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GENERAL CONDITIONS OF CONTRACT

1. DEFINITION:

The following terms and expressions used herein shall have the meaning as indicated therein:

Purchase Order/The Contract: Shall mean the documents forming the tenders and acceptance thereof together with the documents referred to therein including the conditions, specifications/Scope of Work, designs, drawings and instructions issued from time to time by the Purchaser/ Owner and all these documents taken together shall be deemed to form one contract.

Applicable Law: This contract including all matters connected with this Contract shall be governed and construed in accordance with the Indian Law both substantive and procedural and shall be subject to the exclusive jurisdiction of Indian courts at Kolkata {South 24- Parganas, New Alipore Court(India)}.

Contract Price: It means the total price to be paid for the supply of materials/goods/services to the consignee.

Supplier/Vendor/Contractor: Shall mean the registered individual firm, Company or Corporation whether incorporated or otherwise to whom the Purchase Order/Work Order/LOA/LOI is addressed and shall include its permitted assigns and successors.

Purchaser/Owner: Shall mean Damodar Valley Corporation, a statutory body established under Act No. XIV of 1948 of GOI having its Corporate Office at DVC Towers, VIP Road, Kolkata –700 054.

Party: It means the owner or the bidder, as the case may be, and 'Parties' means both of them.

Sub-Vendor/Subcontractor: Shall mean the person/organization/firm named in the Purchase Order/Contract for any part of the material/works to whom that part of the Purchase Order/Contract has been sublet by the vendor with the consent in writing of the 'Owner' and will include the legal representatives, successors and permitted assigns of such person.

Equipment/Stores/Materials: Shall mean and include equipment, stores & materials to be supplied by the vendor under the contract.

Specification/Scope of Work: Shall mean the Specifications and Bidding documents forming a part of the contract and also such other schedules and drawings furnished by purchaser/owner and or as may be mutually agreed upon.

Guarantee/Warranty Period: Shall mean the period during which the vendor shall remain liable to repair or replacement of any defective part of the Stores/Equipment/Materials supplied/works executed under the contract.

Any other definition of any term/item etc. can be added under the head definition as per suitability of package and the same is to be decided by TIA.

2. REFERENCE:

The number of the concerned Purchase Order/Work Order/LOA/LOI/LOI-cum-Work Order must appear on all correspondence, drawings, invoices, packing and shipping documents and on all documents or papers connected with the Contract.

3. SPECIFICATIONS AND DRAWINGS:

- 3.1 Any information, details etc. called for in the specification and not shown in the drawings and vice-versa shall have the same effect and meaning as if called for and shown both in the specification and



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drawings. In case of conflict between the specifications and drawings, the decision of the Purchaser/owner or his duly authorized representative shall be final and binding.

- 3.2 **STANDARDS:** The goods/materials supplied under this contract shall conform to the standards mentioned in the Technical Specification, and, when no applicable standard is mentioned, the authoritative standard appropriate to the goods/materials issued by the concerned institution and such standard shall be the latest.

4. CONDITIONS FOR FORFEITURE OF EMD:

The EMD may be forfeited:

1. For failure of tenderers to accept the order / LOI / LOA placed within the validity period of their offer,
2. Any bidder withdraws/varies his offer within the bid validity period before finalisation of the tender.
3. If the bidder does not accept the arithmetical correction of its bid price.
4. For failure to submit security cum performance BG within 30 days of the date of issuance of LOA/ PO/ Work Order.
5. If the acceptance of order is not received within the stipulated period.
6. If the Bidder does not withdraw any deviation listed in Statement of Deviations at the cost of withdrawal indicated by him,
7. If the Bidder refuse to withdraw, without any cost to the Owner, any deviation not listed in Statement of Deviations but found elsewhere in the Bid,
8. On providing false or incorrect information in respect of qualifying requirement etc.

5. DISCREPANCIES IN THE BID & TREATMENT THEREOF:

The bids shall also be checked for computational error, if any, to arrive at the computed price, as per provisions in the following:

- In case of discrepancy between the original and copies of bid, the original bid will be considered correct.
- If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity of any item, or between sub-total and the total price, the unit or sub-total price shall prevail, and the total price shall be corrected accordingly.
- If there is a discrepancy between words and figures, the amount in words will prevail.
- If there is a discrepancy between the quantity specified by DVC in the bidding document and that indicated by the bidder in his bid, the former shall be taken to arrive at the computed price on pro-rata basis.
- In case the unit rate of an item is not quoted but the total price is indicated, the same shall be taken to arrive at the computed price. The computed price arrived at, as above, shall be considered for the purpose of award also.



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- If the bidder does not accept the correction of errors as worked out by above methodology, its bid will be rejected and the earnest money will be forfeited.

6. COST COMPENSATIONS FOR DEVIATIONS:

- i. Deviations specifically declared by the bidders in the respective **Deviation Schedules of as per Annexure C** (to be submitted along with techno-commercial offer) and respective **cost of withdrawal of such deviation as per Annexure D** (to be submitted along with the price bid) only will be taken into account for the purpose of evaluation. The bidders are required to declare the prices for the withdrawal of the deviations declared by them in the Deviation Schedules. Such prices declared by the bidders for the withdrawal of the deviations in the Deviation Schedules shall be added to the bid price to compensate for these deviations. In case prices for the withdrawal for declared deviations are not furnished by the bidder, their offer will be considered as unresponsive and will be rejected. In case the bidder refuses to withdraw the deviations at the cost of withdrawal indicated by the bidder in the Deviation Schedules, the bid Security / EMD of the bidder may be forfeited.

Bidders may note that deviations, variations and additional conditions etc. found elsewhere in the bid other than those stated in the Deviation Schedules, save those pertaining to any rebates, shall not be given effect to in evaluation and it will be assumed that the bidder complies to all the conditions of Bidding Documents. In case bidder refuses to withdraw, without any cost to the Owner, those deviations which the bidder did not state in the Deviation Schedules, the bid security of the bidder may be forfeited and the bid is liable for rejection.

Bidders are requested to quote the technical parameters/ guaranteed technical particulars of the quoted item as per specification sheet/booklet enclosed with the bid document.

- ii. Bidders are requested to offer their commercial terms and conditions as per Annexure- A attached herewith.
- iii. Manufacturers are requested to offer their pricing as per Annexure - B attached herewith.

7. INSPECTION / CHECKING / TESTING:

All materials/equipments manufactured/supplied by the vendor against the Purchase Order/contract shall be subject to inspection, check and/or test by the Purchaser or his authorised representative. All these tests shall be carried out in the presence of Owner and/or his authorized representative. Vendor shall notify the Purchaser at least 15 days in advance when the material / equipment is ready for inspection. If upon delivery, the material / equipment does not meet the specifications / samples, the material / equipment / spares shall be rejected and vendor to be intimated for necessary repairs / modification etc. or for replacement. In such cases all expenses including to-and-fro freight, repacking charges etc., if required, shall be to the account of the vendor.

Inspection by Purchaser and / or his authorized representative or failure by the Purchaser and/or his authorized representative to inspect the material / equipment shall neither relieve the Vendor of any responsibility or liability under this Purchase Order / contract in respect of such material / equipment nor be interpreted in any way to imply acceptance thereof by the Owner.

Whenever specifically asked for by the Owner/Purchaser and/or his authorized representative, the Vendor shall arrange for inspection/testing by the Owner or third party authorised agencies as stipulated in the Purchase Order / contract. In such cases Vendor shall adhere to the inspection / testing procedure laid down by such agencies. All expenses including inspection fees shall be to the Purchaser account unless agreed to the contrary and specified in the Purchase Order/contract.

8. ACCESS TO VENDOR'S PREMISES:



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The Owner and/or his authorized representative shall be provided access to Vendor's and/or his sub-vendor's premises at any time during the pendency of the Order/contract for expediting inspection, checking etc. of work.

9. TRANSIT INSURANCE & REMOVAL OF REJECTED GOODS AND REPLACEMENT:

The items to be supplied have to be covered by Insurance during transit from vendor's works / site / go-down up to the consignee's respective project/formation/ store. It is mandatory to avail DVC's Open Insurance Policy for all concerned for all O&M Projects and all other installations.

In Turnkey Project Contracts, the bidders have to supply materials / equipment from the vendors approved by DVC (which may also include the bidder as manufacturer of the product), which is normally firmed up after placement of order. The quoted freight & insurance charges for this purpose are, therefore, irrespective of the vendors and geographical locations of their works. The bidder is, therefore, entitled to the fixed freight & insurance charges and no documentary evidence in support of the claim may be insisted upon and hence Mega Risk Policy would not be applicable for them.

- 9.1** If upon delivery to consignee's go-down, whether inspected and approved earlier or otherwise, the material / equipment is not found in conformity with the specifications, the same shall be rejected by the Purchaser or his duly authorized representative and notification to this effect will be issued to the Vendor normally within 30 days from the date of Receipt of the material at the Works / Site / consignee's end.

The Vendor on receipt of notification shall arrange removal of the rejected items within 15 days from the date of notification at his own cost. In the event the Vendor fails to lift the materials within the said 15 days, the consignee or his authorized representatives without any further notice or information to the vendor, shall be at liberty to dispose of such rejected items in any manner as he may think fit. All expenses shall be recoverable from the Vendor.

- 9.2** In the event, the equipment and materials or any portion thereof are damaged or lost during transit, the consignee or his authorized representatives shall give notice to the Supplier/vendor detailing the particulars of such equipment & materials damaged or lost during transit. The replacement of such equipment and materials to be effected by the supplier / vendor free of costs including handling and transportation charges up to site, within a reasonable time.

9.3 Insurance for EPC/Turnkey Contract/ Packages:

1. To the extent specified in Appendix 3 (Insurance Requirements) to the Contract Agreement, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the said Appendix. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, who should not unreasonably withhold such approval.
 - a) Cargo Insurance During Transport: Covering loss or damage occurring while in transit from the Contractor's or Subcontractor's works or stores until arrival at the Site, to the Plant and Equipment (including spare parts therefore) and to the Contractor's Equipment.
 - b) Installation All Risks Insurance: Covering physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the Defect Liability Period while the Contractor is on the Site for the purpose of performing its obligations during the Defect Liability Period.
 - c) Third Party Liability Insurance: Covering bodily injury or death suffered by third parties (including the Employer's personnel) and loss of or damage to property occurring in connection with the supply and installation of the Facilities.



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- d) Automobile Liability Insurance: Covering use of all vehicles used by the Contractor or its Subcontractors (whether or not owned by them) in connection with the execution of the Contract.
 - e) Workers' Compensation: In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.
 - f) Employer's Liability: In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.
 - g) Other Insurances: Such other insurances as may be specifically agreed upon by the parties hereto as listed in the said Appendix 3.
2. The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Clause 9.3(1), except for the Third Party Liability, Workers' Compensation and Employer's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Clause 9.3(1) except for the Cargo Insurance During Transport, Workers' Compensation and Employer's Liability Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.
3. The Contractor shall, in accordance with the provisions of Appendix 3 (Insurance Requirements) to the Contract Agreement, deliver to the Employer certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect. The certificates shall provide that no less than twenty-one (21) days' notice shall be given to the Employer by insurers prior to cancellation or material modification of a policy.
4. The Contractor shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Contractor.
5. The Employer shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in Appendix 3 (Insurance Requirements) to the Contract Agreement.
6. If the Contractor fails to take out and/or maintain in effect the insurances referred to in GCC Clause 9.3(1), the Employer may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Employer shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor. If the Employer fails to take out and/or maintain in effect the insurances referred to in GCC Clause 9(5), the Contractor may take out and maintain in effect any such insurances and may from time to time deduct from any amount due to the Employer under the Contract any premium that the Contractor shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Employer. If the Contractor fails to or is unable to take out and maintain in effect any such insurances, the Contractor shall nevertheless have no liability or responsibility towards the Employer, and the Contractor shall have full recourse against the Employer for any and all liabilities of the Employer herein.
7. Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 9.3(1) to 9.3(8), and all monies payable by any insurers shall be paid to the Contractor as per the procedure outlined in GCC Clause 9.3(8) below. The Employer shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Employer's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Employer. With respect to insurance claims in which the Contractor's interest is involved, the Employer shall not give any



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release or make any compromise with the insurer without the prior written consent of the Contractor.

8. (i) **Wherever total damages/loss of equipment/material, would occur, the Contractor will be entitled to payment of all payments received from the underwriters except the following amounts:**
- a. The amount paid to the Contractor under the Contract in respect of equipment/material damaged/lost (excluding the pro-rata initial advance) but including the entire amount of escalation, if any, already paid to the Contractor.
 - b. Taxes and duties which have already been paid by the Employer. In the event the claim money settled is less than the total of the amount in a & b above, then the entire claim money settled will be retained by the Employer and the Contractor will forthwith pay the Employer the short fall amount between the claim money and the total of amounts as per a & b mentioned above. Subsequent payments, if any, due under the Contract shall be regulated by the relevant terms of payment.
- (ii) In case of damage to any equipment/material during any stage, the Contractor upon rectification of the damaged equipment to the satisfaction of the Employer shall be paid to the extent of full claims settled by the underwriters

10. TERMS OF PAYMENT (Only relevant payment term applicable as per type of package/tender should be included in the tender/bid document)

For purchase order involving supply only, payment terms will be as below:

100% payment along with full taxes & duties will normally be made by the purchaser/Owner to the Vendor through A/C Payee Cheque /RTGS within 15 working days from the date of receipt of material at site and after inspection & acceptance thereof or from date of receipt of invoice whichever is later. The consignee would arrange for inspection of the supplied items. All documents relating to payment would be checked and verified and to be passed by the concerned Accounts Office before effecting payment, with reference to the P.O./ LOI /LOA.

However, payment terms for P.O.s placed directly on manufacturer /authorised dealer may also be done as below:

90% of the ordered value to be paid against despatch documents through bank subject to prior acceptance of SDBG, if applicable. Balance 10% of the ordered value to be paid after receipt of materials at site and acceptance thereof.

Provision of part payment against part supply of consignment at consignee's end may be incorporated in Purchase order on the merit of the case (only if the part consignment can be used independently), provided necessary stipulation is made in the bid document.

The payment terms for any works/service contract may be regulated as below:

90% of contract price for works/service contract against RA bills. This also includes initial advance, if any. Remaining 10% after completion of the contract.

The payment terms for supply and erection & commissioning for any Turnkey contracts/packages may be regulated as follows:

- 1) **Supply portion only:**



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70% of the Ex-works price /ordered value of supply (of bought out items also) with full taxes and duties as applicable after adjustment of advance, if any, will be paid against proof of despatch (viz. R/R, L/R) , detailed invoice / packing list, warranty certificate, test certificate, insurance policy / certificate, dispatch clearance.

20%of the Ex-works price / ordered value of supply (in case of bought out items also) after receipt of the materials and inspection and acceptance at site. Remaining 10% after complete erection and commissioning & testing and handing over.

However, for spares, balance 30% shall be paid after receipt of materials and inspection & acceptance at site.

2) Erection & Commissioning:

90% of contract price for Erection & commissioning against RA bills. This also includes initial advance, if any. Remaining 10% after complete erection and commissioning & testing and handing over.

3) Payment terms in respect of imports will be regulated as below:

100% FOB price less Indian Agency Commission in Rs, if any, shall be paid against presentation of shipping documents as called for in the purchase order through irrevocable LC. The Indian Agency Commission in Rs, if any, shall be paid within 30 days of receipt of material at the consignee end.

11. ADDITIONS/ALTERATIONS/MODIFICATIONS:

The Owner reserves the right to make additions/reduction/ alterations/ modifications to the quantity of the items in the Purchase Order. The Vendor shall supply such quantities also at the same rate as originally agreed to and incorporated in the Purchase Order. If, however, the additional supply is at variance with design, size and specifications and not already covered by the Purchase Order or the amendments therein, the rates for such additional supply shall be negotiated and mutually agreed upon.

12. DELIVERY SCHEDULE / COMPLETION PERIOD:

Time is the essence of this contract and normally no variation shall be permitted in the completion time/delivery schedule mentioned in the Order/contract unless an amendment in this regard is issued by DVC. Time extension may be issued on specific request/reason provided such request is communicated to the Order Issuing Authority before the expiry of the stipulated delivery schedule/completion period. Date of delivery of materials/goods is to be reckoned as the date of receipt of same by the consignee.

13. LIQUIDATED DAMAGES FOR DELAY IN DELIVERY /COMPLETION OF WORKS:

13.1 The time remains the essence of any contract/ purchase order awarded by DVC and all supply under a Purchase Order/ all deliverable under a Work Order needs to be completed within the stipulated time schedule.

The Contractor shall commence work on the Facilities from the date of Notification of Award. The Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in Time Schedule to the Contract Agreement.

