



**SEEPZ SEZ AUTHORITY**

**QUALITY & COST BASED SELECTION (QCBS)**

(Using E- Procurement mode on Central Public Procurement Portal)

**REQUEST FOR PROPOSAL  
FOR**

**EPC DEVELOPER (DESIGN & BUILD) FOR CONSTRUCTION OF NEW STANDARD  
DESIGN FACTORY (SDF) – 09 FOR ELECTRONIC HARDWARE & SOFTWARE UNITS AT  
SEEPZ-SEZ, ANDHERI, MUMBAI, MAHARASHTRA**

Tender Ref. No.: SEEPZ-SEZ/E-OPT-12/91/2022-EO/EHS

Date of Issue: 30.08.2022

**ISSUING AUTHORITY:**

**Development Commissioner, SEEPZ- SEZ, Mumbai**

Postal Address: SEEPZ SEZ, MIDC Central Road,

Andheri East, Mumbai 400096.

E-Mail: [dcseepz-mah@nic.in](mailto:dcseepz-mah@nic.in)

Helpline No.: 022-28290856

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(From 9:30 A.M. to 6:00 P.M.)

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## KEY INFORMATION AT A GLANCE

SN	Item	Description
1	RFP Ref. No.	SEEPZ-SEZ/E-OPT-12/91/2022-EO/EHS
2	RFP Title	EPC Developer (Design & Build) for Construction of New Standard Design Factory (SDF) – 09 for Electronic Hardware & Software Units at SEEPZ SEZ, Andheri (E), Mumbai, Maharashtra
3	Estimated Cost of the Project (Approx.)	Rs. 75,00,000,00/- (Rs. Seventy-Five Crores only)
4	Link for downloading the RFP documents	RFP can be downloaded <b>free of cost</b> from the following websites: <a href="https://eprocure.gov.in/epublish/app">https://eprocure.gov.in/epublish/app</a>
5	EMD	An amount of Rs. 50,00,000.00 (Rs. Fifty Lakhs Only) has to be submitted through Bank Guarantee or Demand Draft from Nationalised Bank
6	Date of RFP Publishing	30.08.2022
7	Date and time of Pre-bid Meeting	09.09.2022 11:00 hrs at SEEPZ SEZ, Administrative building, Andheri East, Mumbai
8	Last date and time for Submission of RFP	21.09.2022 at 15.30 Hrs.
9	Date and time of opening of RFP	22.09.2022 at 16.00 Hrs.
10	Help Desk No. for e -Procurement Portal	0120-4200462, 0120-4001002, 0120-4001005
11	Authority to be contacted in case of any clarification / request for entry permission for physical visit	Name:- Vikram Satre Contact no. : 8286587409 Email:- vikram.satre@gov.in

## **INSTRUCTIONS FOR ONLINE EOI SUBMISSION**

Bidders are required to submit soft copies of their EoIs electronically on the CPP Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the Bidders in registering on the CPP Portal, prepare their EoIs in accordance with the requirements and submitting their EoIs online on the CPP Portal.

### **REGISTRATION**

1. Bidders are required to enrol on the e-Procurement module of the Central Public Procurement Portal (URL: <https://eprocure.gov.in/eprocure/app>) by clicking on the link “Online Bidder Enrolment” on the CPP Portal which is free of charge.
2. As part of the enrolment process, the Bidders will be required to choose a unique username and assign a password for their accounts.
3. Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the CPPP.
4. Upon enrolment, the Bidders will be required to register their valid Digital Signature Certificate (Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g., Sify / nCode / eMudhra etc.), with their profile.
5. Only one valid DSC should be registered by a bidder. Please note that the Bidders are responsible to ensure that they do not lend their DSCs to others which may lead to misuse.
6. Bidder then logs in to the site through the secured log-in by entering their user ID / password and the password of the DSC / e-Token.

### **SEARCHING FOR TENDER DOCUMENTS**

1. There are various search options built in the CPP Portal, to facilitate Bidders to search active tenders by several parameters. These parameters could include Tender ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for tenders, wherein the Bidders may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a tender published on the CPP Portal.
2. Once the Bidders have selected the tenders they are interested in, they may download the required documents / tender schedules. These tenders can be moved to the respective ‘My Tenders’ folder. This would enable the CPP Portal to intimate the Bidders through SMS / e-mail in case there is any corrigendum issued to the tender document.
3. The Bidder should make a note of the unique Tender ID assigned to each tender; in case they want to obtain any clarification / help from the Helpdesk.

## INVITATION FOR BIDDING

**Ref No:** SEEPZ-SEZ/E-OPT-12/91/2022-EO/EHS

**Date:** 30.08.2022

**Tender Title: Request For Proposals For “EPC Developer (Design & Build) For Construction of New Standard Design Factory (SDF) – 09 For Electronic Hardware & Software Units at SEEPZ-SEZ, Andheri, Mumbai, Maharashtra.”**

Sir/Madam

The SEEPZ- SEZ Authority invites E-tender for **EPC Developer (Design & Build) for Construction of New Standard Design Factory (SDF) – 09 for Electronic Hardware & Software Units at SEEPZ-SEZ, Andheri, Mumbai, Maharashtra.”** on Lumpsum basis in two cover system from experienced and competent bidders, meeting prescribed qualifying criteria as mentioned in the bidding documents.

The process of selection of suitable bidder shall be through Quality & Cost Based Selection (QCBS). The Bidding process shall be conducted in an online mode on the Central Public Procurement Portal (CPPP) which is publicly accessible using the following web address: <https://eprocure.gov.in/eprocure/app>. Bidders can download the Request for Proposals free of cost from this portal.

The Bidder should upload their technical and financial proposals separately within the stipulated time and date i.e., **21 09.2022 at 15:30** The Bidder is solely responsible for timely uploading of Proposals on the e-procurement portal. SEEPZ SEZ Authority shall not be liable for resolving any queries / issues raised on the day of Proposal submission.

The Technical Proposals shall be opened online **at 16:00 hours on 22/09/2022**. Bidder can see the tender opening status by logging on to the e-procurement portal using their registered IDs. Financial Proposals of only technically qualified Bidder shall be opened at a date & time which shall be pre-disclosed on the e-procurement portal.

SEEPZ SEZ Authority reserves the right to accept or reject any or all the Proposals at any time during the Bidding process.

-Sd/-

**Development Commissioner  
SEEPZ SEZ Authority**

**SECTION 1 - INSTRUCTIONS TO  
BIDDERS (ITB)**

<b>A. General</b>	
<b>1. Scope of Bid</b>	In connection with the Invitation for Bids (IFB) indicated in the Bid Data Sheet (BDS), the Employer, as indicated in the BDS, issues this Bidding Document for the procurement of Works as specified in Section 5 (Employer's Requirements).
<b>2. Fraud and Corruption</b>	The bidder shall be debarred if he has been convicted of an offence under the Prevention of Corruption Act, 1988 or the Indian Penal Code or any other law for the time being in-force
<b>3. Eligible Bidders</b>	Only shortlisted bidder from the Request for Expression of Interest carried out earlier for selection of General Contractor For EPC Developer (Design & Build) for construction of New Standard Design Factory (SDF) – 09 For Electronic Hardware & Software Units at SEEPZ-SEZ, Andheri, Mumbai, Maharashtra are eligible to participate
<b>4. Eligible Materials, Equipment and Services</b>	The Bidder should self-certify owned or having assured access (through hire, lease, purchase agreement, other commercial means) to the specified key items of equipment, in full working order, and satisfy that, based on known commitments
<b>B. Contents of Bidding Document</b>	
<b>5. Sections of Bidding Document</b>	The Bidding Document consist of following sections and should be read in conjunction with any addendum issued. <ul style="list-style-type: none"> <li>• Invitation for bidding (IFB)</li> <li>• Section 1 - Instructions to Bidders (ITB)</li> <li>• Section 2 - Bid Data Sheet (BDS)</li> <li>• Section 3 - Evaluation and Qualification Criteria (EQC)</li> <li>• Section 4 - Bidding Forms (BDF)</li> <li>• Section 5 - Employer's Requirements (ERQ)</li> <li>• Section 7 - General Conditions of Contract (GCC)</li> <li>• Section 8 - Special Conditions of Contract (SCC)</li> <li>• Section 9 - Contract Forms (COF)</li> </ul>
	The Employer is not responsible for the completeness of the Bidding Document and their addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for bidding (IFB)
	The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.
<b>6. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting</b>	The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.
	The Bidder and any of its personnel or agents will be granted permission by the Employer to enter its premises and lands for the purpose of such visit, but only upon the condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.

<b>7. Amendment of Bidding Document</b>	At any time prior to the deadline for submission of Bids, the Employer may amend the Bidding Document by issuing addendum.
	Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with ITB 6
	To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Employer may, at its discretion, extend the deadline for the submission of Bids, pursuant to ITB 18
<b>C. Preparation of Bids</b>	
<b>8. Cost of Bidding</b>	The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
<b>9. Language of Bid</b>	The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language specified in the BDS.
<b>10. Documents Comprising the Bid</b>	The Bid shall comprise two envelopes i.e Technical Proposal and Price Bid to be uploaded online in CPP Portal
	The Technical Bid shall comprise the following: <ul style="list-style-type: none"> <li>• Letter of Technical Bid;</li> <li>• EMD, in accordance with ITB 17</li> <li>• PoA, in accordance with ITB 18</li> <li>• documentary evidence in accordance with ITB 15, establishing the Bidder's qualifications to perform the contract;</li> <li>• Technical Proposal in accordance with ITB 14;</li> <li>• Any other document required in the BDS.</li> </ul>
	The Price Bid shall comprise the following: <ul style="list-style-type: none"> <li>• Letter of Price Bid;</li> <li>• completed Price Schedules, in accordance with ITB 14;</li> <li>• Any other document required in the BDS.</li> </ul>
	Bids submitted by a Joint Venture shall include a copy of the Joint Venture Agreement entered into by all partners. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful Bid shall be signed by all partners and submitted with the Bid, together with a copy of the proposed agreement.
<b>11. Letters of Bid and Schedules</b>	The Letters of Technical Bid and Price Bid, and the Schedules, shall be prepared using the relevant forms furnished in Section 4 (Bidding Forms). The forms must be completed without any alterations to the text, and no substitutes shall be accepted.
<b>12. Bid Prices</b>	The quoted price shall be lumpsum along with the breakup
<b>13. Currencies of Bid and Payment</b>	The unit rates and the prices shall be quoted by the Bidder entirely in the currency specified in the BDS.
<b>14. Documents Comprising the Technical Proposal</b>	The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule, and any other information as stipulated in Section 4 (Bidding Forms), in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.
<b>15. Documents Establishing the</b>	To establish its qualifications to perform the Contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the



