary connection should be provided through 30mA ELCB/RCCB using 3 core double insulated cable and only 3 pin industrial plug top will be used for connection.
- 3.19.9. Zero energy verification needs to be ensured before any electrical operation using only VAV before working on a live circuit which has been isolated.

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3.19.10. Only industrial type DB to be used for connection and weather protection shed needs to be provided for every DB and shed height should not be less than man height.

3.19.11. Double earthing protection must be provided for every electrical equipment and earthing value should be as per standard safety norms.

3.19.12. Deployment of trained, experienced & licensed electrician as well as licensed electrical supervisor must be ensured at site as per Rule-45 of the Indian Electricity Rules, 1956;

3.19.13. PM/Engineer-in-Charge may perform screening/ competency test for all CONTRACTOR's electrical professions i.e. Electrical engineers, supervisors and helpers. Selection/ rejection of the personnel who appear for the screening is sole discretion of PM/Engineer-in-Charge.

3.19.14. Electrical helper who will be engaged in helping the electrician/ engineer must have minimum ITI certificate to be eligible for working with him.

3.19.15. All PPEs used while being involved in electrical work must be as per IS Standards available for electrical work.

### 3.20. Compressed gas cylinders

Gas cylinders shall be securely stored and transported, and identified and used in line with the safety Requirements as per Gas Cylinder safety codes and rules.

### 3.21. Lifting operations

3.21.1. The CONTRACTOR shall prepare a lifting plan as per site condition, check and submit for authorization by CONTRACTOR's competent authorized persons prior to any lifting operation and formally communicated to all persons undertaking the work.

3.21.2. The CONTRACTOR must ensure that their nominated Lifting Leader has appropriate qualifications.

3.21.3. CONTRACTOR's lifting plans include:

(a) The lifting methodology, step by step

(b) The risk analysis of the operation including consideration for weather conditions and work environments (e.g.: proximity of hazards and obstructions to the load, consideration for overturning, load integrity) where appropriate and consideration for simultaneous operations and the measures taken to avoid conflicting tasks in the lifting area.

(c) The identification of the designated lifting area, the fall zone and the control measures to prevent access such as barriers, signs, etc.

(d) The description of the type, weight, size, shape and centre of gravity of the load and the method used for slinging, attaching and detaching the load with the availability of approved lifting points on load when necessary

(e) The list of the certified and inspected equipment and lifting accessories to be used.

(f) The composition of the team required to perform the task (crane driver, rigger, etc.) with the needed qualifications and description of their roles and responsibilities including the intended communication method.

3.21.4. Any Heavy equipment (crane, winch machine, etc.) shall only be allowed to be used at the project Site after Pre-Safety Inspection of the equipment before mobilizing the equipment at Site.

3.21.5. The CONTRACTOR must ensure that a competent operational leader is formally appointed to supervise each lifting operation. Clear communication channels must be formally established and maintained between everyone involved in a lift with only authorized person giving instruction to the operator.

3.21.6. Special permission needs to be taken from PM/Engineer-in-Charge for tandem lifting and for any non-routine lifting operations must strictly adhere to the guidelines described in corresponding Standard /Procedures / Directive.

3.21.7. No employee of the CONTRACTOR shall be positioned under a suspended load or between a suspended load and fixed objects.

3.21.8. All lifting equipment and accessories must have valid manufacturers certificates or thorough examination records and be uniquely identified, marked with the safe working load, listed in a register and subject to formal regular inspection as per SHE requirements and shall have valid certificates from a competent authority. Inspection before use by the operator is mandatory. All lifting hooks must have latch. All cranes shall be fitted with Automatic Safe Load Indicator (ASLI) and Anemo Meter.

3.21.9. The CONTRACTOR shall operate and maintain cranes and hoisting equipment in accordance with manufacturers' specifications and limitations and the Safety requirements. All defective, non-inspected or unidentified (safe working load / identification number) lifting equipment or accessories must be either removed from site or physically prevented from use.

3.22. Once an item of electrical equipment has been energized, an item of mechanical plant and/or System has been erected and released for Commissioning, no work will be allowed on such item of equipment or system unless a valid Permit to Work (PTW) has been obtained from the relevant authority.

### 3.23. **Safety in storage, handling and use of explosive**

3.23.1. All measure and precaution that are required to be observed for use, handling, stacking, storing or transportation of explosive under the rules framed under the Explosive Act, 1884 and also DRDO rules and regulations shall be observed.

3.23.2. All the relevant statutory, local laws and rules and regulation regarding explosive shall be complied with.

### 3.24. **Monthly safety report**

The CONTRACTOR has to submit the monthly safety activity report in the form of Lead-Lag indicator to PM/Engineer-in-Charge.