Therefore, the provision has been kept in the contract that in case of delay in completion/delivery, for the reasons attributable to the contractor/ vendor/service Provider, DVC reserves the right to recover from the contractor/vendor/service provider as per the following method-



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- (i) **For procurement of Goods:** A sum equivalent to 0.5% of the value of the delayed materials / equipment / spares for each week of delay and part thereof subject to maximum of 5% of the total value of delayed materials/ equipment / spares as Liquidated Damage (LD).
- (ii) **For procurement of Works/services:** A sum equivalent to 0.5% of the value of the total contract value of the order for each week of delay and part thereof subject to maximum of 5% of the total value of the order as Liquidated Damage (LD). However, in case of delay in completion of the contract for repair works costing up to Rs. Ten lakh, liquidated damages of 1% of the contract value per week of delay subject to a maximum of 5% of contract value should be levied.

In cases, where the works/supply/services extend beyond the contractual completion schedule/delivery period and provisional extension order is issued without deciding on the application of LD, no amount from the RA bill will be deducted as "withheld LD" amount in case where adequate retention payment (over and above SD) remains with DVC as per terms of the contract.

Alternatively, the Purchaser reserves the right to purchase / outsource the material / spares / equipment / works / service from elsewhere at the sole risk and cost of the Vendor and recover all such extra cost incurred by the Purchaser in procuring the material/ works/service by the above procedure.

Alternatively, the Purchaser may cancel the Order/contract completely or partly without prejudice to his right under the alternatives mentioned above.

In the event of recourse to alternative 13.2 and 13.3 above, the Purchaser will have the right to re-purchase/ outsource the stores/works & service, to meet urgency in requirement caused by Vendor's failure to comply with the schedule of delivery/ completion of the work, irrespective of the fact whether the materials/equipment/works/service are similar or not.

14. SECURITY DEPOSIT-CUM-PERFORMANCE GUARANTEE:

To ensure due performance of the contract, the Supplier/Contractor/ Service Provider receiving the LOA/PO/Work Order is required to furnish the required performance security, if it is part of tender conditions, in the prescribed form by the specified date as mentioned in the Tender.

Performance security should be for an amount of five (5) to ten (10) per cent of the value of the contract as specified in the tender documents.

In case of a JV, the performance security shall be provided by all partners in proportion to their participation in the project.

Submission of Performance Security is not necessary for a contract value up to Rupees 1 (one) lakh.

Performance security may be furnished in the form of Insurance Surety Bonds, account payee demand draft, fixed deposit receipt from a commercial bank, bank guarantee issued/ confirmed from any of the commercial bank in India or online payment in an acceptable form, safeguarding DVC's interest in all respects.

The earnest money / EMD, wherever applicable, instead of being released may form part of the security deposit.

Performance Security is to be furnished by a specified date ["generally 21 days after issuance of LOA for Works Contract" or "generally 14 days after issuance of PO/LOA for Goods/Services Contract"] and it should remain valid for a period of 60 (sixty) days beyond the date of completion



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of all contractual obligations of the contractor, including Defect Liability Period (DLP)/ warranty period, as applicable.

In case the Contractor fails to submit the performance security within 30 days of the date of issuance of LOA/PO/Work Order, DVC without prejudice to any other rights or remedies it may possess under the Contract, may forfeit the bid security (wherever applicable) and shall short close the Contract and retender and in this re-tender such defaulting Bidder will not be allowed to participate.

In exceptional cases, where in place of a Bid security, DVC asked the Bidders to sign a Bid securing declaration accepting that if they are awarded the contract and they fail to submit the performance security within 30 days of the date of issuance of LOA/PO/Work Order as defined in the tender documents, they will be suspended for the period of time specified in the tender documents (maximum up to 2 years) from being eligible to submit Bids/ Proposals for contracts with DVC. The Contract shall be short closed and retendered.

Performance Security should be refunded to the contractor without interest, after he duly performs and completes all obligations under the contract but not later than a specified date [“365 days for Works Contract” or “60 days for Goods/Services Contract”] of completion of the Defect Liability Period (DLP) / warranty period, as applicable.

Proper procedures for safe custody, monitoring and return of bank guarantees and other instruments may be followed. Before making a final payment or before releasing the performance bank guarantee, a ‘No Claim Certificate’ may be insisted upon from the supplier to prevent future claims. Whenever a bank guarantee is released following due procedure and safeguards, acknowledgement thereof should also be taken from the contractor. Return of Performance Securities should be monitored by the senior officers and delays should be avoided. If feasible, the details of these securities may be listed in the e-Procurement Portal, so as to make the process transparent and visible.

The performance security will be forfeited and credited to DVC's account in the event of a breach of contract by the contractor /Supplier/Service provider.

In case of GTE tenders, the performance security should be in the same currency as the contract and must conform to Uniform Rules for Demand Guarantees (URDG 758) —an international convention regulating international securities.

On account of the COVID-19 pandemic, that caused slowdown in economy, it is decided to reduce Performance Security from existing five to ten percent to three (3) percent of the value of the contract for all existing contracts till 31.03.2023. However, the benefit of the reduced Performance Security will not be given in the contracts under dispute wherein arbitration/ court proceedings have been already started or are contemplated. All tenders/ contracts issued/ concluded till 31.03.2023 should also have the provision of reduced Performance Security. In all contracts, where Performance Security has been reduced to three percent, the reduced percentage shall continue for the entire duration of the contract and there should be no subsequent increase of Performance Security even beyond 31.03.2023. Similarly, in all contracts entered into with the reduced percentage of Performance Security of three percent, there will be no subsequent increase in Performance Security even beyond 31.03.2023. Where, there is compelling circumstances to ask for Performance Security in excess of three percent as stipulated above, the same should be done only with the approval of the next higher authority to the Tender accepting



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authority (TAA) for the particular tender. Specific reasons justifying the exception shall be recorded.

Note for Procurement of Works:

In addition to Performance Security (usually 5%), a percentage (usually 5%) of each running bill (periodic/ interim payment) to be withheld as Security Deposit/ retention money until final acceptance.

The contractor may, at his option, replace the retention amount with an unconditional BG from a bank acceptable to the Procuring Entity at the following stages:

- i) After the amount reaches half the value of the limit of retention money; and
- ii) After the amount reaches the maximum limit of retention money. One-half of the retention money (or BG, which replaced retention money) shall be released on the issue of the taking-over certificate; if the Taking Over Certificates (TOCs) are issued in parts, then in such proportions as the engineer may determine, having regard to the value of such part or section. The other half of the retention money (or BG, which replaced the retention money) shall be released upon expiration of 365 days after the DLP of the works or final payment, whichever is earlier, on certification by the engineer. In the event of different defect liability periods being applicable to different sections or parts, the expiration of defect liability period shall be the latest of such periods.

Note for procurement of Goods:

Depending on the anticipated overall drawal against a rate contract and, also, anticipated number of parallel rate contracts to be issued for an item, Department shall consider obtaining Performance Security@5% of the value of supply order in the supply orders issued against rate contracts on the rate contract holder.

Note for procurement of Consultancy & Other Services:

If the Service Provider fail to submit a performance security before the deadline defined in the Tender document, they will be suspended for the period of time specified in the Tender document (maximum up to 2 years) from being eligible to submit Bids/Proposals for contracts with DVC.

15. PATENT RIGHTS:

Royalties and fees for patents covering materials/equipment/ spares or processes used in executing the work shall be to the account of the Vendor. The Vendor shall satisfy all demands that may be made at any time for such royalties and fees and he alone shall be liable for damages, infringement and shall keep the Purchaser indemnified in that regard in the event of any equipment / spares / material or part thereof supplied by the Vendor is involved any suit or other proceedings held to constitute infringement and its use is enjoyed, the Vendor shall, at his own expenses, either procure for the Purchaser the right to continue the use of such equipment/spares/material replace it with a non-infringing material / spares / equipment or modify it so it become non-infringing.



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16. FORCE MAJEURE:

Vendor/Contractor/Service Provider shall not be considered in default if delay in delivery /completion occurs due to causes beyond his control such as acts of God, natural calamities, civil wars, fire, strike, frost, floods, riot and acts of unsurpassed power. A notification to this effect duly certified by the statutory authorities shall be given by the Vendor/Contractor/Service Provider to DVC within 10 days from the date of such Force Majeure condition by registered letter. In the event of delay due to such causes, the delivery/completion schedule will be extended for a length of time equal to the period of force majeure or at the option of DVC the order may be cancelled. Such cancellation would be without any liability whatsoever on the part of DVC. In the event of such cancellation, the Vendor/Contractor/Service Provider shall refund any amount advanced or paid to him by DVC and deliver back any materials issued to him by DVC and release facilities, if any, provided by DVC. However, applicability of Force Majeure Clause in respect to a particular contract in the above backdrop is to be decided by Tender Accepting Authority of DVC.

17. TERMINATION:

Clause no 24 of optional terms & conditions of contract is to be followed.

18. OWNER SUPPLIED MATERIALS (OSM):

In turnkey contracts/Work contracts, there are occasions where DVC supply some of the materials/equipment to the contractor free of cost or with cost, for erection. The contractor shall arrange proper storing and insure against all risks for such OSM. The contractor shall furnish indemnity bond for the total value of OSM.

19. RECOVERY OF EXCESS CONSUMPTION:

Rate of recovery (for excess consumption of OSM exceeding allowable wastage) for OSM may be determined on the basis of latest PO with storage charge (wherever incurred) / 15% service charge and price variation, wherever applicable (only positive variation to be considered without any ceiling) as on date of commissioning of OSM after erection.

The contractor may be allowed to replenish the excess consumed materials from the sources approved by DVC. However, if the OSM has to be issued through additional procurement on demand of the contractor because of excess consumption of his/their part,

replacement of such additional quantity may not be allowed at the discretion of DVC and the same will be recovered as per procedure described above. In case penal recovery is considered to be expedient in respect of any critical equipment, the same shall be provided in the contract/bid document only after obtaining approval of HOD/Director.

In case of issuance of any Tools and Plants, the contractor should return the same in as received condition.

For civil item the recovery of excess consumption of material may be adopted as per prevalent CPWD Specification/Norms.

20. CHANGES IN CONSTITUTION OF BUSINESS:



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In the event of change in constitution of business of the contractor after issuance of contract due to merger/acquisition/any other reasons, the newly formed entity shall be equally held responsible to fulfil the contractual obligation. This is notwithstanding anything contained in NIT or subsequent LOI / LOA / GCC or any other document issued or provisions contained in any other Rules / Acts / Legislation.

21. WAIVER:

Any waiver by the Owner of any breach of the terms and conditions of the Order shall not constitute any subsequent breach of the waiver of any other right or conditions.

22. COMPLIANCE OF REGULATIONS:

The Vendor shall warrant that all Goods and/or services covered by this Purchase Order/ contract shall have been produced, sold, dispatched, delivered, tested and commissioned in strict compliance with all applicable laws, regulations including industries (Development & Regulations) Act, 1951 & Industrial Dispute Act, 1947 and any amendments there under, labour agreements, Safety rules and PF compliance, working conditions and technical codes and requirement as applicable from time to time.

All laws, rules and regulations required to be followed in execution of the order / contract, must be complied with. The Vendor should execute and deliver such documents as may be needed by the Purchaser/ owner in evidence of compliance. Any liability arising out of contravention of any of the laws on executing this order shall be the sole responsibility of the Vendor and the Owner shall not be responsible in any manner whatsoever.

23. SUB-LETTING & ASSIGNMENT:

The Supplier/Contractor/Service Provider shall not sub-let or assign any part of the contract (wherever allowed following the terms & conditions mentioned below) to any other vendor/agency without the prior written consent of DVC. Such assignments or sub-letting or transfer shall not relieve the Supplier/Contractor/Service Provider from any obligation, duty and responsibility under the contract. Any assignment, transfer or sub-letting without the prior written approval of DVC shall be void. DVC shall have the right to cancel/ terminate the contract in whole or in part and to purchase the goods/ works/ services from elsewhere and the Supplier/Contractor/Service Provider shall be liable to DVC for any loss or damage which DVC may sustain in consequence or arising out of such purchase and the Supplier/Contractor/Service Provider shall indemnify such loss or damage to DVC.

Note for Procurement of Goods: -

Agents should only be as per the terms of the contract. Sub- contracting of the contract should normally not be allowed in procurement of goods.

Note for Procurement of Works:

The works contract may provide for the contractor to get specified works executed from sub-contractors included in the pre-qualification application or later agreed to by DVC, with a caveat that



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the responsibility for all sub-contract work rests with the prime contractor. Sub- contracting will generally be for specialized items of work, such as reinforced earth retaining walls, pre-stressing works, and so on. Procurement of material, hire of equipment or engagement of labour will not mean sub-contracting. The total value of sub-contracting work will not exceed the per cent of the contract price as specified in the contract (say 25 (twenty- five) percent). Sub-contracting by the contractor without the approval of DVC shall be a breach of contract, unless explicitly permitted in the contract.

The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. This shall not apply to sub-contracts already awarded on or before the date of the Order (i.e. 23rd July, 2020).

A bidder is permitted to procure raw material, components, sub-assemblies etc. from the vendors from countries which shares a land border with India. Such vendors will not be required to be registered with the Competent Authority, as it is not regarded as “sub- contracting”. However, in case a bidder has proposed to supply finished goods procured directly/ indirectly from the vendors from the countries sharing land border with India, such vendor will be required to be registered with the Competent Authority.

Back-to-Back Tie Up by PSUs: Construction PSUs if bagged the contract from the client Department as a contractor, has to execute the work by functioning like a contractor instead of sub-letting the 100% work on back-to-back basis.

The above provisions for subletting are to be clearly spelt out in the NIT documents.

Note for Procurement of Services:

Subletting is not allowed for Services contract including AMC/ARC which are of routine type, repetitive or frequent in nature.

In case of one-time contract like Overhauling Contract with OEM/OES, the contractor shall not be allowed to sublet whole of the work/services (back to back basis). For sub-letting of any part of such Contracts, the Principal contractor will provide the list of vendors for approval from HOP/HOD of DVC. After getting the approved list, the principal contractor will award contract for subletting to any vendor from the list according to their company policy.

The above provisions for subletting are to be clearly spelt out in the NIT documents.

Note for approval of Sub-contractor (In case of Works or Services) / Sub-Vendor (In cases of Supply):

For O&M Contract/ Over Hauling Contract, HOP/HOD shall approve the list of Sub- contractor/Sub-Vendor on recommendation of local FQA.

For other Contracts including EPC Contract awarded from HQ, Head (QC&I Department) shall approve the list of Sub-vendors (In cases of Supply) and HOP/HOD shall approve the Sub-Contractors (In case of Works or Services) on recommendation of local FQA.



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For other Contracts including EPC Contract awarded from respective site, HOP/HOD shall approve the Sub-Contractors/ Sub-Vendors on recommendation of local FQA.

24. VENDORS DRAWING & DATA:

All Drawings, data and documentation in respect of the ordered items are an integral part of the Purchase Order / contract. The Vendor will furnish all such drawings, data and documentation to the Purchaser / owner. Purchaser / owner will specify the schedule for submission of these documents by the Vendor and the required number of copies. The vendor shall ensure strict compliance to this schedule.

25. INFORMATION PROVIDED BY THE PURCHASER /OWNER:

All Drawings, data and documentation that are given to the vendor by the Purchaser / owner for the execution of the Order / contract shall be the property of the Purchaser / owner and shall be returned by the Vendor on demand by the Purchaser / owner. The Vendor shall not make use of any of the above documents for any purpose at any time except for the purpose of executing the Order / contract of the Purchaser / owner. The Vendor shall not disclose any of the information given by the Purchaser / owner to any person, firm, corporate body or authority and shall make all endeavours to ensure that the above information is kept confidential. All such information shall also remain the absolute property of the Purchaser/owner.

26. MODIFICATIONS:

This order constitutes an entire agreement between the parties hereto. Any modifications to this Order shall become binding only upon the same being confirmed in writing duly signed by both the parties.

27. GUARANTEE / WARRANTY:

27.1 The Vendor shall warrant that all material / equipment / services supplied under this Order / contract shall be new, unused and conform to the Purchasers / owners requirements and specifications. The Vendor shall guarantee the material / equipment / services under this Order for a period of 18 months from the date of delivery or 12 months from the date of commissioning whichever is earlier.

For turnkey contracts, Guarantee / Warranty period is to be considered as 12 months from the date of commissioning of the same irrespective of date of delivery. The date of delivery to be reckoned as the date of receipt of the material by the consignee. The Vendor shall agree to replace any material, which has been proved defective or fails to conform to the desired specifications free of cost to the Purchaser within the Guarantee/Warranty Period. The guarantee period for such replaced part shall be the same as that of equipment / materials specified earlier.

27.2 Checking / approval of vendors drawings, inspection and acceptance of material / spares / equipment / furnishing to effect shipment and / or work done for erection, installation and commissioning of the equipment by the Purchaser/owner or any other agency on behalf of the Purchaser / owner shall not in any way relieve the Vendor from the responsibility for proper performance during the guarantee period.



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27.3 Service contracts like hiring of vehicle / Insurance / consultancy / Clearing & Forwarding services etc and other consumable items like stationeries, printing of matter etc. are beyond the purview of Warranty Clause.