<b>Qualifications of the Bidder</b>	information requested in the corresponding information sheets included in Section 4 (Bidding Forms).
<b>16. Period of Validity of Bids</b>	Bids shall remain valid for the period specified in the BDS after the bid submission deadline date prescribed by the Employer. A bid valid for a shorter period shall be rejected by the Employer as nonresponsive.
	In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 19, it shall also be extended 28 days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its Bid.
<b>17. Bid Security/EMD</b>	Unless otherwise specified in the BDS, the Bidder shall furnish as part of its Bid, in original form EMD of Rs. Fifty Lakhs as bid security as specified in the BDS.
	<p>If a bid security is specified pursuant to ITB 19, the bid security shall be, at the Bidder's option, in any of the following forms:</p> <ul style="list-style-type: none"> <li>• an unconditional bank guarantee of any Nationalized Bank</li> <li>• Demand Draft of any Nationalized Bank</li> </ul> <p>In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section 4 (Bidder Forms) or another form acceptable to the Employer. The form must include the complete name of the Bidder. The bid security shall be valid for 28 days beyond the original validity period of the bid, or beyond any period of extension if requested</p>
	Unless otherwise specified in the BDS, any Bid not accompanied by a substantially compliant bid security or Bid-Securing Declaration, if one is required in accordance with ITB 17, shall be rejected by the Employer as nonresponsive.
	<p>The bid security may be forfeited</p> <ul style="list-style-type: none"> <li>• if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letters of Technical Bid and Price Bid, except as provided in ITB 18</li> <li>• if the successful Bidder fails to <ul style="list-style-type: none"> <li>(i) sign the Contract in accordance with ITB 34;</li> <li>(ii) furnish a performance security in accordance with ITB 35;</li> <li>(iii) accept the arithmetical correction of its Bid in accordance with ITB 29</li> </ul> </li> </ul>
	The Bid Security of a Joint Venture shall be in the name of the Joint Venture that submits the Bid. If the Joint Venture has not been legally constituted at the time of bidding, the bid security shall be in the names of all future partners as named in the letter of intent
<b>D. Submission and Opening of Bids</b>	
<b>18. Signing and Uploading of Bids</b>	<ul style="list-style-type: none"> <li>• The individual signing/ digitally signing the bid or any other connected documents should submit an authenticated copy of the document(s), which authorizes the signatory to commit and submit bids on behalf of the bidder.</li> <li>• No manual Bids shall be made available or accepted for submission (except for originals of scanned copies as per sub-clause 5 below). In the case of downloaded documents, Bidder must not make any changes to the contents of the documents while uploading, except for filling the required information— otherwise, the bid shall be rejected as</li> </ul>

nonresponsive.

- Bids shall be received only Online on or before the deadline for the bid submission as notified in BDS.
- Only one copy of the bid can be uploaded, and Bidder shall digitally sign all statements, documents, certificates uploaded by him, owning sole and complete responsibility for their correctness/ authenticity as per the provisions of the IT Act 2000 as amended from time to time.
- Bidder need not sign or up-load the Schedules in ITB-clause 1.4 above while uploading his bid unless otherwise instructed in the Tender Document. It is assumed that Bidder commits itself to comply with all the Sections and documents uploaded by the Tender Inviting Officer.
- Bidder must upload scanned copies of originals (or self-attested copies of originals – as specified). Uploaded Pdf documents should not be password protected. Bidder should ensure the clarity/ legibility of the scanned documents uploaded by him.
- If stipulated in the BDS, copies/ originals of such specified uploaded scanned documents must also be physically submitted sealed in double cover and acknowledgement be obtained before the deadline for the bid submission at the venue mentioned. Failure to do so is likely to result in the bid being rejected as nonresponsive. If the office is closed on the deadline for physical submission of originals, it shall stand extended to the next working day at the same time and venue. The Procuring Entity reserves its right to call for verification originals of all such self-certified documents from the Bidders at any stage of evaluation, especially from the successful Bidder(s) before the issue of Letter of Award (LoA).
- Regarding the protected Price Schedule (excel format, Cover-2), Bidder shall write his name in the space provided in the specified location only. Bidder shall type rates in the figure only in the rate column of respective service(s) without any blank cell or Zero values in the rate column, without any alteration/ deletion/ modification of other portions of the excel sheet. If space is inadequate, Bidder may upload additional documents under "Additional Documents" in the "bid Cover Content."
- The date and time of the deadline for the bid submission shall remain unaltered even if the specified date is declared a holiday for the Tender Inviting Officer.
- The date and time of the e-Procurement server clock, which is also displayed on the dashboard of the bidders, shall be taken as the reference time for deciding the closing time of bid submission. Bidders are advised to ensure they submit their bid within the deadline and time of bid submission, taking the server clock as a reference, failing which the portal shall not accept the Bids. No request on the account that the server clock was not showing the correct time and that a particular bidder could not submit their bid because of this shall be entertained. Failure or defects on the internet or heavy traffic at the server shall not be accepted as a reason for a complaint. The Procuring Entity shall not be responsible for any failure, malfunction or breakdown of the electronic system used during the e-Tender Process.
- All Bids uploaded by Bidder to the portal shall get automatically encrypted. The encrypted bid can only be decrypted/ opened by the authorised persons on or after the due date and time. The bidder should

	<p>ensure the correctness of the bid before uploading and take a printout of the system generated submission summary to confirm successful bid upload.</p> <ul style="list-style-type: none"> <li>• The Procuring Entity may extend the deadline for the bid submission by issuing an amendment as per ITB-17 above, in which case all rights and obligations of the Procuring Entity and the bidders previously subject to the original deadline shall then be subject to the new deadline for the bid submission.</li> <li>• Bid submitted through modalities other than those stipulated in BDS shall be liable to be rejected as nonresponsive.</li> </ul>
<b>19. Deadline for Submission of Bids</b>	Bids must be received by the Employer at the address and no later than the date and time indicated in the BDS.
	The Employer may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB 19, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
<b>20. Late Bids</b>	The Employer shall not consider any Bid that arrives after the deadline for submission of bids, in accordance with ITB19. Any bid received by the Employer after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.
<b>21. Bid Opening</b>	The date & time of the opening bid is as stipulated in BDS. Bids cannot be opened before the specified date & time, even by the Tender Inviting Officer, the Procurement Officer, or the Publisher. If the specified date of Bid opening falls on is subsequently declared a holiday or closed day for the Procuring Entity, the Bids shall be opened at the appointed time on the next working day.
	At the end of the evaluation of the Technical Bids, the Employer will upload the technical summary on CPP Portal before opening of Price Bid along with date & time of the opening of Price Bids
<b>E. Evaluation and Comparison of Bids</b>	
<b>22. Confidentiality</b>	Information relating to the examination, evaluation, comparison, and post qualification of Bids and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on the Contract award is communicated to all Bidders.
	Any attempt by a Bidder to influence the Employer in the evaluation of the Bids or Contract award decisions may result in the rejection of its Bid.
	Notwithstanding from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it may do so in writing.
<b>23. Clarification of Bids</b>	To assist in the examination, evaluation, and comparison of the Technical and Price Bids, the Employer may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the substance of the Technical Bid or prices in the Price Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Price Bids, in accordance with ITB 29
	If a Bidder does not provide clarifications of its Bid by the date and time set in the Employer's request for clarification, its Bid may be rejected.

<p><b>24. Deviations, Reservations, and Omissions</b></p>	<p>During the evaluation of Bids, the following definitions apply:</p> <ol style="list-style-type: none"> <li>1. “Deviation” is a departure from the requirements specified in the Bidding Document;</li> <li>2. “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and</li> <li>3. “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Document.</li> </ol>
<p><b>25. Examination of Technical Bids</b></p>	<p>The Employer shall examine the Technical Bid to confirm that all documents and technical documentation requested in ITB 14 have been provided, and to determine the completeness of each document submitted.</p>
	<p>The Employer shall confirm that the following documents and information have been provided in the Technical Bid. If any of these documents or information is missing, the offer shall be rejected.</p> <ul style="list-style-type: none"> <li>• Letter of Technical Bid;</li> <li>• PoA</li> <li>• Bid Security /EMD</li> <li>• Technical Proposal in accordance with ITB 14.</li> </ul>
<p><b>26. Responsiveness of Technical Bid</b></p>	<p>The Employer’s determination of a Bid’s responsiveness is to be based on the contents of the bid itself, as defined in ITB 31</p> <p>A substantially responsive Technical Bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that, if accepted, would:</p> <ul style="list-style-type: none"> <li>• affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or</li> <li>• limit in any substantial way, inconsistent with the Bidding Document, the Employer’s rights or the Bidder’s obligations under the proposed Contract; or</li> </ul> <p>if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.</p> <p>The Employer shall examine the technical aspects of the Bid submitted in accordance with ITB 14, Technical Proposal, in particular, to confirm that all requirements of Section 6 (Employer’s Requirements) have been met without any material deviation, reservation, or reservation.</p> <p>If a Bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.</p>
<p><b>27. Nonmaterial Nonconformities</b></p>	<p>Provided that a Bid is substantially responsive, the Employer may waive any nonconformities in the Bid that do not constitute a material deviation, reservation, or omission.</p> <p>Provided that a Technical Bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Technical Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the Price Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.</p> <p>Provided that a Technical Bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the method indicated in Section 3</p>

	(Evaluation and Qualification Criteria).
<b>28. Qualification of the Bidder</b>	The Employer shall determine to its satisfaction during the evaluation of Technical Bids whether Bidders meet the qualifying criteria specified in Section 3 (Evaluation and Qualification Criteria).
	The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 15
	An affirmative determination shall be a prerequisite for the opening and evaluation of a Bidder's Price Bid. A negative determination shall result into the disqualification of the Bid, in which event the Employer shall return the unopened Price Bid to the Bidder.
<b>29. Correction of Arithmetical Errors</b>	During the evaluation of Price Bids, the Employer shall correct arithmetical errors on the following basis: If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected.  If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.  If there is a discrepancy between the bid price in the Summary of Bill of Quantities and the bid amount in item (c) of the Letter of Price Bid, the bid price in the Summary of Bill of Quantities will prevail and the bid amount in item (c) of the Letter of Price Bid will be corrected.  If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a), (b) and (c) above.
<b>30. Evaluation of Price Bids</b>	The Employer shall use the criteria and methodologies listed in this Section 3 other evaluation criteria or methodologies shall not be permitted.
<b>31. Employer's Right to Accept Any Bid, and to Reject Any or All Bids</b>	The Employer reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.
<b>F. Award of Contract</b>	
<b>32. Award Criteria</b>	The Employer shall award the Contract to the Bidder who has ranked highest based on the combined score of technical and financial bid based on QCBS method
<b>33. Notification of Award</b>	Prior to the expiration of the period of bid validity, the Employer shall notify the successful Bidder, in writing, that its Bid has been accepted.
	At the same time, the Employer shall also notify all other Bidders of the results of the bidding.
	Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.
<b>34. Signing of Contract</b>	Promptly after notification, the Employer shall send the successful Bidder the Contract Agreement.
	Within 15 days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.
<b>35. Performance Security</b>	Within 15 days of the receipt of notification of award from the Employer, the successful Bidder shall furnish the performance security in accordance with the conditions of contract, subject to ITB 34, using for that purpose the

	Performance Security Form included in Section 8 (Contract Forms), or another form acceptable to the Employer.	
<b>36. Payment schedule</b>		
<b>DESIGN PHASE- 4.0 %</b>		
<b>S.No.</b>	<b>On Approval of Design &amp; GFC Drawing from Authority</b>	<b>Percentage %</b>
<b>1.</b>	Basement	0.5
<b>2</b>	Ground floor	0.5
<b>3</b>	First floor	0.5
<b>4</b>	Second floor	0.5
<b>5</b>	Third floor	0.5
<b>6</b>	Fourth floor	0.5
<b>7</b>	Fifth floor	0.5
<b>8</b>	Sixth floor	0.5
<b>CONSTRUCTION PHASE- 60.0 %</b>		
	<b>On completion of work</b>	
<b>1.</b>	Basement	7.5
<b>2</b>	Ground floor	7.5
<b>3</b>	First floor	7.5
<b>4</b>	Second floor	7.5
<b>5</b>	Third floor	7.5
<b>6</b>	Fourth floor	7.5
<b>7</b>	Fifth floor	7.5
<b>8</b>	Sixth floor	7.5
<b>MEP SERVICES- 15.0 %</b>		
	<b>On completion of work</b>	
<b>1.</b>	Basement	1
<b>2</b>	Ground floor	2
<b>3</b>	First floor	2
<b>4</b>	Second floor	2
<b>5</b>	Third floor	2
<b>6</b>	Fourth floor	2
<b>7</b>	Fifth floor	2
<b>8</b>	Sixth floor	2
<b>FINISHING- 8.0 %</b>		
	<b>On completion of work</b>	
<b>1.</b>	Basement	1
<b>2</b>	Ground floor	1
<b>3</b>	First floor	1
<b>4</b>	Second floor	1
<b>5</b>	Third floor	1
<b>6</b>	Fourth floor	1
<b>7</b>	Fifth floor	1
<b>8</b>	Sixth floor	1
<b>EXTENAL DEVELOPMENT- 5.0% (on completion)</b>		
<b>FAÇADE-8.0 % (on completion)</b>		

<b>37. Mobilization advance</b>	10% of the contract price on submission of equivalent amount of Bank Guarantee from Nationalize Bank, The advance payment shall be released in two equal installment and shall carry simple interest as per the prevailing rate
	The advance payment shall be recovered through proportionate deductions to be made in the interim payment certificates
	Deduction of advance payment shall commence from the interim payment in which the cumulative interim payment certified shall have reached 50% of the contract price.