## 4. **Enforcement of RDCE safety code, rules & regulations**

4.1. The PM/Engineer-in-Charge shall ensure that the CONTRACTOR is exercising at all times, reasonable and proper precautions for the safety of people at works and complying with the provisions of current safety rules and laws according to RDCE safety code and relevant statutes of State/Central Governments. In case of negligence or default, the agency shall be fined/ penalized by the OWNER, including breach of contract in case of repeated failure in compliance of RDCE Safety Code.

**LIST OF INDIAN STANDARDS CODE TO CONSTRUCTION SAFETY:**

Apart from Provision in RDCE Safety code 2023 Applicable Rules/Guideline of following IS Codes shall also be complied with by the contractor :-

SI.NO	CODE NO		REAFFIRMED	DESCRIPTION
1	IS 302	Part - 1 1979	2000	General and safety requirements for households and similar electric appliances
2	IS 816	1969	1998	Code of practice for safety and health requirement in electric and gas building and cutting operation.
3	IS 818	1968	2002	Code of Practice for Safety and Health Requirements in Electric and Gas Welding and Cutting Operations. (First Revision).
4	IS 875	1987	2003	Structural safety of building: loading standards
5	IS 1179	1967	2002	Equipment for eye and face protection during welding (first revision)
6	IS 1415	1966	2001	Electric hand Lamps(revised)
7	IS 1991	Part 1 - 1987	1997	Safety Requirement for the use, care & protection of abrasive grinding wheels Part 1 : Definitions (2nd Revision)
8	IS 2148	1981	1998	Flame Proof enclosures for electrical apparatus (Second Revision)
9	IS 2171	1999	2009	Specification for Portable Fire extinguisher dry powder (Cartridge Type), Fourth Revision
10	IS 2190	1992	1997	Selection, installation and maintenance of first-aid fire extinguishers, code of practice
11	IS 2206	1989	2005	Flam proof electrical fittings
12	IS 2750	1967 (Part-II)	2001	Specification for steel scaffoldings
13	IS 2878	1986	2000	Specification for Fire Extinguishers, Carbon dioxide type (Portable and trolley mounted), Second Revision.
14	IS 2925	1984	2000	Specification of industrial safety helmets (second revision)
15	IS 3016	1982	2000	Code of practice for fire precautions in welding and cutting operations
16	IS 3034	1993	2002	Fire Safety of Industrial buildings: Electrical Generating and Distributing Stations - Code of practice
17	IS 3043	1987	2001	Code of practice for earthing
18	IS 3646 (Part-II)		2003	Artificial lighting
19	IS 3696	Part -	2002	Safety code for scaffoldings and ladders Part

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		1 1987		1 – Scaffolds
20	IS 3696	Part - 2 1987	2002	Safety code for scaffolds and ladders Part 2 – Ladders
21	IS 3764	1992	2002	Code of practice for excavation work (1st Revision)
22	IS 4014	Part 2 - 1967	2000	Code of practice for steel tubular scaffolding Part 2 safety regulation for scaffolding
23	IS 4081	1986	2000	Safety Code for Blasting and Related Drilling Operations. (First Revision).
24	IS 4082	1996	2001	Recommendation on stacking and storage of construction materials and components at site
25	IS 4130	1991	2002	Safety code for demolition of buildings (2nd Revision)
26	IS 4138	1977	2002	Safety Code for Working in Compressed Air. (First Revision).
27	IS 4262	2002		Sulphuric Acid - Code of safety
28	IS 4263	1967	2002	Code of Safety for chlorine
29	IS 4544	2000	-	Ammonia - Code of safety (First Revision)
30	IS 4560	1968	2002	Code of safety for Nitric acid
31	IS 4756	1978	2002	Safety Code for Tunnelling Work.
32	IS 4770	1991	2001	Rubber Gloves - Electrical Purposes – Specification
33	IS 4912	1978	2002	Safety requirements for floor and wall openings, railings and toe boards (1st Revision)
34	IS 5121	1969	2000	Safety code for piling and other deep foundation
35	IS 5216	Part 1 - 1982	2000	Recommendation on safety procedure and practices in electrical work Part 1 - General (1st Revision)
36	IS 5216	Part 2 - 1982	2000	Recommendation on safety procedure and practices in electrical work Part 2 - Life Saving techniques (1st Revision)
37	IS 5571	2009	-	Guide for selection of equipment for hazardous areas (second revision)
38	IS 5572	1994	1999	Classification of hazardous areas (other than mines) having flammable gases & vapours for electrical installations (second revision)
39	IS 5780	1980	2001	Rubber Hand gloves - Electrical Purposes - Specification (First Revision)
40	IS 5896 (Part I)	1970	2000	Code of practice for selection, operation and Maintenance of Fire Fighting