However, before floating of enquiry, Indenter / TIA at his discretion and depending on the technical intricacies of the procurement of goods and services may decide on the period of warranty / guarantee.

28. DEMURRAGE / WHARFAGE:

In cases where documents are negotiated through Bank, any consequential charges e.g. demurrage / wharfage charges, due to late retirement of documents on account of (i) violation of the inspection clause, (ii) material despatched after expiry of delivery period without obtaining approval in advance for extension of delivery period (iii) despatch of materials not as per schedule mode of despatch by approved transporters as per P.O/contract. (iv) late receipt of invoice or due to violation of any other clause/clauses of the purchase order will be to the Vendors account. Supplier would also be responsible for all such payment due to late receipt of RR/LR and other documents.

29. GRAFTS / COMMISSION:

Any graft, commission, gift or advantage given, promised or offered by or on behalf of the Supplier or his partner, agent officers, director, employee or servant or any one on his or their behalf in relation to the obtaining or to the execution of this or any other Contract with the Owner, shall in addition to any criminal liability which it may incur, subject the Supplier to the cancellation of this and all other Contracts and also to pay for any loss or damage to the Owner resulting from such cancellation. The Owner shall then be entitled to deduct the amount so payable from any money otherwise due to supplier.

INTEGRITY PACT: Vendors/contractors are required to unconditionally accept and sign the "Integrity pact" as per format furnished by DVC duly signed by DVC official.

30. GOVERNING LAW:

The Contract shall be governed by and interpreted in accordance with laws in force in India. The Courts of Kolkata shall have exclusive jurisdiction in all matters arising under the Contract.

31. Safety Aspects to Be Complied:

a. Safety Clause for O&M contracts:

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1.0	<p>The contractor/ agency shall comply with all the requirements of the Factories Act, State Factories Rules as amended time to time, and all other statutory requirements as applicable to his work, like Indian Electricity Act, ESI Act (Wherever the facility is available), PF Act, Workmen's Compensation Act, Motor Vehicles Act, etc. He shall ensure compliance of all the responsibilities of the Occupier and Factory Manager as mentioned in the Factories Act, in his activities of work.</p> <p>Additionally, the contractor shall comply with all the Rules framed by DVC (Also referred here as DVC), relating to Safety of all those working/ present in the work place, and ensure compliance with all types of permit to work. He shall also comply with all directions given by the Engineer In-charge or Head of DVC Project Safety Deptt. Or, their nominated representative with specific regard to Safety and Health of the workers.</p>
2.0	<p>The Contractor/ Agency shall frame and implement its Safety and Health Policy, which shall contain all the provisions relating to compliance of DVC Safety/ Health and Safety Policy.</p>
2.1	<p>The Contractor shall appoint a full time Engineer with qualification of either Degree in Engineering, with not less than 1 years of supervisory experience or Diploma in Engineering with not less than 3 years of experience up to 50 workers/ staff or a part thereof. In case of electrical work, supervisor must possess valid supervisory license of competency. In Chemical contract such as chemical laboratory, Supervisor's should have qualification on Bachelor of science with Chemistry with not less than 3 years' experience.</p>
2.2	<p>If at any time the contractor employs more than 50 workers including staff, he shall appoint from the start of work itself a Safety Officer, with the qualification as mentioned in the Factories Act/ State Factories Rules applicable to the state, in which the work is carried out. The Safety Officer of the Contractor shall discharge only those responsibilities as mentioned in statutory rules for the Safety Officers.</p>
2.3	<p>Before start of work by the Contractor, the Contractor shall sign an MOU with Head of DVC Project Safety Deptt. and Engineer In- charge of the contract (The Engineer In charge is not below the rank of Suptd. Engineer in Thermal Power Plant and in case of other station Senior Most Engineer). Safety MOU should be prerequisite of agreement of execution. During sign of Safety MOU, agency shall submit following documents also:</p> <ul style="list-style-type: none">a) Safety Plan of the Contractor for his own as well as his sub- contractors and action plan to implement it;b) Methodology (Including responsibility) of accident reporting to DVC authorities and Statutory authorities, conduct of enquiries, and implementation of corrective measures.
	<ul style="list-style-type: none">c) The Contractor shall get all his Lifting equipments and tackles thoroughly examined / tested through a Competent Persons, approved by the local state Government, where the work is being undertaken.



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- d) For contracts, before start of work by the Contractor, the Contractor shall purchase new required personal protective equipment's' and get it verified from Head of DVC Safety Department for inspection of quality and quantity purchased. He/she will inspect these Safety Shoes, Safety Helmets, Safety Harnesses etc. for its suitability. Only after this inspection and clearance in writing, above referred items shall be used or issued by the Contractor. For contracts, more than one-year, new PPEs again shall be distributed before expiry of one year from last PPEs distribution date. After that, contractor shall also have to provide different kind of safety gears according to their nature of job including reflective jackets.

The cost of these PPEs are treated under chargeable expenditure for which there is the cost of these PPE should be estimated in line with para 2.11.1 (statutory and non-statutory consideration while working out estimate page no. 60) of IR and compliance Hand Book-2015 (1st edition). Tenure of these three Personal Protective Equipment's shall be applicable once for those numbers working for one year, if these are purchased from the party with which the rate contract had been made by DVC; at the rate at which rate contract had been made by DVC; or from the original IS Marked equipment manufacturer (Or his authorized representative), registered with Bureau of Indian Standard. The estimated value of Safety Shoes and Safety Helmets shall be limited to the number of employees, for which the contractor had taken the labour licence or DVC had approved to hire; for the Safety Harness payment in estimated value shall be restricted to the decided quantity between the Contractor and DVC

- e) Before Start of the contract, the Contractor shall provide appropriate Safety Induction Training to all his workers, of at least one full day duration, through an external agency with faculty having the qualification as mentioned in the factory's act /state rules for the safety officer. The DVC Management has a right to refuse issuance of gate pass to the workers, if the workers are not trained.
- f) Before Start of the work by the Contractor, the Contractor shall provide thorough pre- employment health check-up /examination of his workers and fitness certificate as per the Factories Act and Rules made under. Later, DVC shall provide Occupational Health Check Up such as lung function test, ECG, Sputum, Chest X-ray, audiometry, blood test etc. of all contract workers including i.e. supply, casual, AMC/ARC workers working within the Thermal Power Plant and Audiometric test, ECG, Blood test etc. for Hydel station with cashless facility. Only those workers who are found fit in such medical examination shall be employed only by the Contractor. It is the responsibility of each contracting agency to ensure the availability of suitable arrangements at their work site for rendering prompt and efficient First aid to injured persons. The DVC Management has a right to refuse issuance of gate pass to the workers if the workers are not undergone such pre-engagement medical examination /health check-up.
- g) In case of occurrence of any accident/ mishap/ violation of statutory provisions/ DVC Rules, Competent authority in DVC may constitute inquiry Committee, to find out the circumstances or causes into it, remedial



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	<p>measures to prevent recurrence of similar accidents/mishaps/ violations etc. The Contractor shall provide full cooperation in conduct of inquiry, conducted by such Inquiry Committee, and also send his workers to attend the inquiry and give statement, with full wages for the day.</p> <p>h) Wherever there is probability of fall of worker/ material from more than 8 Ft, to prevent his fall, the contractor shall provide Full Body Safety Harness with ISI mark to all his workers and ensure its use. He shall also provide safety net below such workplace. He shall ensure compliance of all provisions of Permit for working at height advised by DVC. If the fall arrester is provided by DVC, the Contractor shall ensure its right use.</p> <p>i) Before execution of safety MOU all statutory documents related to vehicles used like vehicles fitness, RC book, driving license, pollution certificate, driver eyesight test etc. should be prerequisite.</p> <p>The contractor shall use only double insulated power tools at the construction place. He shall only use 3 Core cable for Single phase supply and 4 Core Cable for 3 Phase supply. For all electrical connections appropriate ELCB/RCCB shall be used by the Contractor.</p> <p>a) In no case any electric supply shall be taken through loose wire like supply without industrial Plug Top.</p> <p>b) No electrical repair work shall be carried out on any live equipment. It shall be done only by the Electrician having ITI qualification or equivalent and Wireman's certificate issued by the State Government. No work shall start without obtaining work permit from DVC Engineer In- charge or his authorized representative.</p>
2.4	
3.0	<p>In case any accident occurs during the construction or erection work or other associated activities, undertaken by the Contractor, it shall be the responsibility of the Contractor to promptly inform the same to the Engineer In-charge, DVC Head of Safety Deptt. in the prescribed form (Which can be collected by the Contractor/ Agency from the Project Safety Deptt.), and also to all the statutory authorities envisaged under the applicable laws.</p>
4.0	<p>The Engineer In-charge as well as DVC Head of Safety Deptt. or their nominated representative, shall have the right at his sole discretion to stop the work, if in his opinion the work is being carried out in such a way that it may cause accidents and endanger the safety of the persons and / or property, and / or equipments. In such cases, the contractor shall be informed in writing, and the contractor shall immediately stop the work, and comply to remove shortcomings promptly. After ensuring compliance of instructions given by Engineer In charge, he shall inform him of completion of compliance, and after his written permission only, shall restart the work.</p>
5.0	<p>If the Contractor fails complying with the provisions as mentioned above, DVC Engineer in charge/ Head of Safety, DVC shall impose financial deduction at the rate of Rs. 2,000/- per day for each violation or any unsafe act /unsafe condition made by each such worker or part thereof, for contract value exceeding Rs Thirty Lakh till the provisions are complied with. The above provision shall be at the rate of Rs. 1000/=</p>



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6.0	for the contract those value not exceeding Rs thirty lakh. Such amount will be deducted from their running bill of the contractor.		
	If the Contractor fails complying with the provisions as mentioned above, the financial deductions shall be made by DVC, at the rate of Rs. 2,000/- per day or part thereof, from the contractor's bill for contract value exceeding Rs Thirty Lakhs; and at the rate of Rs 500/- per day for the contract value not exceeding Rs Thirty Lakhs, till the provisions are complied with.		
	In case of injury, the compensation as calculated/ directed by the State Government Authorities shall be paid by the Contractor to the Victim/ his legal heir, in accordance with the statutory provisions.		
	However, in case of accident, additionally, following financial deductions shall be made by DVC, from the bill of the Contractor:		
	a	Fatal injury or accident-causing death	15 % of contract value or Rs. 7,00,000/- per person, whichever is less.
7.0	b	Major injuries or accident causing 25% or more permanent disablement to workmen or employees	5% of contract value or Rs. 200,000/- per person whichever is less
	Workmen who work at height needs to pass the compulsory vertigo test.		
	8.0	No electrical installation work, including additions, alterations, repairs and adjustments to existing installations, except such replacement of lamps, fans, fuses, switches, low voltage domestic appliances of voltage not exceeding 250 volts and fittings as in no way alters its capacity or character, shall be carried out upon the premises of or on behalf of any consumer, supplier, owner or occupier for the purpose of supply to such consumer, supplier, owner or occupier except by an electrical contractor licensed in this behalf by the State Government and under the direct supervision of a person holding a certificate of competency licence and by a person holding a permit issued or recognised by the State Government.	
9.0	The Contractor shall maintain Work Permit system, which is a formal written system used to control certain types of work that are potentially hazardous. A work permit is a document, which specifies the work to be done, and the precautions to be taken. Work Permits is an essential part of any safe systems activities. They start the work only after safe procedures have been defined and clearance taken from respective DVC designated engineers.		
	i)		

b. Safety clauses for construction Activities:

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1.0	<p>The contractor/ agency shall comply with all the requirements of "The Building and Other Construction Workers (Regulation of Employment & Conditions of Service) Act," 1996 and its Central Rule 1998 / State Rules and any other statutory requirements as applicable, like the Factories Act/ State Factories Rules (If applicable), ESI Act, PF Act, Workmen's Compensation Act, other applicable rules and provisions of BIS in the form of standards etc.</p> <p>Additionally, the provisions of the Damodar Valley Corporation (DVC) Safety Rules for Construction and Erection - as amended till date, shall also be complied with by the contractor/ agency. In case of any unconformity between statutory requirement and the Safety Rules of the DVC, the latter shall be binding on the Contractor unless the statutory provisions are more stringent</p>
1.1	<p>The Contractor shall also comply with all directions given in writing by the Engineer In-charge or Head of DVC Project Safety Deptt. or their nominated representative with specific regard to Safety and Health of the workers.</p>
1.2	<p>The Contractor/ Agency shall frame and implement it's Safety and Health Policy, which shall contain all the provisions as mentioned in the statute and also as mentioned in DVC Safety/ Health and Safety Policy, if it is not in contravention with the statutory provisions.</p>
2.0	<p>Before Start of work by the Contractor, The Contractor shall sign an MOU with Head of DVC Project Safety Deptt. and Engineer In charge of the contract, wherein he shall submit following documents also:</p> <ul style="list-style-type: none">a) Safety Plan of the Contractor for his own as well as his sub- contractors;b) Methodology of Hazard identification and control measures thereof;c) Methodology to be adopted by him for providing work related training (For all Contract workers), including the hazards involved in the work awarded to the worker and how the work shall be done by the contract labour to ensure safety of his own as well as others working there.d) Names of Safety Officers, Safety supervisors and supervisors as well as the specific working area, to be supervise by them, for safety at the workplaces.e) Methodology (Including responsibility) of accident reporting to DVC authorities and Statutory authorities, conduct of enquiries, and implementation of corrective measures.



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<p>2.1</p> <p>2.2</p> <p>2.3</p> <p>3.0</p>	<p>f) The Contractor shall notify the names of Competent Persons, responsible for inspection of following equipments and facilities:</p> <ol style="list-style-type: none">1. Tests and Inspections of all electrical equipments, installation and Safety Measures;2. Tests and Inspections of all Scaffoldings and platforms for working at height including it's strength adequate handrails, Toe Boards etc.;3. Tests and Inspections of all Personal Protective Equipments.,4. prevention of unauthorized entry or working by any person, including his own, into their work. <p>Before Start of work by the Contractor/ Agency, the Contractor shall show the Personal Protective equipments, lifting equipments, personal protective equipments and other safety related items, brought by him/ them to Head of DVC Safety Deptt, and Engineer In charge, for inspection, who will inspect, if these equipments meet legal requirements. Only after inspection by them and clearance from them, in writing, above referred items shall be used or issued by the Contractor. However, such clearance shall be applicable only for bringing these items and DVC shall not be a party, if these items / equipments fail legal requirements, due to any supervisory problems, including unsafe handling or failure, due to whatever causes.</p> <p>The Contractor/ Agency will notify well in advance to the Engineer In-charge and Head of DVC Project Safety Deptt. of his intention to bring to the Site, any container filled with liquid or gaseous fuel or explosive or petroleum substance or such chemicals which may involve hazards. DVC shall have the right to prescribe the conditions, under which such container is to be stored, handled and used during the performance of the works and the Contract shall strictly adhere to and comply with such instructions. The Engineer In-charge and DVC Head of Safety Deptt. shall have the right at his sole discretion to inspect any such container or such construction plant / equipment for which material in the container is required to be used and if in his opinion, its use is not safe, he may forbid its use.</p> <p>The Contractor/ Agency shall take all measures required to ensure proper safety of all the workmen, materials, plant and equipment belonging to him or to the Employer or to others, working at the Site.</p> <p>The Contractors/ Agencies, whether awarded contract directly from DVC or those who have got contract with or without permission of DVC, shall get Safety Audit of their construction and/or erection activities conducted, through Safety Auditors, having (a) Diploma or Degree in Industrial Safety from any State Directorate of Technical Education,(b) 7 years' experience of safety management in power plant; and (c) Have accreditation or trained from DGFASLI/ Ministry of Labour, Government of India, with following frequency:</p> <ol style="list-style-type: none">a) For Contracts of total value exceeding Rs 20 Crores, once within every six months period;
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b) For Contracts of total value less than Rs 20 Crores but exceeding Rs 5 Crores, once within every twelve months period;

3.1

All equipments used in construction and erection by the contractor shall meet BIS / International Standards and where such standards do not exist, the Contractor shall ensure these to be absolutely safe. All equipments shall be strictly operated and maintained by the contractor in accordance with manufacturer's operation manual.

3.2

The contractor should also follow Guidelines / Rules of the Employer in this regard.

The Engineer In-charge or Project Manager and / or Head of DVC Project Safety Deptt. shall have the right to examine the safety equipments to determine their suitability, reliability, acceptability and adaptability, and in case they do not find these of acceptable standards they can instruct to the Contractor to provide the equipments meeting these requirements, which the Contractor shall comply without any reservation.

3.3

The Engineer In-charge and / or DVC Safety Officer or their nominated representative shall have full power to demand any document/ take photos, which may affect Safety and health at the contractor's workplace, and the contractor will provide it without any pre-condition

3.4

The Contractor shall provide safe working conditions to all workmen and employees at his workplace including safe means of access, railings, stairs, and ladders, scaffolding, work platforms, toe boards etc.