## **SECTION 2 - BID DATA SHEET(BDS)**



## A. General

<b>ITB 1</b>	The number of the Invitation for Bids (IFB) is: SEEPZ-SEZ/E-OPT-12/91/2022-EO/EHS
<b>ITB 1</b>	The Employer is: <b>SEEPZ SEZ AUTHORITY</b>
<b>ITB 1</b>	<b>The name of the Project is:</b> EPC developer (design & build) for construction of new standard design factory (SDF) – 09 for electronic hardware & software units at SEEPZ-SEZ, Andheri, Mumbai, Maharashtra

## B. Contents of Bidding Documents

<b>ITB 6</b>	For <b>clarification purposes</b> only, the Employer's address is: Mr. Vikram Satre SEEPZ- SEZ Authority Mumbai Postal Address: SEEPZ SEZ, MIDC Central Road, Andheri East, Mumbai 400096. E-Mail: vikram.satre@gov.in 8286587409(M)
<b>ITB 6</b>	<b>Pre-Bid meeting</b> Date: 09.09.2022 Time: 11:00 hrs Place: SEEPZ SEZ, Andheri East, Mumbai

## C. Preparation of Bids

<b>ITB 9</b>	The language of the Bid is: <b>English</b>
<b>ITB 13</b>	The prices shall be quoted by the Bidder entirely in: <b>Rupees</b>
<b>ITB 16</b>	The bid validity period shall be 90 days from the date of submission.
<b>ITB 17</b>	The Bidder shall submit EMD for an amount of <b>Rs. Fifty Lakhs only</b>
<b>ITB 17</b>	Any bid not accompanied by an EMD shall be rejected by the Employer as nonresponsive.
<b>ITB 18</b>	A power of attorney to sign the Bid documents shall be submitted

## D. Submission and Opening of Bids

<b>ITB 18</b>	Bidders has to submit the bid online in CPP Portal
<b>ITB 19</b>	For <b>bid submission purposes</b> only, the Employer's address is: Development Commissioner, SEEPZ- SEZ, Mumbai SEEPZ SEZ, MIDC Central Road, Andheri East, Mumbai 400096. E-Mail: dcseepz-mah@nic.in Helpline No.: 022-28290856 Landline: 022-28294728/29 <b>The deadline for bid submission is:</b> Date: 21.09.2022 Time: 15:30 hrs

<b>ITB 21</b>	The opening of the Technical Bid shall take place at: SEEPZ SEZ, MIDC Central Road, Andheri East, Mumbai 400096. E-Mail: dcseepz-mah@nic.in Helpline No.: 022-28290856 Landline: 022-28294728/29 Date: 22.09.2022 Time: 11:00 hrs
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### **E. Evaluation and Comparison of Bids**

<b>ITB 32</b>	The evaluation of bids shall be as per QCBS with weightage of 70% for technical bid and 30 % for financial bid
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# **SECTION 3 - EVALUATION AND QUALIFICATION CRITERIA**

## 1.0 GENERAL

The lead member can have joint venture (JV) with **two additional members** and all the members are “jointly and severally responsible and liable” in the contract. The attributes to be evaluated will be the same as for individual contractors and the Qualifying factors to be met collectively by Lead member and JV members.

The Qualifying factors for lead member should be not less than 50 % of the respective limit prescribed in eligibility criteria for individual contractor for the following:

- (i) Annual Turnover from Construction work
- (ii) Similar construction experience
- (iii) Financial capability (**Solvency**) to meet cash flow requirement of contract

The Qualifying factors for JV members is same as for lead partner except that for the annual turnover, a lower limit of 25 (twenty-five) per cent will be accepted instead of 50 (fifty) per cent.

The intending bidders should only submit his Technical Bid if they consider themselves meeting the eligibility and qualification criteria which are given below:

### A. Eligibility & Qualification Criteria

S no.	Eligibility Criteria	Supporting Documents	Applicability in case of JV
1	Must be Indian Registered Company under Companies Act 1956/ Public or corporation, registered with the appropriate government authority as Proprietorship/ Limited company/ Private limited company/ LLP/ Partnership/ and shall be in the <b>Construction business for at least last 5 years</b>	Copy of the incorporation / registration certificate clearly indicating the nature of business.	All members must submit individually.
2	The bidder should have valid <b>Class I</b> contractor enlistment with Central / State Government department for civil works.	(Please submit the proof of the same.)	All members must submit individually.
3	Joint venture agreement if applicable	–	–
4	Original Authorization Letter to sign the Tender.	–	–
5	Proof of Payment for EMD.	–	–

S no.	Eligibility Criteria	Supporting Documents	Applicability in case of JV
6	Letter of Transmittal on bidder letter Head to submit Technical Bid	<b>(Form-1)</b>	Lead member
7	Must possess a valid GST, PAN, ESIC, EPFO number	Copies GST, PAN, ESIC, EPFO	All members must submit individually.
8	Name, Address, details of the Organization, Name(s) of the Owner/Partners/Promoters and Directors of the firm/company.	<b>(Form-2)</b>	All members must submit individually.
9	Bidder should not be blacklisted/ debarred by any government/ semi government department/ PSU. <b>Bidder should submit the declaration</b> of not being ineligible for corrupt or fraudulent practices.	<b>(Form-3A&amp;3B)</b>	All members must submit individually.
10	Letter of understanding the project site on bidder letter Head	<b>(Form-4).</b>	Lead member
11	Consent Letter to execute the Integrity Pact	<b>Appendix-3A&amp;3B</b>	Lead member
12	Bidder shall confirm or otherwise that the building as described in Section 5 can be completed within 8 months from date of award or 1 <sup>ST</sup> May 2023 whichever is earlier using innovative construction methodology such as precast technology, RCC etc. but not limited to the same and which meets all the design parameters as required by the client.	Self-certified undertaking on company letterhead confirming acceptance of the timelines for handing over the building with 1Basement + Ground + 6 floors.	Lead member
13	Average annual financial turnover on <b>similar work</b> should be at least <b>Rs. Thirty Seven Crores Fifty Lakhs Only</b> during the immediate last <b>five consecutive</b> financial years ending 2021-22. The turnover, profit, net worth certificates must be certified by Statutory Auditor of the firm/company.	<b>(Form- 5)</b>	All members must submit individually.

S no.	Eligibility Criteria	Supporting Documents	Applicability in case of JV
	<p>The Contractor should not have incurred any loss in more than 2 years in last five financial years. <b>This should be duly audited by Chartered Accountant. Any such certificate must carry UDIN (Unique Document Identification Number).</b></p>		
14	<p>The bidder should have a <b><u>Solvency</u></b> of an Amount <b><u>Rs. Thirty crores.</u></b> The solvency certificate should be from a Nationalized / Scheduled bank and <b><u>Must have been issued after the date of publication of RFP &amp; be addressed to the tendering authority quoting the name of the work.</u></b></p> <p>The solvency certificate <b><u>should not be dated beyond the last date of submission of the bids.</u></b> The certificate should carry the name, designation &amp; power of attorney number of the bank official.</p>	<b>(Form- 6)</b>	<p>All members must submit individually.</p> <p>Solvency requirement for non-lead partners in the JV will be limited to 'positive net worth'</p>
15	<p>The contractor should have satisfactorily completed the works as mentioned below <b>during the last seven years</b> ending previous day of last date of submission of tender.</p> <p><b>One similar*</b> completed work costing not less than <b>80%</b> of the estimated cost of work</p> <p style="text-align: center;">Or</p> <p><b>Two similar*</b> completed works of order value each not less than <b>50%</b> of the estimated cost of work</p> <p style="text-align: center;">Or</p> <p><b>Three similar*</b> completed works of order value each</p>	<b>Form- 7</b>	<p>All members must submit individually.</p>

S no.	Eligibility Criteria	Supporting Documents	Applicability in case of JV
	not less than <b>40%</b> of the estimated cost of work		
<p><b>Similar* work refers to</b>  <b>Design and Build</b> of Multi-storied - SDF Building / Commercial / Industrial Buildings” for Electronic Hardware &amp; Software Sector/ Industrial sector/SEZ’s/ Govt., Semi Govt., Private Industrial Parks, etc. of <b>Precast /RCC framed structure having minimum one Basement+G+Six floors excluding Residential apartment/Housing building.</b></p> <p>The value of executed works shall be brought to current costing level by enhancing the actual value of work at simple rate of 7 % per annum, calculated from the date of completion to the last date of receipt of applications for tenders</p>			
<p><b>Note:</b></p> <ol style="list-style-type: none"> <li>1. Work Orders, Agreement, Completion Certificates to be submitted</li> <li>2. TDS (26 AS) downloaded from the web matching with the experience certificate should be attached.</li> </ol> <p><b>Experience certificate issued by the same management/sister concern/ joint ventures etc. are not acceptable.</b></p>			
16	<p><b>Equipment &amp; Machinery required for construction of 1 Basement, G+6 Building</b></p> <p>The Bidder should self-certify owned or having assured access (through hire, lease, purchase agreement, other commercial means) to the specified key items of equipment , in full working order, and satisfy that, based on known commitments</p>	Bidder shall submit a self-certified certificate on company Letter head confirming the listed equipment as per <b>Form “8”</b> is either owned or the bidder has assured access through hire, lease, purchase agreement, other commercial means, in full working order	All members must submit individually.
17	<p><b>Key personnel’s and their qualification Form-9(A)&amp;9(B)</b>  <i>to be certified on the company letter head by the HR Head or Head of the company that the same are available on the payroll of the company</i></p>		
a	Project Manager (PM)	Postgraduate or Graduate in Civil Engineering with minimum 20 years of similar work experience and designated as Project Manager for at least 1 project with Similar Cost of Project	Lead member together with JV members.
b	Resident Construction Manager (RCM)	Degree in Civil Engineering with minimum 15 years of similar work experience and designated as RCM for at least 1 project with Similar Cost of Project	