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				appliances
41	IS 5903	1970	2000	Recommendation for safety devices for gas cylinders
42	IS 5916	1970	2000	Safety code for construction involving use of hot bituminous materials
43	IS 5983	1980	2002	Eye Protectors (First Revision)
44	IS 6229	1980	2001	Method for measurement of real ear protection of hearing protectors and physical attenuation of ear muff (First Revision)
45	IS 6305	Part1 1980	2001	Safety code for powered industrial trucks - Part 1: Application, operation and maintenance (First revision) (Superseding Is 3040)
46	IS 6409	1971	1998	Code of practice for oxy acetylene flame cleaning.
47	IS 6430	1985	2001	Mobile Air Compressor for Construction Purposes (First Revision)
48	IS 6519	1971	1997	Code of practice for selection, care and repair of safety footwear
49	IS 6685	1972	1999	Specification for life jackets
50	IS 6922	1973	1998	Criteria for safety and design of structure subject to underground blasts
51	IS 7194	1994	2000	Assessment of noise exposure during work for hearing conservation purpose (First Revision)
52	IS 7205	1974	2001	Safety code for erection of structural steelwork
53	IS 7293	1974	2002	Safety code for working with construction machinery
54	IS 7738	1975	1997	Safety Fuse for commercial use
55	IS 7969	1975	2002	Safety code for handling and storage of building materials
56	IS 8095	1976	2002	Specification for Accident Prevention Tags
57	IS 8096	1992	1997	Specification for Fire Beaters
58	IS 8433	1984	2001	Code of practice for visual inspection of dissolved acetylene gas cylinders. (First Revision)
59	IS 8437	Part1 1993	1999	Guide on effects of currents passing through human body: Part 1 General aspects (First revision)
60	IS 8519	1977	2002	Guide for selection of industrial safety equipment for body protection
61	IS 8520	1977	2002	Guide for selection of industrial safety equipment for eye, face and ear protection
62	IS 8758	1993	1998	Recommendations for fire precautionary measures in the construction of temporary

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				structures and pandals. (First Revision)
63	IS 8807	1978	2002	Guide for selection of industrial safety equipment for protection of arms and hands.
64	IS 8940	1978	2002	Code of practice for maintenance and care of industrial safety equipment for eyes and face protection
65	IS 8964	1999	2010	Safety conditions for woodworking machines – recommendation
66	IS 8989	1978	2000	Safety code for erection of concrete framed structure
67	IS 8990	1978	2002	Code of practice for maintenance and care of industrial safety clothing
68	IS 9457	1980	1997/2005	Safety colours and safety signs
69	IS 9474	1980	2001	Specification for principles of mechanical guarding of machinery
70	IS 9944	1992	1998	Natural and manmade fibre rope slings. Recommendation on safe working loads (First revision)
71	IS 10386	Part 4 1992	1997	Safety Code for construction, operation and maintenance of river valley projects - Part 4 - Handling, storage and transportation of explosives
72	IS 10667	1983	2002	Guide for selection for industrial safety equipment for protection of foot and leg
73	IS 11016	1984	2000	General safety requirement for machine tools and their operation
74	IS 11461	1985	2001	Code of practice for compressor safety
75	IS 12735	1994	1999	Wire rope slings - Safety criteria and inspection procedure for use
76	IS 13367	Part 1 - 1992	1998	Safe use of crane - code of practice - Part 1 – General
77	IS 13415	1992	2002	Protective barriers in and around buildings- Code of Safety
78	IS 13416	Part 1 - 1992	2002	Recommendation for preventive measures against hazards at workplaces - Part 1 - Falling material hazard prevention
79	IS 13416	Part 2 - 1992	2002	Recommendation for preventive measures against hazards at workplaces - Part 2 - fall prevention
80	IS 13416	Part 3 - 1992	1999	Recommendation for preventive measures against hazards at workplaces - Part 3 - Disposal of debris
81	IS 13416	Part 4 - 1992	1999	Recommendation for preventive measures against hazards at workplaces - Part 4 - Timber structure
82	IS 13416	Part 5 - 1992	2002	Recommendation for preventive measures against hazards at workplaces



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- Part 5 - Fire Protection				
83	IS 13430	1992	2002	Code of practice for safety during additional construction and alteration to existing buildings
84	SP 70	2001		Hand book on construction safety practices
85	IS 14489	1998	2002	Code of Practice on Occupational Safety and Health Audit.
86	IS 15001	2000	-	Occupational health and safety management systems - specifications with guidance to use
87	SP: 7	1983 Group 3 Part VII	-	National building code of India (Group 3) for construction engineers. Part VII - Construction Practices and safety
88	SP: 31	1986		Treatment for electrical shock
89	IS15652	2006	-	Insulating mats for electrical purposes.