3.5

Safety Training of at least one full day duration, relating to hazards in his work, shall be provided by the Agency/ Contractor through an external agency, with faculty having the qualification as mentioned in the BOCW Act/ Rules for the Safety Officer and have minimum 7 years site exposure as implementing safety provisions to all his workers, before start of work and every six months thereafter. In case, the contractor fails to do so, it may be organized by DVC, at the cost of the Contractor/ Agency, and the cost on this account, which shall not be more than the charges of National Safety Council, Mumbai, shall be deducted from the bill of the Contractor in the similar manner, as charged for work to be done at the risk and cost of contractor/ agency. When such programme is organized by DVC for the contractor's establishment, the contractor/ agency shall send his workers to attend the programme. If he does not send his workers to attend the Training Programme, the charges of training shall be recovered from the contractor.

3.6

The contractor shall arrange to get the certificate of training issued from training institution to all the workmen, trained by them, which shall mention the date of training and it's subject. The worker shall keep the same along with the gate pass.

3.7

Adequate supervision shall be provided by the contractor at all times of work undertaken by the workers. The worker shall get the training endorsed on their



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	Gate Pass.
3.8	When DVC Conducts any inquiry to find facts of any accident, violations of Statutory Provisions/ DVC Rules and asks the contractor to send his workers, the Contractor shall send his workers for deposing in this Inquiry.
3.9	The Contractor shall follow provision of Work Permit system for working at height, implemented by DVC. Wherever there is probability of fall of worker to level of more than 8 Ft, to prevent his fall, the contractor shall provide safety net below such area. Such Safety nets shall be provided wherever the possibility of fall of material also exists. The Contractor shall also provide Fall Arresting system/ device (Fall Arrestor), when required and shall ensure its use.
3.10	The contractor shall make ambulance room for first aid and provide ambulance for shifting and treatment of sick and injured as mentioned in "The Building and Other Construction Workers (Regulation of Employment & Conditions of Service) Act/ rules.
3.11	The register of medical examinations of the workers, employed in hazardous areas, conducted as per statutory provisions and injury (including near miss injury) register, shall be maintained by the Contractor. It will be presented to Engineer In-charge and DVC Head of Safety as well as Statutory authorities on demand. If any worker found suffering from occupational health hazard, the worker should be shifted to suitable place of working and properly treated under intimation to Engineer In-charge.
3.12	A copy of the Emergency Action Plan prepared by the agency shall be submitted to Engineer In-charge and Safety Deptt, for their approval. If any conditions are suggested by Engineer In-charge, Head of Safety Deptt, or their nominated representative the Emergency action plan shall be revised by the Contractor on the basis of suggestions so received. Mock Drill shall be organized by the Contractor at least once in every six months in consultation with Head of DVC Project Safety Deptt. or their nominated representative.
3.13	Only double insulated wire/ cable of power tools shall be used at the construction place.
3.14	The contractor shall ensure that all electrical installations or equipments including temporary electrical installations at the construction works are provided with earth leakage circuit breakers.
3.15	For Single phase connection, the contractor shall use 3 core cables with 3rd wire connected to earth. For three phase connection, the contractor shall use four core cables with 4th wire connected to earth. In no case, single wires shall be used in the construction area.
3.16	The wires shall not be laid on the ground or any other surface, where there is possibility of damage to it's insulation. It shall be supported on insulated poles
4.0	



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	above ground, to prevent possible damage to it's insulation.
4.1	The Contractor shall not interfere or disturb electric fuses, wiring and other electrical equipment belonging to the Employer or other contractors under any circumstances, whatsoever, unless expressly permitted in writing by the Engineer I/c to handle such fuses, wiring or electrical equipment.
4.2	<p>Before the Contractor connects any electrical appliances to any plug or socket belonging to the other contractor or of the DVC, he shall :</p> <p>a) prove that the Engineer In-charge that the appliance is in good working condition;</p> <p>b) Inform the Engineer In-charge of the maximum current rating, voltage and phases of the appliances;</p> <p>c) Obtain permission of the Engineer In-charge detailing the sockets to which the appliances may be connected.</p>
4.3	No electrical repair work shall be carried out on any live equipment. The Engineer In-Charge must declare the equipment safe and a permit to work shall be issued by the DVC / contractor as the case may be to carry out any repair / maintenance work. While working on electric lines / equipments whether live or dead, suitable type and sufficient quantity of tools will have to be provided by the contractor to electricians / workmen / Officers.
5.0	No repair work shall be carried out by any person, who does not have a qualification ITI (Electrician). The Repair will be done after disconnecting the equipment. The Contractor's Engineer shall first declare the equipment safe and a permit to work shall be obtained through the DVC Engineer before carrying out any repair / maintenance work. While working on electric lines / equipments whether live or dead, suitable type and sufficient quantity of tools will have to be provided by the contractor to electricians / workmen / Officers.
6.0	The register of all, inspections and examinations and tests like of scaffoldings, excavations, measurement of electrical earth resistance, lifting tools and tackles, pressure vessels etc shall be properly maintained by the Contractor and will be promptly produced as and when desired by Statutory Authorities, the Engineer In- Charge and Head of DVC Safety Deptt. Or, by the person authorized by them.
6.1	The contractor, employing up to 50 workmen, directly or through his agencies, whether temporary, casual, probationary, regular or permanent shall employ at least one full time safety officer on his roll, having qualifications as mentioned in statutory provisions, exclusively to supervise safety aspects of the equipment's and workmen, who will coordinate with the DVC Safety Officer. In case the work is being carried out through subcontractor, the employees / workmen of the sub- contractor shall also be considered as the contractor's employees/workmen for the above purpose. When more than 50 workers are employed, the Contractor shall additionally appoint on his roll, one safety officer for each 50 workers appointed by him or his agencies.



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6.2	The name and address of such Safety Officer of the Contractor will be informed in writing to the Engineer In Charge with a copy to the DVC Head of Safety Deptt., within 3 days of their employment.
6.3	In case any contractors deploy less than 150 workmen each, one or more contractors shall jointly employ statutory Qualified Safety Officer and they will share the expenditure towards employment of this Safety Officer proportionate to the employment.
6.4	In case, the contractor fails to employ required number of Statutory Qualified Safety Officer, DVC shall have power to hire qualified Safety Officer on behalf of the Contractor and all expenditure including the cost of recruitment shall be charged from the Contractor. In such case, the DVC, in addition to charging the cost of the Qualified Safety Officer, which shall not be more than Rs One Lakh per month for each Safety Officer, and shall also deduct the amount, as mentioned in the contract.
6.5	The responsibility of the Safety Officer shall be as mentioned in the statute and he shall not be permitted or allowed to do any work other than as mentioned there.
6.6	The DVC officers shall conduct the Safety Inspections/ Audit on their own, or through 3rd Party also and the Contractor shall provide full co- operation/information to them. He shall be informed of the violations of statutory provisions/ DVC rules in writing. The Contractor is to remove communicated violations promptly. If the Contractor does remove communicated violations, with the within 3 days, the amount as mentioned in the contract, shall be deducted from the bill of the contractor.
6.7	In case any injury occurs during the construction or erection work or other associated activities undertaken by the Contractor, it shall be the responsibility of the Contractor to promptly inform the same to the Engineer In-charge,, DVC Head of Safety Deptt. in the prescribed form (Which can be collected by the Contractor/ Agency from the Project Safety Deptt.), and also to all the statutory authorities, as applicable.
6.8	The Engineer In-charge as well as DVC Head of Safety Deptt. or their nominated representative shall have the right at his sole discretion to stop the work, if in his opinion the work is being carried out in such a way that it may cause injury and endanger the safety of the persons and / or property, and/or equipments. In such cases, the contractor shall be informed in writing, and the contractor shall immediately stop the work, and comply to remove shortcomings promptly.
6.9	The Contractor after stopping the specific work can, if felt necessary, may appeal against the order of stoppage of work to the Project Head within 3 days of such stoppage of work. The decision of the Project Head in this respect shall be conclusive and binding on the Contractor.
7.0	If the Contractor does not provide safety equipments to his workers or fails to discharge of his other responsibilities, statutory or otherwise, as mentioned above,



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DVC may provide the same and recover the expenditure along with overhead cost etc. However, this does not absolve the contractor from his responsibility as mentioned in the contract or Statutory Provisions.

- 8.1 The Contractor shall not be entitled for any damages / compensation for stoppage of work under Clause 6.9 or any other safety reasons and the period of such stoppage of work shall not be taken as an extension of time for Completion of the Facilities and will not be the ground for waiver of deductions made by DVC.
- 8.2 If the Contractor fails in complying with the DVC Safety Rules for Construction and Erection or applicable Statutory Provisions; or continues the work even after being instructed to stop the work by DVC Head of Project Safety Deptt. as provided in Clause 6.9 mentioned above, on the direction of Engineer In-charge/ Project Manager or DVC Head of Safety Deptt., the deduction at the rate of Rs. 5,000/- per day (Rs five thousand per day) or part thereof for each violation for each day, shall be deducted from the bill of the contractor, till the written instructions are complied with, and verified by the Engineer In-charge or DVC Head of Project Safety Deptt.
- 8.3 If any fatal injury or injury causing more than 25% permanent disablement to any person occurs during the activities of the contractor, due to lack of supervision by the contractor, or not taking all safety precautions and / or not complying with DVC Rules for Construction and Erection or Statutory Provisions, following deduction shall be made from the bill of contractor:
- | | |
|---|--|
| a. Fatal injury or accident-causing death | Deduction @15% of contract value or Rs. 10,00,000/- for Injury to each person, whichever is less |
| b. Major injuries or accident causing 25% or more permanent disablement to workmen or employees | Deduction @5% of contract value or Rs.2,00,000/- per person whichever is less |
- 8.4 In case of repeat Fatal/ Non-fatal injuries, occurring in the plant, the value of compensatory loss (In each case) will be double to that mentioned in specific category. In such case for fatal accident it shall be @ 25% of Contract value or Rs 15,00,000/- (Whichever is less) per person, and for each non-fatal injury it shall be @ 10% of Contract value or Rs 3,00,000/- (Whichever is less) per person
- [Permanent disablement, as mentioned above, shall have the same meaning as indicated in the Workmen's Compensation Act' 1923. The deduction mentioned above shall be in addition to the compensation payable to the workmen/employees under the relevant provisions of the Workmen's Compensation Act' 1923 and rules framed there under or any other applicable laws as applicable from time to time].
- 9.0 If any contractor worker, found working without using the required safety equipment like safety helmet, safety shoes, safety belts etc. or without anchoring



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the safety belts while working at height, the Engineer In-charge/DVC Head of

	<p>Safety Deptt. or their nominated representative shall penalize the contractor for Rs.1000/- per person per day for his lack of supervision and allowing hazards at the work place, and shall inform the Contractor accordingly.</p>
10.0	<p>Job safety analysis is to be carried out before start of any work</p>
11.0	<p>Contractor shall not be allowed to use LPG cylinder in plant premises other than DA and Oxygen cylinder.</p>
12.0	<p>Workmen who work at height needs to pass the compulsory vertigo test.</p>
13.0	<p>No electrical installation work, including additions, alterations, repairs and adjustments to existing installations, except such replacement of lamps, fans, fuses, switches, low voltage domestic appliances of voltage not exceeding 250 volts and fittings as in no way alters its capacity or character, shall be carried out upon the premises of or on behalf of any consumer, supplier, owner or occupier for the purpose of supply to such consumer, supplier, owner or occupier except by an electrical contractor licensed in this behalf by the State Government and under the direct supervision of a person holding a certificate of competency licence and by a person holding a permit issued or recognised by the State Government.</p>
14.0	<p>The Contractor shall maintain Work Permit system, which is a formal written system used to control certain types of work that are potentially hazardous. A work permit is a document, which specifies the work to be done, and the precautions to be taken. Work Permits is an essential part of any safe systems of construction activities. They start the work only after safe procedures have been defined and clearance taken from respective DVC designated Engineers.</p> <p>Examples of high-risk activities include but are not limited to: i) Entry into confined spaces ii) Cutting & welding iii) Working at Height along with checklist iv) Working on electrical equipment v) Heavy lifting operations vi) Removal of grating/ Handrail / floor opening vii) Material Shifting</p> <p>The permit-to-work system should be fully documented, laying down: i) How the system works ii) The jobs it is to be used for; iii) The responsibilities and training of those involved; and iv) How to check its operation.</p> <p>A Work Permit authorization form shall be completed with the maximum duration period not exceeding 12 hours.</p> <p>A copy of each Permit to Work (PTW) shall be displayed near to work are (on PTW Display board) in close proximity to the actual works location to which it applies.</p>

32. SITE WORKS:



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32.1 SETTING OUT/SUPERVISION/LABOUR:

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

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

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

32.1.3 LABOUR:

- (a) The Contractor shall provide and employ on the Site in the work such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labour that has the necessary skills.
- (b) Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation and catering of all labour, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.
- (c) The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labour and personnel to be employed on the Site into the country where the Site is located.
- (d) The Contractor shall at its own expense provide the means of repatriation to all of its and its Subcontractor's personnel employed on the Contract at the Site to their various home Countries. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Contractor defaults in providing such means of transportation and temporary maintenance, the Employer may provide the same to such personnel and recover the cost of doing so from the Contractor.
- (e) The Contractor shall at all times during the progress of the Contract use its best endeavours to prevent any unlawful, riotous or disorderly conduct or behaviour by or amongst its employees and the labour of its Subcontractors.
- (f) The Contractor shall, in all dealings with its labour and the labour of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labour.

32.2 CONTRACTOR'S EQUIPMENT:



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

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

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

32.3 SITE REGULATIONS AND SAFETY:

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

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

32.4 OPPORTUNITIES FOR OTHER CONTRACTORS:

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

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

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

32.4.4 The Contractor shall notify the Project Manager promptly of any defects in the other Contractors' work that come to its notice, and that could affect the Contractor's work. The Project Manager shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Project Manager shall be binding on the Contractor.



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32.5 EMERGENCY WORK:

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

If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may determine is necessary in order to prevent damage to the Facilities. In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefore. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. Otherwise, the cost of such remedial work shall be borne by the Employer.

32.6 SITE CLEARANCE:

32.6.1 Site Clearance in Course of Performance: In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.

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

32.6.3 DISPOSAL OF SCRAP:

The Contractor shall in consultation with the Project Manager promptly remove from the site any 'Scrap' generated during performance of any activities at site in pursuance of the Contract. The term 'Scrap' shall refer to scrap / waste / remnants arising out of the fabrication of structural steel work and piping work at the project site in the course of execution of the contract and shall also include any wastage of cables during the termination process while installing the cables.

The ownership of such Scrap shall vest with the Contractor except in cases where the items have been issued by the Employer from its stores for their installation only without any adjustment to the Contract Price. The removal of scrap shall be subject to the Contractor producing the necessary clearance from the relevant authorities (Custom, Excise etc.), if required by the law, in respect of disposal of the scrap. The liability for the payment of the applicable taxes/duties shall be that of the Contractor.

The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal/disposal of scrap. The Indemnity Bond shall be furnished by Contractor as per proforma enclosed with NIT/Tender Document. Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the scrap to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer.



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32.7 WATCHING AND LIGHTING:

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

32.8 WORK AT NIGHT AND ON HOLIDAYS:

32.8.1 Unless otherwise provided in the Contract, no work shall be carried out during the night and on public holidays of the country where the Site is located without prior written consent of the Employer, except where work is necessary or required to ensure safety of the Facilities or for the protection of life, or to prevent loss or damage to property, when the Contractor shall immediately advise the Project Manager, provided that provisions of this GCC Sub-Clause 56.8.1 shall not apply to any work which is customarily carried out by rotary or double-shifts.

32.8.2 Notwithstanding GCC Sub-Clauses 32.8.1 or 32.1.3, if and when the Contractor considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the Employer's consent thereto, the Employer shall not unreasonably withhold such consent.

33. SETTLEMENT OF DISPUTES & ARBITRATION:

Clause no 20 of optional terms & conditions of contract is to be followed.

OPTIONAL TERMS & CONDITIONS OF CONTRACT

(RELEVANT TERMS AND CONDITIONS ARE TO BE INCLUDED AS ADDITIONAL / SPECIAL CONDITION OF CONTRACT AS PER DISCRETION OF TIA).

1. EARNEST MONEY DEPOSIT (IF APPLICABLE):

Every tender must accompany 'Earnest Money' as mentioned in the Tender Notice/Enquiry in desired form as mentioned below without which the tender will not be accepted. The Earnest Money should be deposited in any of the following forms:

- a) Earnest Money can be submitted in the form of Bank Guarantee from an Indian Nationalized Bank / Schedule Bank / Foreign Bank (in the scheduled list of Reserve Bank of India), irrevocable and operative till the validity of the offer as per enclosed Proforma.