S no.	Eligibility Criteria	Supporting Documents	Applicability in case of JV
c	Lead Architect	Master in Architect <i>with</i> minimum 10 years of similar work experience for at least 1 project with Similar Cost of Project	
d	Lead Structural Engineer	Master in Infrastructure/Structural Engineering <i>with</i> minimum 10 years of similar work experience for at least 1 project with Similar Cost of Project	
e	Lead MEP Engineer	Degree in Mechanical or Electrical Engineering Discipline with minimum with minimum 10 years of similar work experience for at least 1 project with Similar Cost of Project	
f	Lead QA/QC Engineer	Degree in Engineering with minimum 10 years of similar work experience for at least 1 project with similar Cost of Project	
g	Lead Planning Engineer	Degree in Engineering with minimum 10 years of similar work experience for at least 1 project with similar Cost of Project	
h	Lead Safety Officer	Degree in Engineering with minimum 10 years of similar work experience for at least 1 project with similar Cost of Project	
i	Quantity Surveyors - Civil	Diploma/Degree in Civil Engineering with minimum 10 years of similar work experience for at least 1 project with similar Cost of Project	
j	Quantity Surveyors – MEP	Degree in Mechanical or Electrical Engineering with minimum 10 years of similar work experience for at least 1 project with similar Cost of	



S no.	Eligibility Criteria	Supporting Documents	Applicability in case of JV
		Project	

## B. SCORING CRITERIA

The bidder meeting the eligibility criteria will be evaluated by scoring method on the basis of details furnished by them

- (a) Financial strength -Maximum **20 Marks** (Last Five years)
- (b) Experience in similar nature of work - Maximum **30 Marks** (Past 10 years)
- (c) Plant and Equipment-**10 Marks**
- (d) Presentation - Maximum **20 Marks**
- (e) Key personnel -Maximum **20 Marks**

Gross Marks **Total 100 Marks**

Sr No	Attributes	Marks	Evaluation
<b>FINANCIAL STRENGTH</b>			
1	Annual turnover for Last 5 (Five) years	20 Marks	i) 60% Marks for minimum eligibility ii) 100% Marks for twice the eligibility criteria or more iii) In between (i) and (ii) - On prorata basis
<b>EXPERIENCE IN SIMILAR NATURE OF WORK</b>			
2	Similar work experience during last 7 years	20 Marks	i) 60% Marks for minimum eligibility ii) 100% Marks for twice the eligibility criteria or more In between (i) and (ii) - On prorata basis
	Similar work experience in EPC mode in last 7 year	10 Marks	
<b>PLANT AND EQUIPMENT</b>			
3	Plant and Machinery required for construction of 1 Basement & G+6 floor	10 Marks	iii) 60% Marks for minimum eligibility iv) 100% Marks for twice the eligibility criteria or more In between (i) and (ii) - On prorata basis
<b>PRESENTATION</b>			
<i>To be submitted in ppt form in Technical Proposal and shall be called for presentation during evaluation process</i>			
4	Understanding the Scope of project	20 Marks	3 Marks
	Design Concept		7 Marks
	Construction Methodology & Techniques to be adopted for Completing the project as per given timeline		7 Marks
	Work Plan, QAP including proposed team structure		3 Marks
<b>KEY PERSONNEL</b>			
1	Project Manager (PM)		3 Marks
2	Resident Construction Manager		2 Marks

	(RCM)	<b>20 Marks</b>	
3	Lead Architect		2 Marks
4	Lead Structural Engineer.		2 Marks
5	Lead MEP Engineer		2 Marks
6	Lead QA/QC Engineer		2 Marks
7	Lead Planning Engineer		2 Marks
8	Lead Safety Officer		2 Marks
9	Quantity Surveyors - Civil & Structural		1.5 Marks
10	Quantity Surveyors – MEP		1.5 Marks

### 3.0 EVALUATION AND RANKING OF BIDS

The ranking of the bids shall be done as follows

➤ **Combined Evaluation Process (OCBS)**

• **Minimum qualifying Technical Score**

Only those Bidders who obtain at least 75 marks out of 100 in the technical evaluation process (**Technical bid + Design Concept Presentation**) shall be eligible for financial bid opening.

• **Weights for quality and Cost.**

For the purpose of combined evaluation, the following weights shall be considered:  
Technical Score: 70%; Financial Score: 30%.

• **Calculation of weighted technical score**

For the purpose of combined evaluation, the following weights shall be considered:  
Technical Score: 70%; Financial Score: 30%.

• **Calculation of weighted financial score**

For calculation of financial score, the lowest financial proposal shall be accorded a financial score of 100 out of 100 and all other Bidders shall be given proportionate scores. An illustrative example is provided below:

Bidder Name	Price Quoted	Financial Score out of 100
Bidder A	Rs. 50,00,000	$= \frac{40,00,000}{50,00,000} \times 100 = 80$
Bidder B	Rs. 40,00,000	100
Bidder C	Rs. 60,00,000	$= \frac{40,00,000}{60,00,000} \times 100 = 66.67$

- After calculating the financial score out of 100, the weighted financial score shall be calculated by multiplying the financial score by a factor of 0.30. Thus, for example, a Bidder obtaining 80 marks out of 100 would have a weighted financial score of 24 out of 30.

➤ **Combined evaluation and recommendation for award of contract**

The combined evaluation score shall be the sum of weighted technical and weighted financial scores. An example of weighted scores and combined scores is given below:

<b>Bidder</b>	<b>Technical Score</b>	<b>Weighted Technical Score (0.70)</b>	<b>Financial Score</b>	<b>Weighted Financial Score (0.30)</b>	<b>Combined Score</b>	<b>Ranking</b>
A	80	56	100	30	86	H2
B	90	63	90	27	90	H1

The Bidder obtaining the highest combined score shall be recommended for award of contract by the evaluation committee

**FOR WHATEVER REASON IF THE PRICE SCHEDULE IS SUBMITTED AS PART OF THE TECHNO COMMERCIAL BID, THE BIDDER SHALL BE DISQUALIFIED AND THE SUBMITTED BID SHALL NOT BE EVALUATED FURTHER.**

## **SECTION 4 - BIDDING FORMS**

**FORM 1**  
**LETTER OF TECHNICAL PROPOSAL**

To,  
The Development Commissioner SEEPZ,  
SEZ Authority Andheri (East),  
Mumbai-400 096

Subject: Submission of bids for the work of **“EPC developer (design & build) for construction of new standard design factory (SDF) – 09 for electronic hardware & software units at SEEPZ-SEZ, Andheri, Mumbai, Maharashtra**

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addendum issued in accordance with Instructions to Bidders (ITB)
- (b) Our Bid consisting of the Technical Bid and the Price Bid shall be valid for a period of 90 days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (c) We, including any Subcontractors or Suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB
- (d) If our Bid is accepted, we commit to mobilizing key equipment and personnel in accordance with the requirements set forth in Section 6 (Employer’s Requirements) and our technical proposal, or as otherwise agreed with the Employer.

Name .....

In the capacity of .....

Signed .....

Duly authorized to sign the Bid for and on behalf of .....

Date .....

**FORM 2 (A)**  
**BIDDER'S INFORMATION SHEET**

<b>Bidder's Information</b>	
<b>Bidder's legal name</b>	
<b>In case of a Joint Venture, legal name of each partner</b>	
<b>Bidder's year of constitution</b>	
<b>Bidder's legal address</b>	
<b>Bidder's authorized representative</b> (name, address, telephone number(s), fax number(s), e-mail address)	
<p><b>Attached are copies of the following documents.</b></p> <ul style="list-style-type: none"> <li>• In case of a single entity, articles of incorporation or constitution of the legal entity named above, in accordance with eligibility criteria</li> <li>• Authorization to represent the firm or Joint Venture named above, in accordance with ITB</li> <li>• In case of a Joint Venture, a letter of intent to form a Joint Venture or Joint Venture agreement, in accordance with ITB</li> </ul>	

**FORM 2(B)  
JOINT VENTURE INFORMATION SHEET**

Each member of the Joint Venture must fill out this form separately.

<b>Joint Venture</b>	
<b>Bidder's legal name</b>	
<b>Joint Venture Partner's legal name</b>	
<b>Joint Venture Partner's year of constitution</b>	
<b>Joint Venture Partner's legal address</b>	
<b>Joint Venture Partner's authorized representative information</b> (name, address, telephone number(s), fax number(s), e-mail address)	
<p><b>Attached are copies of the following documents.</b></p> <ul style="list-style-type: none"> <li>• Articles of incorporation or constitution of the legal entity named above, in accordance with eligibility criteria</li> <li>• Authorization to represent the firm named above, in accordance with ITB</li> </ul>	

**FORM NO 3(A)**  
**FORMAT FOR NO-CONVICTION CERTIFICATE**

[On the letterhead of the Bidder]

**Subject: No-Conviction Certificate for “EPC developer (design & build) for construction of new standard design factory (SDF) – 09 for electronic hardware & software units at SEEPZ-SEZ, Andheri, Mumbai, Maharashtra”**

This is to certify that \_\_\_\_\_ (Name of the organization), having registered office at \_\_\_\_\_ (Address of the registered office) has never been blacklisted or restricted to apply for any such activities by any Central / State Government Department or Court of law anywhere in the country.

This is also to certify that M/s \_\_\_\_\_ (Name of Organization), is not involved in any form of Corrupt and Fraudulent practices in past and will never be involved in future.

Yours faithfully,

Date:

(Signature, name and designation  
of the Authorized signatory)

Place:

**Name and seal of Bidder**



**FORM NO 3(B)**  
**PENDING LITIGATION AND ARBITRATION**

Each Bidder must fill out this form if so required under Section 3 (Evaluation and Qualification Criteria) to describe any pending litigation or arbitration formally commenced against it.

In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name below:

Joint Venture Partner: \_\_\_\_\_

<b>Pending Litigation and Arbitration</b>			
<b>Choose one of the following:</b> <ul style="list-style-type: none"><li>• No pending litigation and Arbitration.</li><li>• Below is a description of all pending litigation and Arbitration involving the Bidder or each Joint Venture member if Bidder is a Joint Venture</li></ul>			
<b>Year</b>	<b>Matter in Dispute</b>	<b>Value of Pending Claim in Rs.</b>	<b>Value of Pending Claim as a Percentage of Net Worth</b>

**FORM NO 4(B)**  
**FORMAT FOR UNDERSTANDING THE PROJECT SITE**  
*(on Bidder Letter Head)*

To

To,  
The Development Commissioner SEEPZ,  
SEZ Authority Andheri (East),  
Mumbai-400 096

**Subject: Undertaking of the Site Visit for “EPC developer (design & build) for construction of new standard design factory (SDF) – 09 for electronic hardware & software units at SEEPZ-SEZ, Andheri, Mumbai, Maharashtra”**

Sir,

I/we hereby certify that I/we have examined & inspected the site & its surrounding satisfactorily, where the project is to be executed as per the scope of works. I/ We are well aware about the Location of the Building and existing utilities to connect to the system, conditions prevailing at site, availability of materials, availability of land and transport facilities, weather condition at site, the extent of leads and lifts involved in execution of work etc.

I / We hereby submit our BID considering above all facts gathered during site visit and each & every aspect have been considered in the Quoted cost of the project as per BOQ

Yours faithfully,

Date: (Signature, name and designation of the Authorized signatory)

Place: **Name and seal of Bidder**

**FORM 5**  
**HISTORICAL FINANCIAL PERFORMANCE**

Each Bidder must fill out this form.