Overseas bidder in case of participation is permitted to submit the Bank Guarantee from Foreign Bank which are included in the scheduled list of Reserve Bank of India, copy of which is annexed in Annexure-F. However, any Foreign Bank not mentioned here but subsequently included in the scheduled list of RBI in the course of bidding shall be accepted. Such inclusion of Bank's name to be obtained from the website of RBI – www.rbi.org.in.



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- b) The Bank Guarantee currency shall be same as currency of Price Bid. In case the bidder arranges to submit BG in INR from Nationalized or Schedule Bank through their trade relation and quote the bid in USD/EURO, the same shall be accepted.
- c) Earnest money can also be deposited through E-payment to Damodar Valley corporation A/c No....., Name of prescribed bank....., branch....., IFSC code No....., MICR code No..... The bidder is required to furnish the transaction reference No. for the e- payment made to DVC.
- d) Attested photocopy of certificate issued by DVC as permanent EMD account holder.
- e) Pay Order/DD to be made in favour of Damodar Valley Corporation.
- f) In case the bid security is more than a threshold value (Rupees five lakh) and in case of foreign bidders in GTE tenders it may be in the form of a bank guarantee (in equivalent Foreign Exchange amount, in case of GTE) issued/confirmed from any of the scheduled commercial bank in India in an acceptable form. The bid security is normally to remain valid for a period of 45(forty-five) days beyond the final bid validity period.

The offer accompanied by B.G. against EMD will only be considered valid on acceptance of the Bank Guarantee. The offer not accompanied by EMD or specified EMD in proper form as defined above shall not be considered as valid tender for opening provided necessary stipulations are made in the NIT.

- i) Earnest Money will be refunded only to the unsuccessful Tenderer within 30 days after finalisation of Tender and no interest will be paid for the same.
- ii) The amount of Earnest Money will be refunded to the successful tenderer, after acceptance of their Security Deposit-cum-Performance B.G. / successful completion of the order.
- iii) Micro and Small Enterprises registered with any National Small Industries Corporation (NSIC)/Khadi & Village Industries Board/ Coir Board/Directorate of Handicrafts and Handloom or any other Body specified by Ministry of Micro, Small and Medium Industries, MSEs registered under Udyog Adhaar Memorandum (UAM) shall be exempted from the payment of Earnest Money. Micro and Small Enterprises seeking such exemption must enclose valid registration certificate from the appropriate Govt. authority.

Similarly, if the bidder is allowed to participate with an associate where the financial or the technical capability is fully meet by the associate, then both the bidder and its associate should be registered with such authority for seeking such exemption of Cost of Tender Documents.

However, where the bidder is allowed to participate with an associate where only a part of the technical capability is meet by the associate, then the bidder should be registered with such authority for seeking such exemption.

Public Procurement Policy for Micro and Small Enterprises (MSEs) is meant for procurement of only goods produced and services rendered by MSEs. Traders/ distributors/ sole agent/ Works Contract are excluded from the purview of the policy”.



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2. OFFER VALIDITY:

Quotation must be kept valid for at least 90/180 days or as decided by Tender Inviting Authority from the date of opening of the Enquiry / Tender and to be indicated in the NIT. If any bidder offers bid having validity shorter than that asked in the NIT, bid should not be rejected outrightly. Bidder should be persuaded to accept NIT stipulation.

3. PRICE BASIS:

Price mentioned in the Purchase Order/Work Order/Turnkey Project Contracts shall be firm till execution of the contract unless stated otherwise.

The bids may be invited either on 'firm price basis' or on 'variable price basis', but not on both. Tender Inviting Authority may invite any or all the items / components in supply / works / turnkey project tenders on 'variable price basis' i.e. few items / components of a NIT may be on 'Variable price' basis and remaining items / components of the same NIT may be on 'firm price basis'.

The bids may be invited on variable price basis. In such cases Standard Price Variation Formula, based on PV formula published by IEEMA / CACMAI or similar recognised sources or adopted by power utilities like NTPC / PGCIL etc. shall be indicated in the bid document. Bid document shall also indicate the standard source of different indices (for labour / material / exchange rate etc.) used in the PV formula for purpose of calculation of variable component. The base date for different indices for the purpose of calculating price variation will normally be considered 30 days prior to the last date of submission of price bid or as indicated in the bid document.

The cut-off date for different indices in the PV formula for the purpose of calculating price variation may be considered as 2 to 4 months ahead of scheduled delivery period or as decided by TIA to be indicated component-wise in the bid document. The PV formula shall be stipulated by DVC in the bid document with or without any ceiling limit as decided by Tender Inviting Authority. In case of non-publication of applicable indices on a particular date, which happens to be applicable date for price adjustment purposes, the published indices prevailing immediately prior to the particular date will be applicable.

Such bids shall be evaluated on the basis of offered price without any loading on account of price variation. In case a specific ceiling limit is mentioned in the bid document, payment shall, however, be restricted to the actual extent of variation that would take place limited to the ceiling limit. For bids on variable price basis without any ceiling limit, payment will also be effected on actuals as per PV formula without any ceiling limit.

No price variation beyond scheduled contractual delivery/completion period will be allowed. Where it has been there shall also be no price variation on the advance payment component, if any.

In case of any bidder offering firm price against NIT stipulation of variable price basis or variable price against NIT stipulation of firm price basis, it will be considered as deviation and bidder shall declare the cost of withdrawal of the same along with the price bid, failing which the offer will be considered unresponsive and to be rejected.

4. TAXES, LEVIES AND DUTIES:



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Manufacturers/ Contractors/Service Providers /Suppliers shall quote statutory taxes and duties (GST, BOCW etc.) as applicable on the date of bid opening and shall be shown separately in the offer. This shall be to the account of the Damodar Valley Corporation (DVC), at actual limited to the amount as quoted by the Bidder, unless otherwise mentioned in the Purchase Order / Work Order. Any upward/downward variation in statutory taxes and duties after bid opening and up to the scheduled delivery period / work completion period shall be to the Damodar Valley Corporation account. Since such statutory taxes shall be on the account of DVC, benefits of any decrease in the same shall be retained by the DVC irrespective of decrease taking place during period of submission of bid and opening of bid. Taxes & duties shall always be paid as applicable. Extra Tax liabilities due to any upward variation in statutory taxes and duties beyond the contractual delivery period / work completion period will be attributable to the vendor. Any new taxes & duties imposed by statutory bodies after opening of the bid as applicable will be to the account of DVC as per rate ruling within contractual delivery period / work completion period, if applicable. Changes in the tax rate dependant on the volume of turn over Shall not be payable by DVC and to be payable by the bidder.

5. CLARIFICATIONS ON BID DOCUMENT:

Bidder may seek clarifications on the bidding documents (GCC + SCC, if any + Technical Specification Booklet + NIT {Tender Notice} along with annexure + Proforma & Check List of BG against EMD), if required, upto 7 days before the scheduled bid opening date. Any clarification sought by the bidders must be sent in writing to the Tender Inviting Authority.

Besides this, a Pre-bid Conference may also be held at the Tender Inviting Office at the discretion of Tender Inviting Authority. If agreed by Tender Inviting Authority, date, time and place for holding the Pre-bid Conference to be mentioned in the bidding document (NIT).

6. AMENDMENT OF BIDDING DOCUMENTS:

At any time prior to the deadline for submission of bids, the owner may, for any reason, whether at its own initiative, or in response to the clarifications requested by the prospective Bidders, amend the bidding documents except QR after due approval of Tender Inviting Authority.

The amendment will be notified in writing or by telephone/fax/e-mail to all prospective Bidders that have received the bidding documents and will be binding on them. Bidders are required to immediately acknowledge receipt of any such amendment, and it will be assumed that the information contained therein have been taken into account by the Bidder in his bid.

In order to give reasonable time to prospective bidders to take the amendment into account in preparing their bid, the owner may, at his discretion, extend the deadline for the submission of bids.

Any addendum/corrigendum/extension, if required, pertaining to Open NIT published through press advertisement will be hoisted in DVC website only and will not be published in Newspaper again. Bidders may be requested to visit DVC website regularly for any addendum/corrigendum/extension till opening of said NITs. This stipulation to be incorporated in the original press advertisement for the NIT.

In case of change in technical parameter/ specification/ scope of work, selling and submission date to be extended.



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7. PRICE BID EVALUATION PROCEDURE:

Please refer BID EVALUATION PROCEDURE (Price Part):

8. MOBILIZATION ADVANCE/ADVANCE:

Advance payment is normally discouraged. In exceptional circumstances, interest-bearing advance to the extent of 10% of contract price may be given against submission of a BG taken towards security of the advance should be at least 110% of advance so as to recovery of not only principal amount but also interest portion if so required.

The BG wherever applicable should be valid up to the date of completion of works/supply and acceptance thereof.

Advance should not be paid in less than two equal instalments except in special circumstances for that reasons to be recorded.

A clause in the tender enquiry to be incorporated that the interest free advance would be deemed as interest bearing advance at a base rate of SBI plus 3.5% if the contract is terminated due to default of the contractor. However rate of interest should be applied for calculation of interest on the advance amount in reset basis (i.e. not fixed rate of interest, it may go on changing during the period of advance remain unadjusted) based on the change of base rate time to time.

Advance should be recovered within the original completion time.

9. OTHER ADVANCE:

Provision for 100% advance (interest free) may also be allowed in dealing with procurement on single tender basis from CPSU/Govt. controlled autonomous Organisation / Universities / Laboratories/ Reputed Private Manufacturer as OEM etc.

The payment of advance is normally discouraged. The advance payment, in exceptional cases, may be given to the extent of 10% of total ordered value against submission of a Bank Guarantee of equivalent amount (on account of advance) and the same should have sufficient validity covering the full delivery period / full completion period and final payment thereof. Rate of interest of advance should be package specific and commensurate with the market rate.

10. PAYMENT THROUGH RTGS/NEFT:

All payments to the vendors will be released through RTGS/NEFT only. Vendors are requested to submit the requisite details as per Annexure E.

The contractor/vendor shall furnish the following certificate to the Paying Authority along with each invoice/bill against payment for supplies made against any supply order/RC with longer completion period (more than a year), if the same is placed on firm price basis. 'I / we certify that there has been no reduction in the sale price of the stores of description identical to this item, supplied to any person/organization and such stores have not been offered/sold by me/us to any person/organization at a price lower than the price charged under this contract upto the date of this bill.'



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11. PURCHASE PREFERENCE:

Purchase preference shall be applicable as per prevailing Policy of DVC/ GOI.

12. SOURCE OF SUPPLY:

The Vendor shall ensure that the indigenous capacity is utilized to the fullest extent possible in execution of the order. Where the imports are unavoidable, the Vendor shall import all such items in good time against his own import licence without affecting the contractual delivery schedule.

13. ELIGIBILITY CRITERIA OF JOINT VENTURE/ASSOCIATES IN TURNKEY CONTRACT:

Number of members in a Joint Venture shall not exceed 3 (three);

Subject to the provisions of clause (a) above, the Bid should contain the information required for each Member of the Joint Venture, viz. financial capacity, technical capacity etc. of each members.

Members of the Joint Venture shall nominate one member as the lead member (the "Lead Member"). Lead Member shall meet at least 50% requirement of Financial Capacity and at least 30% of Technical Capacity. The nominated Lead member shall remain unchanged during the entire period of project execution including the Defects Liability Period. The nomination(s) shall be supported by a Power of Attorney, as per the format at (ANNEXURE- AA) Signed by all the other Members of the Joint Venture. Each of the other Member(s) shall meet at least 30% of the required Technical Capacity and 20% of the required Financial Capacity. If for some reasons the aforesaid composition relating to technical and financial capabilities of joint venture members including lead member needs to be changed, approval on a case to case basis, shall be obtained from the authority competent to sanction terms and condition of tender as per DVC W&P Manual. Further a Power of Attorney authorizing the signatory (Lead Member) to execute the Bid Documents including submission of the bid in the specified format (ANNEXURE- BB) shall also be submitted to the procuring entity by the members of the Joint Venture.

The Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and defect liability obligations.

The prescribed equity stake, roles and responsibilities of the nominated Lead Member shall remain unchanged during the entire course of project execution including the Defects Liability Period.

An individual Bidder cannot at the same time be member of a Joint Venture applying for a particular Bid. Further, a member of a particular Joint Venture Bidder cannot be member of any other Joint Venture Bidder applying for the same bid.

Members of the Joint Venture shall have to enter into a binding Joint Venture Agreement to be registered under the Indian Registration Act, 1908, substantially in the form specified at (ANNEXURE- CC) for the purpose of submitting the bid. The Joint Bidding Agreement, to be submitted along with the Application, shall, inter alia:

- i. Convey the intent to carry out all the responsibilities as the "Contractor" in terms of the agreement entered into for Works/Supply through a registered Joint Venture Agreement and for EPC through a formal Incorporation as a business entity is required for EPC under the Companies Act 2013, in case the related job is awarded to the Joint Venture.



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- ii. Convey the commitment(s) of the Lead Member in accordance with NIT / RFP, in case contract is awarded to the Joint Venture; and clearly outline the proposed roles & responsibilities, if any, of each member.
- iii. Commit the approximate share of work to be undertaken by each member.
- iv. Include a statement to the effect that all members of the Joint Venture shall be liable jointly and severally for all obligations of the Contractor in relation to the job awarded; and
- v. Convey the intent to form a Joint Venture Company under the Companies Act, 2013 with shareholding/ownership equity commitment(s) as specified under Tender Document if NIT requires Joint Venture bidder to be an incorporated one. Members of the Joint Venture shall have to enter into a binding Joint Venture Agreement in line with the specified format (ANNEXURE-CC), if the NIT so requires as in a EPC that LoA shall be placed upon the successful JV subject to formation of Joint Venture Company.

In case of incorporated Joint Venture (Equity Based), the shareholding commitments of all the members of the Joint Venture shall be such that the Lead Member and Other Member (s) should hold at least 51% and 20%, respectively, of the paid-up equity of the Joint Venture Company.

Bidders as defined above will be eligible except for the following:

- a. Sanctions: Firms, which includes any of the JV members in case of bidding Joint Venture as per this Clause, blacklisted by the Employer or Government of India, as on the date of submission of Bid, are not eligible to bid.
- b. Prohibitions: Firms, which includes any of the JV members in case of bidding Joint Venture as per this Clause, and individuals of a country or goods/ works/ services manufactured/ produced in a country shall be ineligible, if as a matter of law or official regulations, the Government of India prohibits commercial relations with that country.
- c. Prior engagement: A firm that has been engaged by the Employer to provide consultancy services for the preparation or implementation of a project, and any of its affiliates (associates, subsidiary, JV partner), shall not be eligible for subsequently providing goods or works (other than a continuation of the firm's earlier consultancy services) for the same project.
- d. A firm determined non-performing by the Procuring Entity shall not be eligible to bid during the period declared by the Entity.

Note: Bidders may take part in the bidding process with associate / collaborator, provided he associates / collaborates with a single firm for covering any deficiency of Technical QR part of individual bidder specified at NIT. In such a case the bidder shall furnish undertaking jointly executed by him and his associate/collaborator for successful performance of the relevant system along with the bid. In case of award, associate/collaborator shall be required to furnish bank guarantee for 3.0% (three percent) of contract price of the work value

14. SELECTION OF SUB VENDORS FOR TURNKEY CONTRACTS / PACKAGES:

Approved list of Sub-vendors will be indicated in the bidding documents for QR and non-QR items of supply.



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For non-critical items, there may not be enlisted Sub-vendors for every item and the supply shall be accepted as per related standards, approved sample, and satisfactory inspection, wherever applicable.

The bidders are, permitted to propose new/different Sub Vendor for approval of DVC in the pre and post bid stage.

If any new sub-vendor is proposed by the bidder, it may be approved and if it is acceptable on consideration that the proposed Sub Vendor made previous supplies to DVC or is included in the approved list in any other DVC / PGCIL / NTPC Project for similar supply.

In case the proposed Sub Vendor is found to meet the QR and is neither in the approved list nor has made any previous supply to DVC, appropriate decision may be taken by the concerned Chief Engineer in consideration of documents furnished by the sub-vendor and further assessment, if required, may be done in the pre-award/post award stage.

For non-QR items of supply, if new Sub Vendor is proposed by the bidder, it will be obligatory on the part of bidder to furnish the details / documents in support of their claim which would be reviewed and appropriate decision taken. In the event of further assessment of credential of Sub Vendor being felt necessary beyond the document furnished by the bidders, it shall be dealt with during post award stage.

Normally no separate QR may be stipulated for sub-contracting of erection works. In cases, where Sub-contractor for erection job is proposed by the bidder, the qualification of the proposed Sub-Contractor may be examined keeping in view the qualification requirement applicable for the quantum of job proposed to be sub-contracted and other relevant aspects related to the site condition and overall responsibility of the contractor.

Note for approval of Sub-contractor (In case of Works or Services) / Sub-Vendor (In cases of Supply):

For O&M Contract/ Over Hauling Contract, HOP/HOD shall approve the list of Sub- contractor/Sub-Vendor on recommendation of local FQA.

For other Contracts including EPC Contract awarded from HQ, Head (QC&I Department) shall approve the list of Sub-vendors (In cases of Supply) and HOP/HOD shall approve the Sub-Contractors (In case of Works or Services) on recommendation of local FQA.

For other Contracts including EPC Contract awarded from respective site, HOP/HOD shall approve the Sub-Contractors/ Sub-Vendors on recommendation of local FQA.

15. SPARE PARTS, OILS & LUBRICANTS:

Wherever applicable, the Vendor shall furnish item wise price list of spare parts required for two years operation of the equipment ordered. The Vendor shall also provide the necessary instructions and drawings to identify the spare part numbers and their location as well as an interchangeability chart. The Vendor shall recommend the quality of oils and lubricants required to be used to the operation of the equipment supplied under this Order for a continuous operation for a period of at least one year.



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16. LIMITATIONS OF LIABILITY:

Except in cases of criminal negligence or wilful misconduct,

- i. the Contractor and the Employer shall not be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer

And

- ii. the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to indemnify the Employer with respect to patent infringement, copy right, workman compensation.

17. PACKING AND MARKING:

All goods shall be securely packed in cases, bundles, crates etc. suitable for Rail / Road / Air / Sea transport. All exposed services/connections, protrusions shall be properly protected. All unexposed parts shall be packed with due care and the packages should bear the words "Handle with Care". The packing of the goods to be transported by Rail / Road / Air / Sea shall be as per the conditions laid down by the appropriate authorities and the Vendor shall obtain clean railway / goods receipts without any qualifying remark.

All packages and unpacked materials shall be marked on at least two places indicating the name of the Purchaser/ Consignee, Purchase Order No., gross & net weights and dimensions with indelible paint in English. In case of bundles, metallic plates marked with the above details shall be tagged. All packages containing harmful/ hazardous materials should be prominently marked.

All goods should be despatched as per the relevant terms of the Purchase Order. In case any mode of transports has to be resorted to other than that mentioned in the Purchaser Order, the same should be done only after obtaining prior approval in writing from the Purchaser. All movement sanctions, loading permissions etc. from the railway or other authorities shall be obtained by the Vendor. The vendor should also take care of the odd- size consignments and their clearances involved. The Vendor shall communicate the relevant dispatch particulars immediately on dispatch by telex/telegram to the consignee as specified in the Purchase Order.

The Vendor shall also forward original and copies of dispatch documents to the concerned authorities as required in the Purchase Order within two days from the date of despatch, failing which the Vendor shall be responsible for any delay in payments of consignment for want of documents and consequent demurrage, detention charges, etc.

18. MODE OF DESPATCH:

Vendor shall dispatch the materials as per schedule mode of despatch as indicated in the purchase order/contract and any violations to this effect without taking prior written approval from the



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purchaser/owner is not permissible. If it is dispatched without permission, all risk and cost is to borne by the vendor.

19. ACCEPTANCES:

The Vendor shall return the duplicate copy of the Purchase Order / contract / Work Order and the other enclosed documents duly signed with seal and date as a mark of acceptance, within 15 days from the date of issuance of the order to the Order Issuing Authority.

20. SETTLEMENT OF DISPUTES & ARBITRATION:

- 20.1 Any disputes, differences, or controversies between the Parties shall be resolved through the following modes of dispute resolution in the matter set out hereunder:
- Mutual Consultation between the Parties;
 - Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD);
 - Dispute Avoidance Mechanism through Independent Engineer (IE); and/or
 - Conciliation Committee of Independent Experts (CCIE).

- 20.2 Any dispute, difference, or controversy between the Parties shall be resolved, at the first instance, through Mutual Consultation between the Parties in the manner set out hereunder:

If the Executing Department and the Contractor fails to resolve the dispute, difference, or controversy, then the Contractor shall refer the dispute in writing for settlement of such dispute or difference through Mutual Consultation to the concerned Head of Project of DVC (in case of tender issued from site)/concerned GM/SGM/CGM/ED of executing department (in case of tender issued from H/Q).

The concerned Head of Project of DVC (in case of tender issued from site) / concerned GM/SGM/CGM/ED of executing department (in case of tender issued from H/Q) shall send a communication within 7 working days thereby inviting the Contractor to depute a team of their representatives to interact with GM/SGM/CGM/ED (C&M)-HQ.

GM/SGM/CGM/ED (C&M)-HQ will obtain the details and examine the correspondence of either parties relating to disputes, normally within 10 days. They may hold discussions with the team of Contractor and Head of Project of DVC or his authorized representative (in case of tender issued from site) / concerned GM/SGM/CGM of executing department (in case of tender issued from H/Q) to crystallize the issues; prepare the agenda containing the gist on each dispute and the matter then be referred to the ED level standing Committee of DVC comprising of concerned ED of the user Department, ED (C&M), and ED (Finance) for amicable settlement of disputes with the Contractor with ED (C&M) being the Convener and ED of the User Department being the Chairman of the committee.

The recommendations of the Committee shall be put up to Chairman, DVC for settlement of the dispute with the Chairman /CMD of the Contractor.

- 20.3 In the event such dispute, difference, or controversy cannot be settled through Mutual Consultation as set out above, the following procedure shall be followed for settlement of such dispute, difference, or controversy:

- 20.3.1 If the Contractor is a Central Public Sector Enterprise (CPSE)/Port Trust/Government



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Department or Organization (Central or State), such dispute, difference, or controversy shall be resolved through AMRCD (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No 05/003/2019-FTS-10937 dt. 14th December 2022 and the decision of AMRCD on the said dispute will be binding on both parties. However, disputes relating to Railways, Income Tax, or Excise and Customs Departments shall not be resolved through AMRCD.

20.3.2 If the Contractor/dispute is not covered under Clause 20.3.1, such dispute, difference, or controversy shall be resolved in the following manner:

20.3.2.1 The dispute, difference, or controversy shall be resolved through reference to the Independent Engineer (IE) selected in accordance with Clause 20.4 and the said Independent Engineer (IE) shall resolve the dispute in terms of Ministry of Power OM No. 15-18/1/2020-HYDEL-II(MoP) dt. 27/09/21 as clarified/amended by Ministry of Power OM No. 15-18/1/2020-HYDEL-II (MOP) dt. 18/10/2023 (including any other guidelines/SOPs issued by the appropriate authorities in this regard).

20.3.2.2 In the event either Party is aggrieved by the decision of the Independent Engineer (IE), the matter may be referred to the Conciliation Committee of Independent Experts (CCIE) in accordance with the procedure laid down in Ministry of Power OM No. F. No 11/22/2021-Th.II dt. 29/12/21 as amended/clarified by OM No. F. No 11/22/2021-Th.II dt. 18/10/23. However, neither party shall be entitled to proceed to arbitration in the event of failure to settle the dispute, difference, or controversy through the CCIE mechanism. Further, the expenses of the CCIE process (including fees and expenses of CCIE members) shall be shared by the Parties equally.

20.4 The Parties shall agree on the appointment of an Independent Engineer (IE) from the Panel maintained by the Ministry of Power at the time of Award of Contract or reasonably soon hereafter. However, if the Parties are unable to agree on such appointment, DVC shall select the Independent Engineer (IE) from the Panel maintained by the Ministry of Power. All other aspects relating to the appointment, selection, removal, and payment of the Independent Engineer (IE) shall be as per Ministry of Power OM No. 15-18/1/2020-HYDEL-II(MoP) dt. 27/09/21.

20.5 Subject to the provisions of the preceding sub-clauses, the competent courts having jurisdiction over the headquarters of DVC at Kolkata shall have sole and exclusive jurisdiction over all disputes, differences, or controversies between the Parties.

20.6 Notwithstanding anything contained in the preceding sub-clauses,

20.6.1 The dispute resolution methods specified in Sub-Clause 20.3 shall be governed as per the latest Office Memorandums/Guidelines/Clarifications issued by the appropriate authorities from time to time. In case of any dispute regarding the applicability of any Office Memorandum/Guidelines/Clarifications pertaining to any of the dispute resolution methods mentioned in Sub-Clause 20.3, the decision of DVC shall be final and binding.

20.6.2 The Parties may, by an agreement in writing, alter the order in which the different



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dispute resolution methods referred to in Clause 20.3 may be resorted to and/or decide to have any dispute, difference, or controversy heard and adjudicated by a particular forum/court to the exclusion of other forums.

21. WORK PROGRAM:

21.1. CONTRACTOR'S ORGANIZATION:

The Contractor shall supply to the Employer and the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out work. The chart shall include the identities of the key personnel together with the curricula vitae of such key personnel to be employed within twenty-one (21) days of the Effective Date. The Contractor shall promptly inform the Employer and the Project Manager in writing of any revision or alteration of such an organization chart.

21.2. PROGRAM OF PERFORMANCE:

Within twenty-eight (28) days after the date of Notification of Award of Contract, the Contractor shall prepare and submit to the Project Manager a detailed program of performance of the Contract, made in the form of PERT network and showing the sequence in which it proposes to design, manufacture/procure, transport, work at site as well as the date(s) by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion of the Facilities in accordance with the Contract. The program so submitted by the Contractor shall accord with the Time Schedule to the Contract Agreement and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the times for Completion given in the SCC and any extension granted in accordance with GCC Clause 23 and shall submit all such revisions to the Project Manager.

21.3 PROGRESS REPORT:

The Contractor shall monitor progress of all the activities specified in the program referred to in GCC Sub-Clause 21.2 (Program of Performance) above and supply a progress report to the Project Manager every month.

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

21.4 PROGRESS OF PERFORMANCE:

If at any time the Contractor's actual progress falls behind the program referred to in GCC Sub-Clause 21.2 (Program of Performance), or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under



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GCC Clause 13 (Time for Commencement and Completion), or any extended period as may otherwise be agreed upon between the Employer and the Contractor.

21.5 WORK PROCEDURES:

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

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

21.6 MAINTENANCE OF RECORDS OF WEEKLY PROGRESS REVIEW MEETINGS AT SITE:

The Contractor shall be required to attend all weekly progress review meetings organized by the 'Project Manager' or his authorized representative. The deliberations in the meetings shall inter-alia include the weekly program, progress of work (including details of manpower, tools and plants deployed by the contractor vis-a-vis agreed schedule), inputs to be provided by Employer, delays, if any and recovery program, specific hindrances to work and work instructions by Employer. The minutes of the weekly meetings shall be recorded in triplicate in a numbered register available with the Project Manager or his authorized representative. These recordings shall be jointly signed by the Project Manager or his authorized representative and the Contractor and one copy of the signed records shall be handed over to the Contractor".

22. TRANSFER OF OWNERSHIP:

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

22.2 **Disposal of surplus material:** Ownership of any goods/materials in excess of the requirements for the Facilities (i.e. surplus material) shall revert to the Contractor upon Completion of the Facilities or at such earlier time when the Employer and the Contractor agree that the goods/materials in question are no longer required for the Facilities. The Contractor shall remove from the site such surplus material brought by him in pursuance of the Contract, subject to the Contractor producing the necessary clearance from the relevant authorities (Custom, Excise etc.), if required by the law, in respect of re-export or disposal of the surplus material locally.

The liability for the payment of the applicable taxes/duties, if any, on the surplus material so re-exported and / or disposed locally shall be that of the Contractor.

The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal/disposal of surplus material. The Indemnity Bond shall be furnished by Contractor as per proforma. Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the surplus material to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer.

22.3 Notwithstanding the transfer of ownership of the goods/materials, the responsibility for care



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and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor hereof until Completion of the Facilities or the part thereof in which such goods/materials are incorporated.

- 22.4 In case of where the Employer hands over his goods/materials/Equipment to the Contractor for executing the Contract, then the Contractor shall, at the time of taking delivery of the goods/materials/Equipment through Bill of Lading or other despatch documents, furnish Trust Receipt for goods/materials/Equipment and also execute an Indemnity Bond in favour of the Employer for keeping the equipment in safe custody and to utilise the same exclusively for the purpose of the said Contract.

23. CHANGES IN THE FACILITIES:

23.1 INTRODUCING A CHANGE:

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

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

- 23.1.2 Notwithstanding GCC Sub-Clauses 23.1.1 and 23.1.2, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

- 23.1.3 The procedure on how to proceed with and execute Changes is specified in GCC Sub Clauses 23.2 and 23.3.

23.2 CHANGES ORIGINATING FROM EMPLOYER:

- 23.2.1 If the Employer proposes a Change pursuant to GCC Sub-Clause 23.1.1, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

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

- 23.2.2 The pricing of any Change shall, as far as practicable, be calculated in accordance with the



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rates and prices included in the Contract. If the rates and prices of any change are not available in the Contract, the parties thereto shall agree on specific rates for the valuation of the Change.

23.2.3 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 23 would be to increase or decrease the Contract Price as originally set forth in Contract Price of the Contract Agreement, the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Employer accepts the Contractor's objection, the Employer and the Contractor shall agree on specific rates for valuation of the change.

23.2.4 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained including agreement on rates if such rates are not available in the Contract or if the limit set forth in Clause 23.2.3 has been exceeded. Within fourteen (14) days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.

If the Employer is unable to reach a decision within fourteen (14) days, it shall notify the Contractor with details of when the Contractor can expect a decision.

If the Employer decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Contractor accordingly.

23.2.5 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct the Contractor to proceed with the Change by issue of a "Pending Agreement Change Order."

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

If the parties cannot reach agreement within sixty (60) days from the date of issue of the Pending Agreement Change Order, then the matter may be referred as per "Settlement of Dispute & Arbitration."

23.3 CHANGES ORIGINATING FROM CONTRACTOR:

23.3.1 If the Contractor proposes a Change pursuant to GCC Sub-Clause 23.1.2, the Contractor shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 23.2.1.

Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Sub-Clauses 23.2.4 and 23.2.5.

24. TERMINATION:



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24.1 TERMINATION FOR EMPLOYER'S CONVENIENCE:

24.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 24.1.

24.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 24.1.1, the Contractor shall either immediately or upon the date specified in the notice of termination.

- (a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition.
- (b) Terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d)(ii) below.
- (c) Remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish, and debris of any kind, and leave the whole of the Site in a clean and safe condition.
- (d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 24.1.3, shall:
 - (i) Deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination.
 - (ii) To the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as at the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors.
 - (iii) Deliver to the Employer all non-proprietary drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

23.1.3 In the event of termination of the Contract under GCC Sub-Clause 24.1.1, the Employer shall pay to the Contractor the following amounts:

- (a) the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination.
- (b) the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the Site and in the repatriation of the Contractor's and its Subcontractors' personnel.
- (c) any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges.
- (d) costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 24.1.2.
- (e) the cost of satisfying all other obligations, commitments, and claims that the Contractor



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may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.

24.2 TERMINATION FOR CONTRACTOR'S DEFAULT:

24.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefore to the Contractor, referring to this GCC Sub-Clause 24.2:

- (a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt
- (b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 23 (Assignment).
- (c) if the Contractor, in the judgement of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Sub-Clause:

"corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.

24.2.2 If the Contractor:

- (a) has abandoned or repudiated the Contract.
- (b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 24.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the Employer to proceed.
- (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause.
- (d) refuses or is unable to provide sufficient materials, services or labour to execute and complete the Facilities in the manner specified in the program furnished under GCC Clause 21.2 (Program of Performance) at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of



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the Facilities by the Time for Completion as extended then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 24.2.

24.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 24.2.1 or 24.2.2, the Contractor shall, either immediately or upon such date as is specified in the notice of termination.

- (a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition.
- (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below.
- (c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination.
- (d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Works and to the Plant and Equipment as at the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors.
- (e) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

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

Upon completion of the Facilities or at such earlier date as the Employer thinks appropriate, the Employer shall give notice to the Contractor that such Contractor's Equipment will be returned to the Contractor at or near the Site and shall return such Contractor's Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.

24.2.5 Subject to GCC Sub-Clause 24.2.6, the Contractor shall be entitled to be paid the



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Contract Price attributable to the Facilities executed as at the date of termination, the value of any unused or partially used Plant and Equipment on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 24.2.3. Any sums due to the Employer from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.

24.2.6 If the Employer completes the Facilities, the cost of completing the Facilities by the Employer shall be determined.

If the sum that the Contractor is entitled to be paid, pursuant to GCC Sub-Clause 24.2.5, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price, the Contractor shall be liable for such excess.

If such excess is greater than the sums due to the Contractor under GCC Sub-Clause 24.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due to the Contractor under GCC Sub-Clause 24.2.5, the Employer shall pay the balance to the Contractor.

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

24.3 TERMINATION BY CONTRACTOR:

24.3.1 If:

- (a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to Terms and Procedures of Payment of the Contract Agreement, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of such sum, requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Contractor's notice, or
- (b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities which the Employer is required to obtain as per provision of the Contract or as per relevant applicable laws of the country, then the Contractor may give a notice to the Employer thereof, and if the Employer has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Contractor is still unable to carry out any of its obligations under the Contract for any reason attributable to the Employer within twenty-eight (28) days of the said notice, the Contractor may by a further notice to



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the Employer referring to this GCC Sub-Clause 24.3.1, forthwith terminate the Contract.