**In case of a Joint Venture, each Joint Venture Partner must fill out this form separately and provide the Joint Venture Partner's name below:**

Joint Venture Partner: \_\_\_\_\_

<b>Financial Data for Previous 5 Years</b>				
<b>Year 1:</b>	<b>Year 2:</b>	<b>Year 3:</b>	<b>Year 4:</b>	<b>Year 5:</b>

<b>Information from Balance Sheet</b>			
<b>Total Assets (TA)</b>			
<b>Total Liabilities (TL)</b>			
<b>Net Worth = TA – TL</b>			
<b>Current Assets (CA)</b>			
<b>Current Liabilities (CL)</b>			
<b>Working Capital = CA - CL</b>			

<b>Information from Income Statement</b>			
<b>Total Revenues</b>			
<b>Profits Before Taxes</b>			
<b>Profits After Taxes</b>			

- Attached are copies of financial statements (balance sheets including all related notes and income statements) for the last 5 years, as indicated above, complying with the following conditions:
- Unless otherwise required by Section 3 of the Bidding Document, all such documents reflect the financial situation of the legal entity or entities comprising the Bidder and not the Bidder's parent companies, subsidiaries, or affiliates.
  - Historical financial statements must be audited by a certified accountant.
  - Historical financial statements must be complete, including all notes to the financial statements.
  - Historical financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

**FORM 06**  
**SOLVENCY CERTIFICATE**

REF NO:.....

DATE:.....

To,  
The Development Commissioner SEEPZ,  
SEZ Authority Andheri (East),  
Mumbai-400 096

**Subject: Submission of bids for the work of ‘EPC developer (design & build) for construction of new standard design factory (SDF) – 09 for electronic hardware & software units at SEEPZ-SEZ, Andheri, Mumbai, Maharashtra**

This is to certify that to the best of our knowledge and information,  
M/s \_\_\_\_\_ (Bidders name with complete address), a customer of our  
Bank, is respectable, and is capable of executing orders to the extent of Rs \_\_\_\_\_  
(Rupees \_\_\_\_\_). M/s \_\_\_\_\_ have been our customer since  
\_\_\_\_\_ to date and has been granted the following limits, at present, against various facilities  
granted by the Bank:

.....

This certificate is issued without any guarantee, risk or responsibility on behalf of the Bank or any  
of its officials.

This certificate is issued at the specific request of the customer.

Yours faithfully,  
(Bank Official’s signature & stamp)

**FORM – 07**

**CONTRACTS OF SIMILAR SIZE AND NATURE**

Fill out one (1) form per contract.

<b>Contract of Similar Size and Nature</b>		
Contract No . . . . . of . . . . .	Contract Identification	
Award Date		Completion Date
Total Contract Amount		
If partner in a Joint Venture, specify participation of total contract amount	Percent of Total	Amount
Employer's name Address Telephone number E-mail		
<b>Description of the Similarity in Accordance with (Evaluation and Qualification Criteria)</b>		

**FORM-7(B)**

**METHOD STATEMENT**

**MOBILIZATION SCHEDULE**

**CONSTRUCTION SCHEDULE**

**WORK PLAN**

**QUALITY ASSURANCE PROGRAMME**

***Note: Above item bidder has to prepared in his own format & submit along with the technical bid for completing the SDF-09 project in stipulated time i.e 01.05.2022***

**FORM-08  
EQUIPMENT & MACHINERY**

The Bidder shall provide adequate information and details to demonstrate clearly that it has the capability to meet the equipment & machinery requirements for the projects, using the Forms below. A separate Form shall be prepared for each item of equipment and machinery listed, or for alternative equipment proposed by the Bidder.

<b>Item of Equipment/Machinery</b>		
<b>Equipment Information</b>	<b>Name of manufacturer</b>	<b>Model and power rating</b>
	<b>Capacity</b>	<b>Year of manufacture</b>
<b>Current Status</b>	<b>Current location</b>	
	<b>Details of current commitments</b>	
<b>Source</b>	<b>Indicate source of the equipment</b> <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment /machinery owned by the Bidder.

<b>Owner</b>	<b>Name of owner</b>	
	<b>Address of owner</b>	
	<b>Telephone</b>	<b>Contact name and title</b>
	<b>Email</b>	<b>Telex</b>
<b>Agreements</b>	<b>Details of rental / lease / manufacture agreements specific to the project</b>	

**FORM 09 (A)**  
**PROPOSED PERSONNEL**

Bidder should provide the details of the proposed personnel and their experience record in the relevant Information Forms below for each candidate:

<b>1.</b>	<b>Title of position*</b>
	<b>Name</b>
<b>2.</b>	<b>Title of position*</b>
	<b>Name</b>
<b>3.</b>	<b>Title of position*</b>
	<b>Name</b>
<b>4.</b>	<b>Title of position*</b>
	<b>Name</b>
<b>5.</b>	<b>Title of position*</b>
	<b>Name</b>
<b>6.</b>	<b>Title of position*</b>
	<b>Name</b>
<b>etc.</b>	<b>Title of position*</b>
	<b>Name</b>





**FORM-10**  
**Bid Security**  
**Bank Guarantee**

.....*Bank's name, and address of issuing branch or office*<sup>1</sup>.....

**Beneficiary:** ..... *Name and address of the employer* .....

**Date:** .....

**Bid Security No.:** .....

We have been informed that . . . . . *name of the bidder*. . . . . (hereinafter called "the Bidder") has submitted to you its bid dated . . . . . (hereinafter called "the Bid") for the execution of . . . . . *name of contract* . . . . . under Invitation for Bids No. . . . . ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we . . . . . *name of bank*. . . . . hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of . . . . . *amount in words* . . . . . (*amount in figures* . . . . . ) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Letters of Technical and Price Bid; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity, (i) fails or refuses to execute the Contract Agreement, or (ii) fails or refuses to furnish the performance security, in accordance with the ITB, or (iii) fails or refuses to furnish a domestic preference security, if required.

This guarantee will expire (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract Agreement signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful Bidder, or (ii) 28 days after the expiration of the Bidder's bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

.....*Authorized signature(s) and bank's seal (where appropriate)* .....

**Note:** *In case of a joint venture, the bid security must be in the name of all partners to the joint venture that submits the bid.*

*All italicized text is for use in preparing this form and shall be deleted from the final document.*

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# **SECTION 5 - EMPLOYER'S REQUIREMENTS**

## 5.1 BACKGROUND INFORMATION

Santacruz Electronic Export Processing Zone (SEEPZ) is a pioneer SEZ set up on 1<sup>st</sup> May, 1973 as an uni-product EPZ exclusively for manufacture and export of electronic items in an area of 100 acres which was later increased to 110 acres of land leased through the Maharashtra Industrial Development Corporation (MIDC) at Andheri (E) which over the years has become a land mark of Mumbai. Subsequently on Gem & Jewellery industry was permitted by the Govt. of India for manufacture and export of Jewellery items from SEEPZ during the year 1987-88 which has evolved into the single largest geospatial concentration of gems & jewellery globally with its intrinsic brand value. Presently there are 260 units inside SEEPZ-SEZ contributing a total value of export of nearly Rs.30,000/- crores during the present financial year.

The Zone provides necessary infrastructure for facilitation in establishment of units in the Zone such as (a) Developed plots and (b) ready built-up warm shells. SEEPZ SEZ Authority aims at up-gradation and modernization of the entire infrastructure and business process with a singular all comprising vision.

The vision and objective is to reposition SEEPZ-SEZ, Mumbai as the 'golden gateway to global markets' with infrastructure benchmarked with international best standards cutting edge technology and ease of doing business and to propel SEEPZ-SEZ as a premier SEZ globally, building on the pillars of Make in India and contributing from the front for Atmanirbhar Bharat.

With a aim to rejuvenate and re-development of SEEPZ, the Authority is constructing SDF-09 building with approx. **375011.91 Sq. Ft. built-up** area (1 Basement+Ground+6) as one of the major project.

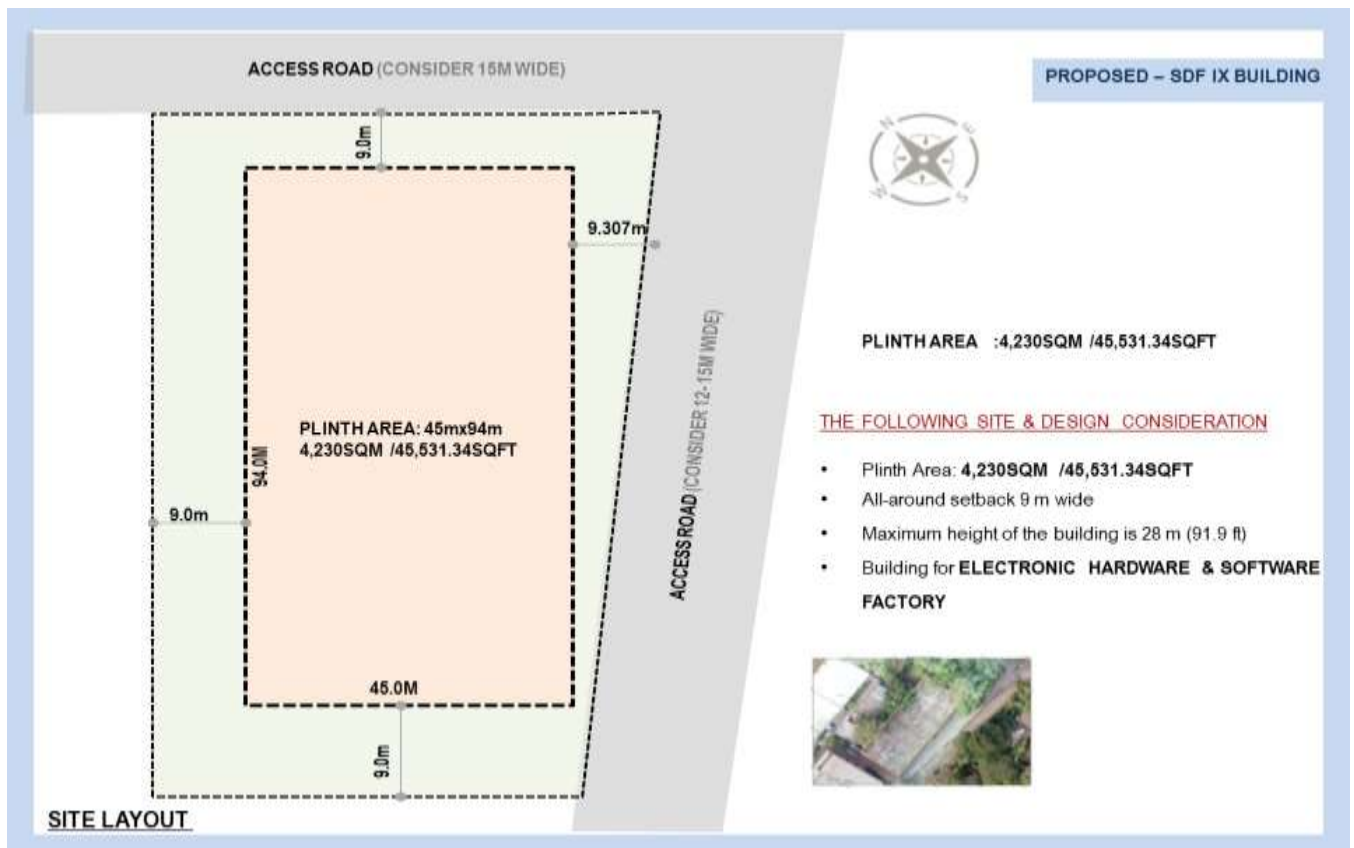
The SDF-09 is primarily for Electronic Hardware & Software sector units which shall be relocated from existing SDF-1. Hence the Design and Built process shall incorporate close consultation with the existing SEZ units of Electronic Hardware & Software Sector to be relocated from SDF1 to SDF-09.