24.3.2 The Contractor may terminate the Contract forthwith by giving a notice to the Employer to that effect, referring to this GCC Sub-Clause 24.3.2, if the Employer becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Employer takes or suffers any other analogous action in consequence of debt.

24.3.3 If the Contract is terminated under GCC Sub-Clauses 24.3.1 or 24.3.2, then the Contractor shall immediately:

- (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Facilities already executed, or any work required leaving the Site in a clean and safe condition.
- (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d)(ii)
- (c) remove all Contractor's Equipment from the Site and repatriate the Contractor's and its Subcontractor's personnel from the Site.
- (d) In addition, the Contractor, subject to the payment specified in GCC Sub-Clause 24.3.4, shall:
 - (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
 - (ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors.
 - (iii) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

24.3.4 If the Contract is terminated under GCC Sub-Clauses 24.3.1 or 24.3.2, the Employer shall pay to the Contractor all payments specified in GCC Sub-Clause 24.1.3, and reasonable compensation for all loss or damage sustained by the Contractor arising out of, in connection with or in consequence of such termination.

24.3.5 Termination by the Contractor pursuant to this GCC Sub-Clause 24.3 is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights conferred by GCC Sub-Clause 24.3.

24.4 In this GCC Clause 24, the expression "Facilities executed" shall include all work executed, Installation Services provided, any or all Plant and Equipment acquired (or subject to a legally binding obligation to purchase) by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of



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termination.

- 24.5 In this GCC Clause 24, in calculating any monies due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to Terms and Procedures of Payment to the Contract Agreement.

25. CONFIDENTIAL INFORMATION:

- 25.1 The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this GCC Clause 25.
- 25.2 The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than execution of the Contract and operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement, construction or such other work and services as are required for the performance of the Contract.
- 25.3 The obligation of a party under GCC Sub-Clauses 25.1 and 25.2 above, however, shall not apply to that information which
- (a) now or hereafter enters the public domain through no fault of that party.
 - (b) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto.
 - (c) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 25.4 The above provisions of this GCC Clause 25 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.
- 25.5 The provisions of this GCC Clause 25 shall survive termination, for whatever reason, of the Contract.
26. **REPRESENTATIVES:**
- 26.1 **PROJECT MANAGER:**



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

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

26.2 CONTRACTOR'S REPRESENTATIVE & CONSTRUCTION MANAGER:

26.2.1 If the Contractor's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Contractor shall appoint the Contractor's Representative and shall request the Employer in writing to approve the person so appointed. If the Employer makes no objection to the appointment within fourteen (14) days, the Contractor's Representative shall be deemed to have been approved. If the Employer objects to the appointment within fourteen (14) days giving the reason therefore, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 26.2.1 shall apply thereto.

26.2.2 The Contractor's Representative shall represent and act for the Contractor at all times during the currency of the Contract and shall give to the Project Manager all the

Contractor's notices, instructions, information and all other communications under the Contract.

All notices, instructions, information and all other communications given by the Employer or the Project Manager to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.

The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in GCC Sub-Clause 26.2.1.

26.2.3 The Contractor's Representative may, subject to the approval of the Employer (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Employer and the Project Manager.



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Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 26.2.3 shall be deemed to be an act or exercise by the Contractor's Representative.

- 26.2.3.1 Notwithstanding anything stated in GCC Sub-clause 26.1 and 26.2.1 above, for the purpose of execution of contract, the Employer and the Contractor shall finalise and agree to a Contract Co-ordination Procedure and all the communication under the Contract shall be in accordance with such Contract Co-ordination Procedure.
- 26.2.4 From the commencement of work at the Site until completion, the Contractor's Representative shall appoint a suitable person as the construction manager (hereinafter referred to as "the Construction Manager"). The Construction Manager shall supervise all work done at the Site by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as his or her deputy.
- 26.2.5 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under GCC Sub-Clause 32.3. The Employer shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities/Site.
- 26.2.6 If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 26.2.5, the Contractor shall, where required, promptly appoint a replacement.
27. The following annexures are part of GCC.

(a) Debarment policy: Annexure-I

(b) Contractor's Performance evaluation: Annexure-II



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Annexure-I

Debarment of firms from Bidding:

Debarment:

Registration of suppliers/ contractors/ consultants/ service providers and their eligibility to participate in DVC's procurements is subject to compliance with Code of Integrity for Public Procurement and good performance in contracts.

Debarment from Bidding: -

- I. A bidder shall be debarred if he has been convicted of an offence-
 - a) Under the Prevention of Corruption Act, 1988; or
 - b) 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 execution of a public procurement contract.
- II. A bidder debarred under sub-section (I) or any successor of the bidder shall not be eligible to participate in a procurement process of DVC for a period not exceeding three years commencing from the date of debarment.

Department of Commerce (DGS&D) will maintain such list which will also be displayed on the website of DGS&D as well as Central Public Procurement Portal.

- III. DVC may debar a bidder or any of its successors from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. DVC will maintain such list which will also be displayed on its website.
- IV. The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment.

Guidelines on Debarment of firms from Bidding: -

The guidelines are classified under following two types: -

- ii. In cases where debarment is proposed to be limited to DVC, the appropriate Orders can be issued by DVC itself, thereby banning all its business dealing with the debarred firm.
- iii. Where it is proposed to extend the debarment beyond the jurisdiction of DVC i.e. covering to all central Ministries/ Departments, the requisite Orders shall be issued by Department of Expenditure (DoE), Ministry of Finance (MoF).

A. Definitions:

1. Firm: The term 'firm' or 'bidder' has the same meaning for the purpose of these Guidelines, which includes an individual or person, a company, a cooperative society, a



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Hindu undivided family and an association or body of persons, whether incorporated or not, engaged in trade or business.

2. Allied firm: All concerns which come within the sphere of effective influence of the debarred firms shall be treated as allied firms. In determining this, the following factors may be taken into consideration:

- a. Whether the management is common.
- b. Majority interest in the management is held by the partners or directors of banned/suspended firm.
- c. Substantial or majority shares are owned by the banned/ suspended firm and by virtue of this it has a controlling voice.
- d. Directly or indirectly controls or is controlled by or is under common control with another bidder.
- e. All successor firms will also be considered as allied firms.

3. The terms "banning of firm", 'suspension', 'Black-Listing' etc. convey the same meaning as of "Debarment".

B. Debarment of Firms only in DVC:

1. Orders for Debarment of a firm/Contractor irrespective of whether it is known/approved or otherwise, shall be passed by DVC with the approval of HOP (in case the Contract issued from site / ED (C&M) in case the Contract issued from HQ), keeping in view of the following:

a. A bidder or any of its successors may be debarred from participating in any procurement process for a period not exceeding two years as mentioned below:

Grounds for debarment up to One year:

1. Backing out of L-1 Bidder.
2. Refusal of L-1 Bidder to give break-up of price.
3. If the Agency fails to accept the award of contract or has abandoned or repudiated the Contract.
4. If the Agency fails to submit Performance Security within stipulated timeframe as per Contract terms,
5. If the Agency fails to execute the Contract Agreement within stipulated timeframe as per Contract terms.
6. Either fails to commence work on the facilities in terms of the contract or suspends progress of Contract.
7. Fails to achieve or complete the contract milestones with the time schedule stipulated in the Contract.
8. Suspends/stops work on any unfounded pretext including compensation, claims beyond Contract.
9. Fails to complete the Guarantees in the time limit indicated in the Contract.
10. Diverts funds advanced to the Contractor for purposes other than the Contract.
11. Does not deploy or withdraws the technical staff or equipment considered necessary as per terms & conditions of Contract.
12. Fails to furnish the required deliverables as required under the terms & conditions of



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Contract.

13. Does not supply material or supplies material of inferior quality or work executed is of poor quality which is not as per the Technical Specifications of the Contract.
14. Does not fulfil the obligations as required under the Contract.
15. Violates terms & conditions of the Contract.
16. Assigns, transfers, sublets or attempts to assign, transfer or sublet the entire works or any portion thereof without prior written approval of the Employer.
17. The finished work either permanently fails or fails to give the desired output/service during the defect liability period and the Agency fails to rectify it.
18. If the Agency fails to comply with any of the statutory laws and regulations in force, in totality, even after completion of work.
19. If the Central Vigilance Commission, Central Bureau of Investigation or any other Central government investigating agency/department recommends such a course in respect of a case under investigation.
20. If the security consideration including questions of loyalty of the Agency to the state so warrants.

Grounds for debarment up to two years:

1. If a disaster/ major failure/ accident/ collapse of a structure/ system caused during erection or during defect liability period due to negligence/ design deficiency/ poor execution of the contractor, or any other reason attributable to contractor, or any other reason attributable to contractor.
2. If the Director/ Owner of the Agency, proprietor or partner of the Agency is convicted by a court of law for offences involving corrupt and fraudulent practices including moral turpitude in relation to its business dealings with the government or the Employer during the last three years.
3. If the proprietor of the Agency has been guilty of malpractices such as bribery, corruption, fraud, substitution of the tenders etc.
4. If the Agency continuously refuses to return/ refund the dues of the Employer without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in arbitration or court of Law.
5. If the Agency uses intimidation/threatening or brings undue outside pressure on the Employer or its official in acceptance/ performance of the job under the contract.
6. If the Agency indulges in repeated and/or deliberate use of delay tactics in complying with contractual stipulations.
7. If the Agency wilfully indulges itself in supplying sub-standard material which are not as per Technical Specifications of the Contract irrespective of whether pre-dispatch inspection was carried out by the Employer or not.
8. If the Agency misuses the premises or facilities of the Employer, forcefully occupies, tampers or damages the Employer's properties including land, water resources, forests/trees, etc.
9. If the agency fails to disburse labour payments within stipulated timeframe as per contract on continuous basis for three or more months.
10. If the Agency is declared bankrupt or insolvent or its financial position has become unsound and in the case of a limited company, it is wound up or liquidated.
11. If there is an established record of litigant nature of the Agency to derive undue



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benefit.

12. Continued poor performance of the Agency. (In case Performance Rating of the vendor is 'Unsatisfactory', in a single contract in two consecutive billing cycles).
 13. If the Agency violates the provisions of the Integrity Pact.
 14. If business dealings with the Agency have been banned by the Ministry of Power or Govt. of India and the ban is still in force.
 15. If security consideration including questions of loyalty of the Agency to the state so warrants.
(Note: The above grounds are not exhaustive. The competent authority may decide to debar an Agency for any good and sufficient reason beyond and inclusive of the above.)
- a) "Corrupt practice": making offers, solicitation or acceptance of bribe, rewards or gifts or any material benefit, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process or contract execution.
 - 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. This includes making false declaration or providing false information for participation in a tender process or to secure a contract or in 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 procuring entity, that may impair the transparency, fairness and the progress of the procurement 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 procurement process or affect the execution of a contract.
 - e) "Conflict of interest": participation by a bidding firm or any of its affiliates that 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 the bidding firm or their personnel have relationships or financial or business transactions with any official of DVC who are directly or indirectly related to tender or execution process of contract; or improper use of information obtained by the (prospective) bidder from DVC with an intent to gain unfair advantage in the procurement process or for personal gain; and
 - f) "Obstructive practice": materially impede DVC'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 threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the procuring entity's rights of audit or access to information.

Note on Conflict of Interest in case of consultants:

- i) The consultant is required to provide professional, objective, and impartial advice, at



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all times holding the Procuring Entity's interests paramount, strictly avoiding conflicts with other assignments or his/its own corporate interests, and acting without any consideration for future work.

- ii) The consultant has an obligation to disclose to the Procuring Entity any situation of actual or potential conflict that impacts its/his capacity to serve the best interest of its client/Procuring Entity. Failure to disclose such situations may lead to the disqualification of the consultant or termination of its/his contract during execution of the assignment.
- iii) Without limitation on the generality of the foregoing, and unless stated otherwise in the data sheet for the RfP document, the consultant shall not be hired under the circumstances set forth below:
 - a) Conflicting activities: a firm that has been engaged by the client to provide goods, works, or non-consultancy services for a project, or any of its affiliates, shall be disqualified from providing Consultancy service resulting from or directly related to those goods, works, or non- Consultancy services. Conversely, a firm hired to provide consultancy services for the preparation or implementation of a project, or any of its affiliates, shall be disqualified from subsequently providing goods or works or no consultancy services resulting from or directly related to the consultancy services for such preparation or implementation.
 - b) Conflicting assignments: Consultants (including its experts and sub-- consultants) or any of their affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultant for the same or for another Procuring Entity; and
 - c) Conflicting relationships: A consultant (including its/his experts and sub-consultants) that has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in any part of: (i) the preparation of ToR for the assignment; (ii) selection process for the contract; or (iii) supervision of the contract, may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the client throughout the selection process and execution of the contract.

2.3 Obligations for Proactive Disclosures:

- (i) Procuring authorities as well as bidders, suppliers, contractors and consultants/ service providers, are obliged under Code of Integrity for Public Procurement to suo-moto proactively declare any conflicts of interest (coming under the definition mentioned above — pre-existing or as and as soon as these arise at any stage) in any procurement process or execution of contract. Failure to do so would amount to violation of this code of integrity; and
- (ii) Any bidder must declare, whether asked or not in a bid document, any previous transgressions of such a code of integrity with any entity in any country during the last three years or of being debarred by any other Procuring Entity. Failure to do so would amount to violation of this code of integrity;
- (iii) To encourage voluntary disclosures, such declarations would not mean automatic



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disqualification for the bidder making such declarations. The declared conflict of interest may be evaluated and mitigation steps, if possible, may be taken by the Procuring Entity. Similarly, voluntary reporting of previous transgressions of Code of Integrity elsewhere may be evaluated and barring cases of various grades of debarment, an alert watch may be kept on the bidders' actions in the tender and subsequent contract.

2.4 Punitive Provisions: Without prejudice to and in addition to the rights of the Procuring Entity to other penal provisions as per the bid documents or contract, if the Procuring Entity comes to a conclusion that a (prospective) bidder/contractor/ Supplier/ consultant/ service provider, directly or through an agent, has violated this code of integrity in competing for the contract or in executing a contract, the Procuring Entity may take appropriate measures including one or more of the following:

- (i) If his bids are under consideration in any procurement:
 - a. Forfeiture or encashment of bid security
 - b. Calling off of any pre-contract negotiations, and;
 - c. Rejection and exclusion of the bidder from the procurement process
- (ii) if a contract has already been awarded:
 - a. Cancellation of the relevant contract and recovery of compensation for loss incurred by the Procuring Entity;
 - b. Forfeiture or encashment of any other security or bond relating to the procurement.
 - c. Recovery of payments made by the Procuring Entity along with interest thereon at the prevailing rate;
- (iii) Provisions in addition to above:
 - a. Removal from the list of registered suppliers and banning/debarment of the bidder from participation in future procurements of the Procuring Entity for a period not less than one year.
 - b. In case of anti-competitive practices, information for further processing may be filed under a signature of the Member (Secretary), DVC, with the Competition Commission of India.
 - c. Initiation of suitable disciplinary or criminal proceedings against any individual or staff found responsible.

C. Debarment of Firms beyond the jurisdiction of DVC:

Where DVC is of the view that business dealings with a particular firm should be banned across all the Ministries/ Departments of GOI by debarring the firm from taking part in any bidding procedure floated by the concerned Central Government Ministries/ Departments, DVC after obtaining the approval of the Chairman, DVC, will forward to DoE, MoF, GOI with a self-contained note setting out all the facts of the case and the justification for the proposed debarment, along with all the relevant papers and documents. However, DVC, before forwarding the proposal to DoE, MoF, GOI will ensure that reasonable opportunity has been given to the concerned firm to represent against such debarment (including personal hearing, if requested by the firm).



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If DoE, MoF, GOI realizes that sufficient opportunity has not be given to the firm to represent against the debarment, such debarment requests received from DVC shall be rejected.

DoE, MoF, GOI can also give additional opportunity, at their option, to firm to represent against proposed debarment. DoE, MoF, GOI can also take suo-moto action to debar the firms in certain circumstances. DoE, MoF, GOI will issue the necessary orders after satisfying itself that proposed debarment across all the Ministries/ Departments is in accordance with Rule 151 of GFRs, 2017. This scrutiny is intended to ensure uniformity of treatment in all cases.

The firm will remain debarred only in DVC during the interim period till the final decision taken by DoE, MoF, GOI.

No contract of any kind whatsoever shall be placed on the debarred firm, including its allied firms by any Ministries/ Departments/ Attached/Subordinate offices of the Government of India including autonomous body, CPSUs etc. after the issue of a debarment order by DoE, MoF, GOI. DoE, MoF, GOI will maintain list of such debarred firms, which will be displayed on Central Public Procurement Portal (CPPP).