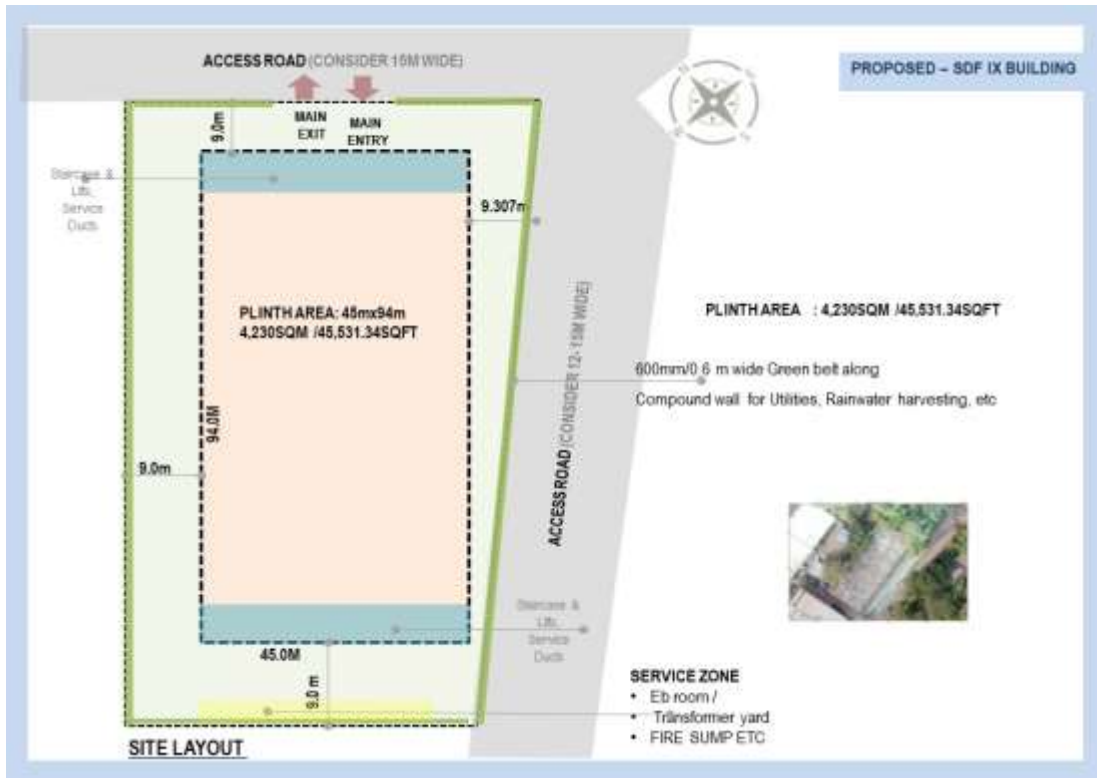
SEEPZ-SEZ, SEEPZ SEZ proposes to have the project executed on EPC turnkey basis through a reputed Indian entity fulfilling the specified eligibility criteria.

Contracting services shall include Construction of new Standard Design Factory (SDF) 09 which tentatively comprises of 1 Basement + Ground + 6 floors. The scope shall include but not limited to all Civil & Structural works, Architectural, Interior design, façade works, HVAC, Fire Fighting, Internal & External Electrical works, Fire alarm, access control, lift, plumbing & drainage, sanitary fixtures, external infrastructure works, external services, Data Centre etc.

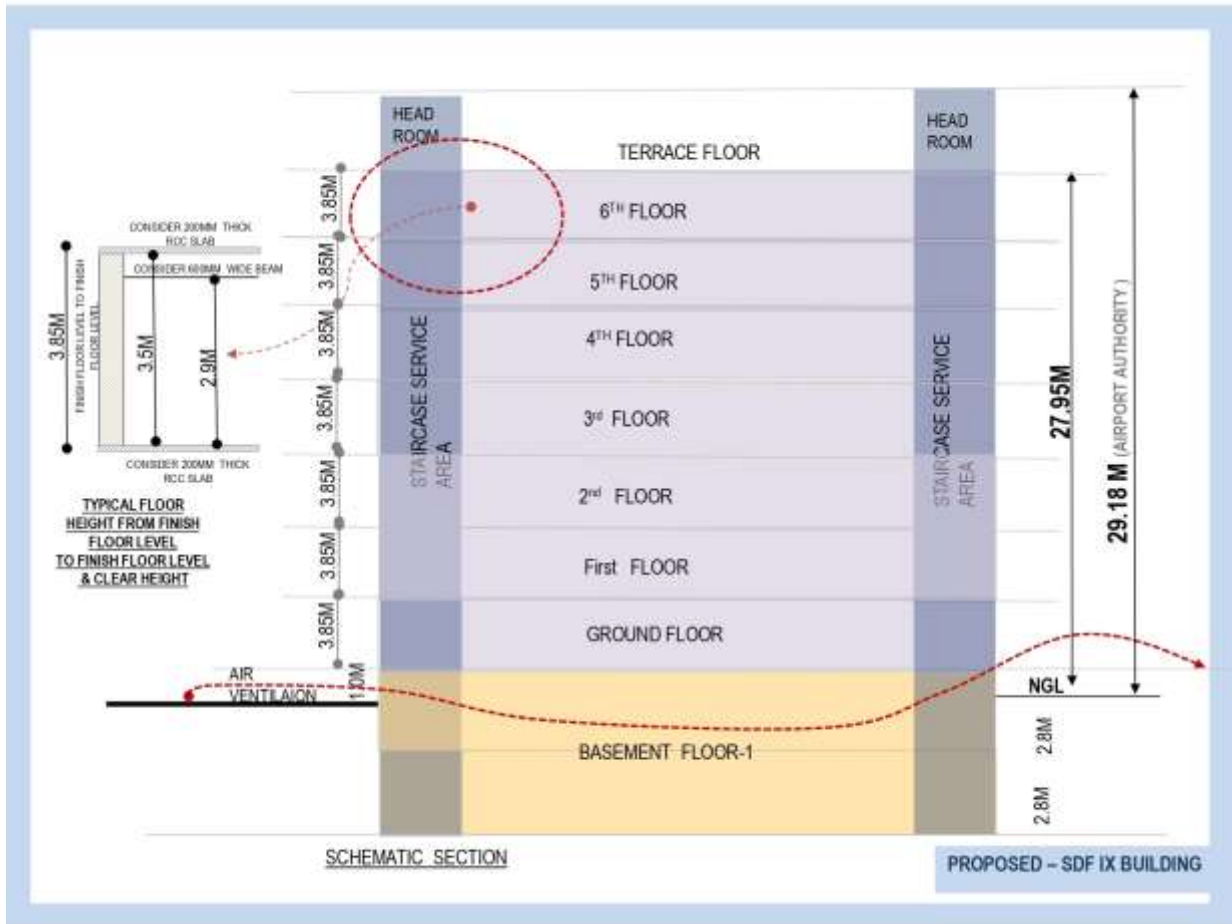
The approximate indicative area statement is as follows:

- **PLOT AREA:** AS PER TOPO SURVEY AREA WILL VARY
- **PLINTH AREA:** 4,230 SQM / 45,531.34 SQ.FT (Length – 94 m x Width – 45 m)





<b>PROPOSED AREA DETAIL- SDF -IX BUILDING</b>			
<b>PLINTH AREA : 45MX94M</b>		<b>SQM</b>	<b>SQFT</b>
			<b>4,230</b>
<b>FLOORS</b>	<b>Total Plinth area m<sup>2</sup></b>	<b>Total Plinth area SQFT</b>	<b>Remarks</b>
Basement-1	4230.00	45531.00	5.6m height _2 Level stack system
Ground floor	4230.00	45531.00	
First floor	4230.00	45531.00	
Second floor	4230.00	45531.00	
Third floor	4230.00	45531.00	
Fourth floor	4230.00	45531.00	
Fifth floor	4230.00	45531.00	
Sixth floor	4230.00	45531.00	
Terrace head room	1000.00	10763.91	
<b>Total (m2)</b>	<b>30610.00</b>	<b>375011.91</b>	



## 5.2 OBJECTIVES AND SCOPE OF WORK

### ➤ Specific tasks under this assignment shall be as follows:

It may be noted that these details are neither exhaustive nor final.

The New SDF Building will cater to the Electronic Hardware & Software units which will be re-located from other SDF's to SDF-09. The Building is proposed to be **Ground + 6 floors with 01 Basement** for parking with total built-up area of approx. **375011.91 Sq. Ft.** The Project is expected to be completed over a period of 08 months from the date of award of the work including the time required for pre-construction activities including design & obtaining statutory approvals. Brief details of the various elements of the proposed Project are presented in the following section: The activities required for completion of the Project on a turnkey basis include interalia:

- Planning of the Facilities
- Design & development of the facilities based on the concept drawing to satisfy the requirements of the SEEPZ SEZ & trade representatives matching with the site conditions including preparation of architectural brief, design concept, concept for services etc.

- Detailed design engineering including architectural design and construction documents, structural engineering, electrical engineering, communication and networking plan, fire detection and protection plan, surveillance system, Building Management System (BMS) etc.
  - Building construction and installation of all services
  - Completion of Project as per the specified timelines
  - Compliance with Environmental and Energy efficiency norms and obtaining at least 3 Star GRIHA rating.
  - Handing over of the facilities after fulfilling all the obligations of SEEPZ SEZ / trade representatives
  - Getting approvals / permissions / permits of statutory / local / governmental agencies
  - Rain Water Harvesting
  - Provision of Effluent Treatment Plant
  - Any other requirements of Electronic Hardware/Software Units
- a) Bidder shall confirm or otherwise that the building as described in Section 5 a) above can be completed **within 8 months from date of award or 1<sup>st</sup> May, 2023** whichever is earlier using innovative construction methodology such as precast technology, RCC structures etc. but not limited to the same and which meets all the design parameters as required by the client.
- b) The final configuration and design of the SDF-09 building to be confirmed in consultation with the trade representatives i.e. existing units in SDF-1 Building in SEEPZ SEZ once all approvals related to design and statutory requirements are in place from the MIDC which is the Special Planning Authority (SPA) for the SEEPZ SEZ.
- c) Infrastructure Works and Services
- ✓ Roads, Pavements etc.
    - ✓ Storm Water Drains
    - ✓ Drainage Lines
    - ✓ Sewage Treatment System /Effluent Treatment System
    - ✓ Water Lines -Domestic, Treated water, Process and Fire
    - ✓ Fencing /Compound Wall
    - ✓ Landscaping
    - ✓ Data Centre
    - ✓ Gas & other utility Lines
    - ✓ Electrical Distribution System
    - ✓ Ventilation -HVAC, Compressed Air Lines
    - ✓ Solar
- d) Coordination with Employer's/stakeholders' representative.



- e) Any other services related to the above scope of work not mentioned herein but specifically required for successful completion of the project/desired by the Employer / stakeholders must be covered under this scope by the Bidder.

The design, planning and scoping for the Project and each of the buildings in the Project shall be on the following bases which are required to be finalised **in consultation with trade representatives in SEEPZ SEZ:**

A. Massing, Architecture and Master planning:

- Provide parking as per MIDC norms.
- Structure will be consisting of 1-Basement (as per parking requirement) + Ground + 6 floors with maximum height of building limited to 29.1 m.

B. Interiors: Following areas

- Flooring and cladding of walls for main entrance lobbies and all floor lobbies
- All toilets to be complete with fittings and fixtures. All toilets sized as per NBC norms. All staircases with signage as required by NBC 2016.
- Lift car interiors.
- Loading dock.
- Building control room.
- All common areas.
- Internal finishes and fire rated doors wherever applicable as per norms.
- Painting for all common areas including car parking.

C. Structure:

1. RCC framed Precast system as per structural designers.
2. Floor loading on office floors to be considered for the following in consultation with trade:
  - Office floor Dead load 12.00 KN/sq. m
  - Areas reserved for UPS/ battery banks and server :10.00 KN/sqm
  - MEP rooms, Live loads at 7.5 KN/sqm
  - Live loads in all other areas as per IS875.
  - Dynamic loading information
3. Structure to be designed for local wind and seismic conditions as per IS 875.
4. Column grid to accommodate efficient interior layouts as well as car parking efficiency where basement parking is located below.
5. The basement raft and retaining walls should be designed for appropriate ground water level based on the soil investigations, and seasonality of ground water during rainy season.

#### D. Façade:

- Façade/ wall window ratio: 60%-40% (Window-wall, as a guideline, to be finalized based on the designs)
- Façade design to follow norms of NBC 2016.
- Building exteriors to be treated with equal importance for all elevations.
- Specification of glass DGU/SGU.

#### E.MEP General:

- All MEP specifications to follow NBC, relevant IS Codes.
- Local bye laws would be followed and NBC.
- DG Back-up
- Electrical load requirements with redundancy.
- Solar PV at top terrace as per norms.
- Plumbing pipes/down take UPVC/CPVC

#### F.MEP: HVAC:

1. Provisions for VRF air cooled system.
2. Toilet exhaust, basement ventilation, plant rooms' ventilation, LT/HT room/ fire pump room/DG room ventilation and STP ventilation and staircase/lobbies/lift well pressurization.

#### G. Sustainability:

1. Project to achieve IGBC certification gold standards for new buildings at a minimum.
2. Differently-abled design to suit requirements of NBC 2016 to be incorporated in the execution.

#### H. High Side Equipment

Following makes of specific high side equipment.

<b>Sr. No</b>	<b>Equipment</b>	<b>Efficiency/Standard compliance</b>	<b>Approved Makes</b>
1	Transformer	Losses and Efficiency compliance to ECBC	Kirloskar Electric, ABB, Telewane, Rechem, Silverline
2	DG Set	Fuel Efficiency= 0.225 Ltrs/KVA/Hr N+1 arrangement	Cummins, Caterpillar, MTU
3	Elevator	NBC 2016 Compliant	Otis, Schindler, Toshiba, Mitsubishi, Kone, Thyssenkrupp
4	Pumps		Armstrong, Grundfos, Xylem, Kirloskar
5	Panels/Circuit breaker	IS standard compliant.	ABB, Siemens, Schneider

➤ **FINISHING**

	Flooring	Granite/Quartz Stone Flooring etc. as per architect intent.
	Wall cladding	Vitrified/Stone//PGVT/Shera Board/Texture Paint/Internal Cladding material etc. as per architect intent
	False Ceiling	As per architect intent/design.
	Reception Desk	To be made as per design
	Atrium ceiling (If Applicable)	As per architect intent/design.
	Furniture's, Fixtures and Chandeliers, Displays	To be made as per design
<b>Typical lift lobby</b>	Flooring	PGVT/Vitrified tiles with size not greater than 1200 x 600 mm and fixed with spacer 3 to 5 mm with Cementous grout.
	Wall cladding	PGVT tile to be considered, cladding for elevator façade to be up to false ceiling bottom or to a height of 2.8 mtrs. Vertical areas away from the lift façade may be treated using texture paints depending on design.
	False Ceiling	As per architect intent/design.
<b>Passage</b>	Flooring	PGVT tiles same as lift lobby which passages connecting with lobby
	Wall cladding	Skirting and Acrylic Paint
	False Ceiling	Material used is of Gypsum panels if required or as per drawing or architect intent
<b>Staircase</b>	Tread	Pavit Series tiles or in case precast staircase to be used, bare form finish to be provided.
	Riser	Pavit Series tiles or in case precast staircase to be used, bare form finish to be provided.
<b>Toilets</b>	Flooring	PGVT tile with size not greater than 300 x 600 mm and 3 to 5 mm spacer with Cementous grout to be used.
	Dado	Ceramic tile/PGVT tile with size not greater than 300 x

		600 mm and 3 to 5 mm spacer with Cementous grout to be used.
	False Ceiling	Grid False Ceiling as per architect intent/design.
<b>Toilet cubicles</b>	Front (door side)	To be provided as per architect intent/design.
	Partitions (inside panels)	To be provided as per architect intent/design.
	Wash basin counter	As per architect intent.
<b>Ramps</b>	Antiskid	Trimix floor with rough finish.
<b>Parking</b>	Flooring	- Trimix floor with smooth finish and dry shake hardener. We will apply this finish on the mother slab to avoid any additional layer. The parking layouts to be marked appropriate colours

➤ **DOORS, WINDOWS, VENTILATORS, FALSE CEILING & STAIR CASE RAILING**

**Doors:-** All the doors shall be minimum of 8 ft height ( except shaft doors)

Main entrance lobby	Door (Frame, Shutter, Fittings)	Automatic Sensor Sliding Glass Doors of minimum 12 mm thick with relevant frame as per design
Internal doors (AHU, Electrical Rooms, BMS Rooms)	Door (Frame, Shutter, Fittings)	Metallic Fire Rated Doors for two-hour fire rating of required size including frame with necessary fittings as per norms
Staircase	Door (Frame, Shutter, Fittings)	Fire Rated Doors for two-hour fire rating as per norms
Other Areas (STP, Plant Rooms, Panel Rooms, Pump Rooms, Lift Machine Rooms)	Door (Frame, Shutter, Fittings)	Metallic Fire Rated Doors for two-hour fire rating of required size including frame with necessary and fittings as per norms.
DG Rooms	Door (Frame, Shutter, Fittings)	Metallic Fire Rated Doors for two-hour fire rating of required size including frame with necessary fittings as per norms.
Transformer Rooms	Door (Frame, Shutter, Fittings)	Rolling Shutters with necessary ventilation provision as per norms.
Shaft Doors (Electrical)	Door (Frame, Shutter, Fittings)	Fire Rated Flush Doors for two-hour fire rating of required size including frame with laminate on one side and paint on other side. In main lobby, instead of laminate veneer

		should be used
Shaft Doors (Others)	Door (Frame, Shutter, Fittings)	Flush Doors of required size including frame with laminate on one side and paint on other side.

### Windows: -

Façade Glass Area	All opening in external faces are covered by DGU (6 mm thick low E Glass and 12mm air gap in between) in Structural Glazing or in aluminium windows. In Structural Glazing/windows overall openable areas as per the norms.
Service Areas	Louvers/perforated sheets (vertical or horizontal) as per design.
Toilet Windows	This shall be openable//sliding and as per the design with necessary arrangement and equipment of exhaust fans

### Stair case and other Railings –

Main Lobby Area	SS304 Railing as per architect design/intent.
Other Areas	Structural steel of various sizes with 2 coats of zinc chromate primer and three coats of approved quality synthetic enamel paint.
Landscaped Areas	Railings in Landscaped Areas can be as per design.

### ➤ Sanitary Installation

#### Verticals & Horizontal stacks: -

- Soil Waste, Rainwater: PVC , SWRT Type A-B pipe
- Water supply down takes: UPVC, SCH -40 pipes & fittings in SCH-80
- Internal water Supply: CPVC,
- Water Supply: SCH-40,
- External Sewer: RCC NP-2 type.

**Fittings & Fixtures:** - Following are the specifications for common toilet areas:-

Sr.No.	Description of Goods	Brands
<b>A</b>	<b>Sanitary ware fittings</b>	
1	Wall hung WC /Floor Mounted	Jaquar, Simpolo, Hindware, RAK, Asian Paints or

		equivalent
2	Cistern Shell Wall Hung	Jaquar, Simpolo, Hindware, RAK, Asian Paints or equivalent
3	Cistern Lid Dual Flush	Jaquar, Simpolo, Hindware, RAK, Asian Paints or equivalent
4	Seat Cover	Jaquar, Simpolo, Hindware, RAK, Asian Paints or equivalent
5	Wall Hung Dual Flush valve Fitting Internal	Jaquar, Simpolo, Hindware, RAK, Asian Paints or equivalent
6	Wash Basin	Jaquar, Simpolo, Hindware, RAK, Asian Paints or equivalent
7	Urinal with Sensor	Jaquar, Simpolo, Hindware, RAK, Asian Paints or equivalent
<b>B</b>	<b>CP FITTING</b>	
1	Angular Stop Cock	Kohler, jaquar,Asian Paints or equivalent
2	2 Way Bib Cock	Kohler, jaquar,Asian Paints or equivalent
3	Pillar Cock	Kohler, jaquar,Asian Paints or equivalent
4	Bottle Trap Economy Model 32mm	Kohler, jaquar,Asian Paints or equivalent
5	Waste Coupling Half Threaded	Kohler, jaquar,Asian Paints or equivalent
6	Toilet Roll Holder with Cover	Kohler, jaquar,Asian Paints or equivalent
7	PVC Intel Connection 18"	Kohler, jaquar,Asian Paints or equivalent
8	CP Extension Nipple 1/2" x 1"	Kohler, jaquar,Asian Paints or equivalent
9	Health Faucet with 1 Meter Flexible Tube	Kohler, jaquar,Asian Paints or equivalent
<b>C</b>	<b>Mirror 8-mm thk</b>	Modiguard or equivalent

## ➤ PAINTING

### Internal Painting:

- Whitewash – To Basement ceiling, lift shafts.
- Semi acrylic paint- All the internal services shafts except plumbing shaft
- Acrylic paint – All the plumbing shaft

### Parking area:

Ceiling	White wash/ cement paint
Marking	As per suppliers' specifications

### Common Area:

Main lobby	Plastic Emulsion Asian, Burger, Nerolac or equivalent
Passage	Plastic Emulsion Asian, Burger, Nerolac or equivalent
Staircase	Plastic Emulsion Asian, Burger, Nerolac or equivalent

**External Area: Paints/Louvers/Glass Façade** as per architect intent.

**Specifications of DGU**

- a) External Glass 6mm thk. + 12mm air gap + Internal Glass 5mm thk. Clear.