D. Effect of Debarment/ Banning:

1. No new contract of any kind whatsoever shall be placed to debarred firm including its allied firms after the issue of debarment order by 'any establishment of DVC' / 'Ministry of Power- Govt. of India' / 'Department of Expenditure (DoE), Ministry of Finance (MoF) – as displayed on Central Public Procurement Portal (CPPP)' and the ban / suspension is still in force.

Bids from only such firms shall be considered for placement of contract, which are neither debarred on the date of opening of techno-commercial bid nor debarred on the date of issuance of LOA/PO/Work Order/LOA-cum-Work Order. Even in the cases of risk purchase, no contract should be placed on such debarred firms.

2. If case, any debar firms has submitted the bid, the same will be ignored. In case such firm is lowest (L-1), next lowest firm shall be considered as L-1. Bid security submitted by such debarred firms shall be returned to them.
3. Existing Contracts before issuance of debarment order shall not be affected by the debarment orders.
4. The Debarment shall be automatically extended to all its allied firms. In case of joint venture/ consortium is debarred all partners will also stand debarred for the period specified in Debarment Order. The names of partners should be clearly specified in the "Debarment Order".
5. Debarment in any manner does not impact any other contractual or other legal rights of the procuring entities.
6. The period of debarment shall start from the date of issue of debarment order.



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7. The Order of debarment will indicate the reason(s) in brief that lead to debarment of the firm.
8. Ordinarily, the period of debarment should not be less than six months.
9. In case of shortage of suppliers in a particular group, such debarments may also hurt the interest of procuring entities. In such cases, endeavor should be to pragmatically analyze the circumstances, try to reform the supplier and may get a written commitment from the supplier that its performance will improve.

E. Debarment Procedure:

- (i) Any Contract terminated on the grounds as mentioned under clause No. B.1.a of this debarment policy, shall lead to suspension of the vendor for a period of 03 (three) months. Intimation of suspension shall form an integral part of the Contract termination order. The suspension may be extended by 01 (One) more months if decision on debarment is not finalized.
- (ii) User department or Engineer in charge will move the case which will be processed by Concerned C&M Head for Contract issued from site / CMM for Contract issued by HQ and put up for approval from HOP in case the Contract issued from site / ED (C&M) in case the Contract issued from HQ, after vetting of Legal Department. In cases where investigation has been carried out by Vigilance Department or CBI etc. the Notice of default will also be vetted by vigilance department before issuance. However, where TAA is Board or Chairman approval from concerned Member to be obtained.
- (iii) After obtaining approval, a Show Cause Notice will be issued by Concerned C&M Head for Contract issued from site / CMM for Contract issued by HQ indicating clearly and precisely the charges/misconduct which should be based on facts as can be proved as distinct from mere allegations.
- (iv) The firm/contractor may be given a period of 30 days to submit their representation if any, against the Show Cause Notice, including personal hearing if requested by firm.
- (v) Thereafter, the appropriate debarment order may be issued by Concerned C&M Head for Contract issued from site / CMM for Contract issued by HQ, only after perusing the representation of the firm/contractor, if any, received in reply to Show Cause Notice incorporating the reasons for taking such action and vetting of Legal Department.
- (vi) In case no reply to show cause notice is received within stipulated time, appropriate speaking order for debarment shall be passed ex-parte.
- (vii) The order must specifically mention the fact that the reply to the show cause Notice, if any, has been considered by the said authority. The ex-parte order shall contain the fact that the reply to show cause notice has not been received within stipulated time.



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- (viii) The entire process of banning to be completed within 45 days from the date of show cause notice.

F. Revocation of Debarment Orders by DVC:

1. An order for debarment passed shall be deemed to have been automatically revoked on the expiry of that specified period and it will not be necessary to issue a specific formal order of revocation.
2. A debarment order may be revoked before the expiry of the Order only with the approval by Chairman, DVC, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case or for any other reason.
3. If an approved/known vendor/enlisted contractor is debarred by DVC and his name is delisted from the list of approved/known vendors/enlisted contractors, the name of the firm/contractor may not be included/ registered after the debarment period is over, unless the concerned Executive Director is satisfied that the said firm/contractor should be included in the list of approved/ known vendors/enlisted contractor.

G. Safeguarding DVC's Interests during debarment of supplier/ contractor/ consultant/ service provider:

Suppliers/ contractors/ consultants/ service providers are important assets for the procuring entities and punishing delinquent suppliers/ contractors/ consultants/ service providers should be the last resort. It takes lot of time and effort to develop, register and mature a new supplier. In case of shortage of suppliers/ contractors/ consultants/ service providers in a particular group of materials/equipment, such punishment may also hurt the interest of DVC. Therefore, views of the concerned department may always be sought about the repercussions of such punitive action on the continuity of procurements. Past records of performance of the supplier may also be given due weightage. In case of shortage of suppliers/ contractors/ consultants/ service providers and in cases of less serious misdemeanors, the endeavor should be to pragmatically analyse the circumstances, reform the supplier and get a written commitment from the supplier that his performance will improve. If this fails, efforts should be to see if a temporary debarment can serve the purpose.



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Annexure-II

1. Contractors Performance Evaluation

In order to have smooth progress of the work, there is a need for contractors who will execute the job in time and as per stipulated specification quality in the Contract. In order to ensure the same a standard evaluation format has been framed. The Engineer In charge will fill in the details as per format enclosed, which is to be signed by the authorized representative of the Contractor (owner/proprietor/site in charge). If the contractor refuses to sign, the evaluation of engineer in charge will be final. The performance rating as emerged out will be kept in the system.

In case Performance Rating obtained above is 'Unsatisfactory', in a single contract in two consecutive billing cycles, the Contractor shall not be recommended for issue of tender enquiry/ price bid opening/ placement of PO for a period as deemed fit not more than 2 years.

2. Format:

Format for Contractor's Performance Evaluation

Overhauling and Maintenance Contract

{Applicable for Housekeeping, Worker Intensive Activities & EPC Contract/New Project}

Monthly Performance Evaluation

1	Name of Work:	
2	Work Order/ LOA Ref:	
3	Name of Contractor:	
4	Month of Performance Rating	From.....to.....



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	Description	Max Marks	Marks Obtained
A	Quality, Nos and Workmanship in Work: Maximum 45 Marks		
	Quality of manpower deployed (As per the terms & condition of contract, NIT/Tender Document, including literacy etc if any).		
1	a. Skilled category, (Either ITI holder, HP welders, Fitters, Gang head of erection team and / or selected by the Engineer in Charge as per the experience and TEST conducted).	05	
	b. Unskilled category (Stress on literacy level, experience and safety consciousness).	05	
	c. Trained & Experience Engineers/ qualified supervisor (BE/Diploma holder and / or selected by EIC, knowledge/relevant experience).	05	
	d. Deployment/ development of highly skilled specialist technicians for critical jobs.(as and when required)	05	
2	Strictly following quality guidelines, quality plan(QAP) and / or checklist for each job, given by the Engineer In charge.	10	
3	a. Repetition of job due to bad workmanship including defect liability (frequency of occurrence & compliance for rectification). b. Improper use of DVC facilities (Example: Leaving junction boxes open after the job is over, keeping scrap, welding rod, cable & wire etc.)	0 to (-) 15	
4	a. Maintaining cleanliness at workplace while working (use of working trays, container etc.) b. Proper handling of grease, oil etc. (proper container, no spillage & Contamination etc.) c. Cleaning the workplace including removal of scrap after completion of the job, removal of debris etc.	06	
5	Use of proper tools & tackles applicable for a particular job.	05	
6	Training of contractor's manpower at DVC training centre for at least 02 hours per fortnight.	04	
B	Adherence to Time Schedule: Maximum 30 Marks		
1	Availability of all tools & tackles (under the scope of contractor)	05	



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	without any time delay		
2	Mobilization of proper skilled & unskilled manpower without any time delay	05	
3	a. Completion of job/supply of materials within the time frame specified in the contract (wherever available)/Project Milestone and Schedule.	10	
	b. Advance Scheduling of Jobs along with Engineer In charge before start of the job.	05	

4	Mobilization time taken to start the job at the beginning of the contract after getting intimation from the Engineer In charge. Promptness to call/start.	05	
C	Adherence to Safety : Maximum 15 Marks		
1	100% Supply of PPE & Uniform as identified in contract for workers.	05	
2	Follow health and safety plan whatever layout by safety deptt. time to time	02	
3	Special care while working at heights. (Use of proper sized platform / safety belts, nets etc).	02	
4	Proper handling of material (while lifting heavy material at height). (Example: Use of cage / basket , checking of winch, crane, wire rope, etc).	02	
5	Periodic testing of lifting tools & tackles which are at the contractor's scope Inspection of Tools & Tackles before start of work and during the execution of contract whenever required.	02	
6	Participation in Safety Awareness of the workers and training given by DVC and safety related records.	01	
7	Promptness and responsiveness during emergencies	01	
8	Non-compliance of safety requirements (depends on Reports issued for violation of safety)	0 to (-) 4	
D	Responsiveness : Maximum 10 Marks		
1	Ability to respond positively for changes in scope, schedules, manpower , providing scope and space to other contractors.	02	



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2	Availability of the contractor / site In-charge with adequate authorization and powers for execution of job. Site In charge response on Mobile/ Phone	02	
3	Attending Telephone Calls both Land line and mobile for 24 x7 Hrs	02	
4	Attending daily/ weekly/ monthly or other meetings	01	
5	Deployment of adequate and appropriate manpower from time to time	01	
6	Timely submission of Check lists etc.	01	

7	Timely submission of Bills, invoices and other required documents	01	
E	Statutory Compliances: 0 to (-) 30 Marks		
1	Complaints received from the contract workers regarding underpayment (less than statutory rates)/ Delayed Payment, No payment)	0 to (-)10	
2	No Record of release of PF to workers and / or complaints received regarding the payment of PF.	0 to (-)10	
3	Non Compliance of Statutory Compliances	0 to (-)5	
4	Not obtained timely insurance coverage, ESI	0 to (-)5	
5	Illegal disposal of waste oils, scrapes or any other hazardous material	0 to (-)2	
	Total (A to E)	100	
F	Bonus Points : 10 Marks		
1	Special initiative taken for the welfare of the contract workers	03	
2	Showing interest to come out with suggestive innovative ideas.	03	
3	To provide scope and space for the work of other agencies.	02	
4	Response to DVC Tender Enquiries	02	



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5	Claims and dispute	0 to (-)3	
	TOTAL (A TO F)		
G	Total Marks obtained in the Month		
	Cumulative Marks up to Previous Month		
	Marks in this Month (Total A to F)		
	Cumulative Marks		
	Cumulative Marks obtained Up to date Average Marks = ----- No of months		

NOTE: In case of Up to date Average marks obtained above is 70 or below, the Contractor shall not be Recommended for issue of tender enquiry for similar nature of work.

Format for Contractor's Performance Evaluation(DVC)

(To be filled up by Indenting deptt. at the time of Contract proposal put up for Tech & Adm. approval)

{Applicable for Overhauling, Housekeeping, Worker Intensive Maintenance Contracts}

Monthly Performance Evaluation		
1	Name of Work:	
2	Work Order/ LOA Ref:	
3	Name of Contractor:	
4	Month of Performance Rating	From.....to.....

Sl. No	Description	Max Marks	Marks Obtained
A	Quality and Workmanship in Work: Maximum 45 Marks		
1	Quality of manpower deployed (As per the terms & condition of contract, including literacy level etc if any).		



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	a. Skilled category, (Either ITI holder and / or selected by the Engineer in Charge as per the experience and TEST conducted).	05	
	b. Unskilled category (Stress on literacy level, experience and safety consciousness).	05	
	c. Trained/ qualified supervisor (Diploma holder and / or selected by Engineer in charge, knowledge/relevant experience).	05	
	d. Deployment/ development of highly skilled specialist technicians for critical jobs.(as and when required)	05	
2	Strictly following quality guidelines, quality plan and / or checklist for each job, given by the Engineer In charge.	10	
3	a. Repetition of job due to bad workmanship including defect liability (frequency of occurrence & compliance for rectification).		
	b. Improper use of DVC facilities (Example: Leaving junction boxes open after the job is over etc.)	0 to (-) 15	
4	a. Maintaining cleanliness at workplace while working (use of working trays, container etc.)		
	b. Proper handling of grease, oil etc. (proper container, no spillage & Contamination etc.)		
	c. Cleaning the workplace including removal of scrap after completion of the job, removal of debris etc.	06	
5	Use of proper tools & tackles applicable for a particular job.	05	
6	Training of contractor's manpower at DVC training centre for at least 02 hours per fortnight.	04	
B	Adherence to Time Schedule: Maximum 30 Marks		
1	Availability of all tools & tackles (under the scope of contractor) without any time delay.	05	
2	Mobilization of proper skilled & unskilled manpower without any time delay	05	
	a. Completion of job within the time frame specified in the contract (wherever available)	10	



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3	b. Advance Scheduling of Jobs along with Engineer In charge before start of the job.	05	
4	Mobilization time taken to start the job at the beginning of the contract after getting intimation from the Engineer In charge. Promptness to call.	05	
C	Adherence to Safety : Maximum 15 Marks		
1	100% Supply of PPE & Uniform as identified in contract for workers.	05	
2	Follow health and safety plan whatever layout by safety deptt time to time	02	
3	Special care while working at heights. (Use of proper sized platform / safety belts etc).	02	
4	Proper handling of material (while lifting heavy material at height). (Example: Use of cage / basket etc).	02	
5	Periodic testing of lifting tools & tackles which are at the contractor's scope Inspection of Tools & Tackles before start of work and during the execution of contract whenever required.	02	
6	Participation in Safety Awareness of the workers and training given by DVC and safety related records.	01	
7	Promptness and responsiveness during emergencies	01	
8	Non-compliance of safety requirements (depends on Reports issued for violation of safety)	0 to (-) 4	
D	Responsiveness : Maximum 10 Marks		
1	Ability to respond positively for changes in scope, schedules, manpower	02	
2	Availability of the contractor / site In-charge with adequate authorization and powers for execution of job. Site In charge response on Mobile/ Phone	02	
3	Attending Telephone Calls both Land line and mobile for 24 x7 Hrs	02	
4	Attending daily/ weekly/ monthly or other meetings	01	



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5	Deployment of adequate and appropriate manpower from time to time	01	
6	Timely submission of Check lists etc.	01	
7	Timely submission of Bills, invoices and other required documents	01	
E	Statutory Compliances: 0 to (-) 30 Marks		
1	Complaints received from the contract workers regarding underpayment (less than statutory rates)/ Delayed Payment, No payment)	0 to (-)10	
2	No Record of release of PF to workers and / or complaints received regarding the payment of PF.	0 to (-)10	
3	Non Compliance of Statutory Compliances	0 to(-)5	
4	Not obtained timely insurance coverage, ESI	0 to(-)5	
5	Illegal disposal of waste oils, scrapes or any other hazardous material	0 to(-)2	
	Total (A to E)	100	
F	Bonus Points : 10 Marks		
1	Special initiative taken for the welfare of the contract workers	03	
2	Showing interest to come out with suggestive innovative ideas	03	
3	Participation in e-Tendering	02	
4	Response to DVC Tender Enquiries	02	
5	Claims and dispute	0 to (-)3	
	TOTAL (A TO F)		
G	Total Marks obtained in the Month	110	
	Cumulative Marks up to Previous Month		
	Marks in this Month (Total A to F)		
	Cumulative Marks		
	Cumulative Marks obtained		



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Up to date Average Marks = ----- No of months		
NOTE: In case of Up to date Average marks obtained above is 70 or below, the Contractor shall not be Recommended for issue of tender enquiry for similar nature of work.		

(Sign of Engineer-in-Charge)

(Sign of Authorized Representative of Contractor)

Contractor's Performance Rating		
1	Name of Work:	
2	Work Order/ LOA Ref:	
3	Name of Contractor:	
4	Period of Performance Rating	From.....to.....

Sl. No.	Up to date Average Marks Obtained	Rating	Rating Obtained *
1	91 & above	Very Good	
2	81 – 90	Good	
3	70 – 80	Satisfactory	
4	Below 70	Unsatisfactory	
* Write as applicable and put (X) which are not applicable			

Recommendation Remark, (if any):

Engineer In charge:

Signature Name Designation

Head of Deptt:

Signature



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Name

Designation

NOTE:

1. In case Performance Rating obtained above is 'Unsatisfactory', in a single contract in two consecutive billing cycles, the Contractor shall not be recommended for issue of tender enquiry/ price bid opening/ placement of PO for a period as deemed fit not more than 2 years.
2. Enclose all the monthly filled up and Jointly Signed Performance Evaluation Form.
3. The Above Performance Rating shall, generally, be given at the completion of contract period including its extension if any. However, if required, in C&M, the same shall be given during the execution of work.
4. Notwithstanding anything stated above, the Employer will deduct 10 marks from 1st RA Bill, for non-execution of Contract Agreement (wherever applicable) within 21 days from the date of issuance of PO/LOA/Work Order/LOA-cum-Work Order due to the fault of the vendor/contractor/ Service Provider.

(Sign of Authorized Representative of Contractor)



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