**5.3 PROJECT DELIVERY SCHEDULE**

<b>Proposed Project Delivery Schedule - Tentative SDF 09 Building (Basement + G + 6 Floors) Project Delivery Schedule</b>				
<b>Sr No</b>	<b>TASK</b>	<b>START</b>	<b>END</b>	<b>DAYS</b>
1.0	Floating of RFP for Appointment of Contractor	30 August, 2022	21 September, 2022	21
2.0	Appointment of Contractor	22 September, 2022	1 October, 2022	08
3.0	Building Construction---Shell and Core	5 October, 2022	01 April,2023	177
4.0	Finishing	01 January, 2022	15 April, 2023	105
5.0	External Infrastructure Works	15 January, 2023	15 March, 2023	58
6.0	Façade Works	25 January, 2023	10 April, 2023	75
7.0	<b>Site Handover</b>	<b>1 May 2023</b>		10

**Note: *The above schedule is indicative only and it is expected that it shall be improved upon to handover the project in all respects for occupation, by May 01,2023.***

**SECTION 7 - GENERAL CONDITIONS  
OF CONTRACT(GCC)**



# **1 GENERAL**

## **1.1 Tenets of Interpretation**

Unless where the context requires otherwise, throughout the contract:

- 1) The heading of these conditions shall not affect the interpretation or construction thereof.
- 2) Writing or written includes matter either whole or in part, in digital communications, manuscript, typewritten, lithographed, cyclostyled, photographed, or printed under or over signature or seal or digitally acceptable authentication, as the case may be.
- 3) Words in the singular include the plural and vice-versa.
- 4) Words importing the masculine gender shall be taken to include other genders, and words importing persons shall include any company or association or body of individuals, whether incorporated or not.
- 5) Terms and expression not herein defined shall have the meanings assigned to them in the contract Act, 1872 (as amended) or the Sale of Goods Act, 1930 (as amended) or the General Clauses Act, 1897 (as amended) or of INCOTERMS, (current edition published by the International Chamber of Commerce, Paris) as the case may be.
- 6) Any reference to 'Services' shall be deemed to include the incidental Works/ Goods also.
- 7) Any generic reference to GCC shall also imply a reference to SCC as well.
- 8) In case of conflict, provisions of SCC shall prevail over those in GCC.
- 9) Any reference to 'Contract' shall be deemed to include all other documents (inter-alia GCC, SCC) as described in GCC-clause.
- 10) Any reference to any legal Act, Government Policies or orders shall be deemed to include all amendments to such instruments, from time to time, till date.
- 11) GCC-clause (Book Examination clause) shall not apply unless invoked explicitly in the contract.

## **1.2 Definitions**

In the contract, unless the context otherwise requires:

- 1) "Agent" is a person employed to do any act for another or represent another in dealings with a third person. In the context of public procurement, an Agent is a representative participating in the Tender Process or Execution of a Contract for and on behalf of its principals.
- 2) "Allied Firm" are all business entities that are within the 'controlling ownership interest' (ownership of or entitlement to more than twenty-five percent of the company's shares or capital or profits) or 'control' (including the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholder agreements or voting agreements) of the principal firm acting alone or together or through one or more juridical persons. All successor firms or assigns of the principal firm shall be considered as allied firms.

- 3) "Beneficiary" (of Services/ Works) means the person for whom the Services/ Works are to be delivered as stipulated in the contract.
- 4) "bid" (including the term 'tender', 'offer', 'quotation' or 'proposal' in specific contexts) means an offer to supply goods, services or execution of works made as per the terms and conditions set out in a document inviting such offers.
- 5) "Bidder" (including the term 'Bidder', 'Bidder' or 'service provider' in specific contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a Tender Process.
- 6) "Bill of Quantities" (including the term Price Schedule or BOQ) means the priced and completed Bill of Quantities forming part of the bid.
- 7) "Commercial Bank" means a bank, defined as a scheduled bank under section 2(e) of the Reserve Bank of India Act, 1934.
- 8) "Contract" (including the terms 'Purchase Order' or 'Supply Order' or 'Withdrawal Order' or 'Work Order' or 'Consultancy Contract' or 'Contract for Services', 'rate contract' or 'framework contract' or 'Letter of Award – LoA' (letter or memorandum communicating to the contractor the acceptance of his bid) or 'Agreement' or a 'repeat order' accepted/ acted upon by the contractor in specific contexts), means a formal legal agreement in writing relating to the subject matter of procurement, entered into between the Procuring Entity and the contractor on mutually acceptable terms and conditions and which are in compliance with all the relevant provisions of the laws of the country;
- 9) "Contractor" (including the terms 'Supplier' or 'Service Provider' or 'Bidder' or 'Firm' or 'Vendor' or 'Manufacturer' or 'Successful Bidder' in specific contexts) means the person, firm, company, or a Joint Venture with whom the contract is entered into and shall be deemed to include the contractor's successors (approved by the Procuring Entity), agents, subcontractor, representatives, heirs, executors, and administrators as the case may be unless excluded by the terms of the contract;
- 10) "Contract Manager" means the Procurement Officer or any other officer or a third-party agency who has been assigned the authority to take all actions on behalf of the Procuring Entity during the execution of the contract by the contractor;
- 11) "Day", "Month", "Year" shall mean calendar day/ month or year (unless reference to financial year is clear from the context).
- 12) "Drawing" means the drawing or drawings stipulated in or annexed to the Specifications or the Tender Document/ Contract;
- 13) "Equipment" means the contractor's machinery and vehicles brought temporarily to the Site for the performance of Service.
- 14) "General Conditions" means the General Conditions of Contract, also referred to as GCC.
- 15) "Goods" (including the terms 'Stores', 'Material(s)' in specific contexts) includes all articles, material, commodity, livestock, medicines, furniture, fixtures, raw material, consumables, spare parts, instruments, machinery, equipment, industrial plant,

vehicles, aircrafts, ships, railway rolling stock assemblies, sub-assemblies, accessories, a group of machines comprising an integrated production process or such other categories of goods or intangible, products like technology transfer, licenses, patents or other intellectual properties (but excludes books, publications, periodicals, etc., for a library), in specific contexts), procured or otherwise acquired by a Procuring Entity. Any reference to Goods shall be deemed to include specific small work or some services that are incidental or consequential to the supply of such goods;

- 16) "Government" means the Central Government or a State Government as the case may be and includes agencies and Public Sector Enterprises under it, in specific contexts;
- 17) "Inspection" means activities such as measuring, examining, testing, analysing, gauging one or more characteristics of the goods or services or works, and comparing the same with the specified requirement to determine conformity.
- 18) "Intellectual Property Rights" (IPR) means the rights of the intellectual property owner concerning a tangible or intangible possession/ exploitation of such property by others. It includes rights to Patents, Copyrights, Trademarks, Industrial Designs, Geographical indications (GI).
- 19) "Joint Venture" means a Joint Venture or a Consortium (that is an association of several persons, or firms or companies - also referred to as JV/C)
- 20) "Materials" means all supplies, including consumables, used by the contractor for service performance or use by his staff.
- 21) "Outsourcing of Services" means deployment of outside agencies on a sustained long-term basis (for one year or more, excluding short-term stand-alone Services) for the performance of routine Services (e.g., Security Services, Horticultural Services, Janitor/Cooking/Catering/Management Services for Hostels and Guest Houses, Cleaning/Housekeeping Services, Errand/Messenger Services and so forth) that were traditionally being done in-house in the Government.
- 22) "Parties": The parties to the contract are the "Contractor" and the "Procuring Entity", as defined in this clause;
- 23) "Performance Security" (includes the terms 'Security Deposit' or 'Performance Bond' or 'Performance Bank Guarantee' or other specified financial instruments in specific contexts) means a monetary guarantee to be furnished by the successful Bidder or Contractor in the form prescribed for the due performance of the contract;
- 24) "Procurement" or "public procurement" (or 'Purchase', or 'Government Procurement/ Purchase' including an award of Public-Private Partnership projects, in specific contexts) means the acquisition of Goods/ Services/ works by way of purchase, lease, license or otherwise, either using public funds or any other source of funds (e.g. grant, loans, gifts, private investment etc.) of goods, works or services or any combination thereof, by a Procuring Entity, whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition without consideration. The term "procure"/ "procured" or "purchase"/ "purchased" shall be construed accordingly;
- 25) "Procuring Entity" means the entity in The Procuring Organization procuring Goods, Works, or Services;

- 26) “Procurement Officer” means the officer signing the Letter of Award (LoA) and/or the contract on behalf of the Procuring Entity;
- 27) “Service(s)” (including the term ‘Non-consultancy services’ or ‘Outsourcing of Services’ in specific contexts) are defined by exclusion as services that cannot be classified as Consultancy Services. Services (non-Consultancy) involve routine, repetitive physical, procedural, and non-intellectual outcomes for which quantum and performance standards can be tangibly identified and consistently applied and are bid and contracted on such basis but does not include the appointment of an individual made under any law, rules, regulations, or order issued in this behalf. Any reference to Services shall be deemed to include the supply of goods or performance of consultancy service or small works, which are incidental or consequential to such services;
- 28) “Special Conditions” means Special Conditions of Contract, which override the General Conditions, also referred to as SCC.
- 29) “Specification” or “Technical Specification” means the drawing/ document/ standard or any other details governing the construction, manufacture or supply of goods or performance of services that prescribes the requirement to which goods or services have to conform as per the contract.
- 30) “Signed” means ink signed or digitally signed with a valid Digital Signature as per IT Act 2000 (as amended from time to time). It also includes stamped, except in the case of Letter of Award or amendment thereof.;
- 31) “Sub-Contractor” means a person or corporate body with an agreement with the contractor to carry out a specific part of the contract that may or may not include working on the Site.
- 32) “Temporary Works” means works designed, constructed, installed, and removed by the contractor needed during the Services' performance.
- 33) “Variation” means an instruction given by the Contract Manager, which varies the scope, quantum or performance standards of the Service performed.
- 34) “Tender”; “Tender Document”; “Tender Enquiry” or “Tender Process”: ‘Tender Process’ is the whole process from the publishing of the Tender Document till the resultant award of the contract. ‘Tender Document’ means the document (including all its sections, appendices, forms, formats, etc.) published by the Procuring Entity to invite bids in a Tender Process. The Tender Document and Tender Process may be generically referred to as “Tender’ or ‘Tender Enquiry’, which would be clear from context without ambiguity.
- 35) “Works” refer to any activity involving construction, fabrication, repair, overhaul, renovation, decoration, installation, erection, excavation, dredging, and so on, which make use of a combination of one or more of engineering design, architectural design, material and technology, labour, machinery, and equipment.

### **1.3 Document Conventions**

All words and phrases defined in GCC-clause are written as ‘Capitalised word’ and shall have the defined meaning. The rest of the words shall be as per grammar, inter-alia ‘Services’

shall indicate definition as given in the GCC while ‘services’ shall have usual dictionary meaning.

#### **1.4 Abbreviations:**

<b>Abbreviation</b>	<b>Definition</b>
AITB	Appendix to Instructions To Bidders
BOQ	Bill of Quantities
BSD	Bid Securing Declaration
DPIIT	Department for Promotion of Industry and Internal Trade
EFT	Electronic Funds Transfer
EPFO	Employees Provident Fund Organization
ESI	Employees State Insurance
GCC	General Conditions of Contract
GeM	Government e-Marketplace
GST	Goods and Services Tax
GSTIN	GST Identification Number
GTE	Global Tender Enquiry (International Competitive Bidding)
HSN	Harmonized System of Nomenclature
IEM	Independent External Monitor
IPR	Intellectual Property Rights
INR	Indian Rupee
ITB	Instructions To Bidders
JV	Joint Venture
JV/C	Joint Venture/ Consortium
LoA	Letter of Award (Acceptance)
MII	Make in India
MSE	Micro and Small Enterprises
MSME	Micro Small and Medium Enterprises
MSMED	MSME Development (Act)
NEFT	National Electronic Funds Transfer

<b>Abbreviation</b>	<b>Definition</b>
NIT	Notice Inviting Tender
PAN	Permanent Account Number
PC	(Indian) Penal Code
PPD	Procurement Policy Division
PQB	Pre-Qualification Bidding
PVC	Price Variation Clause
RAP	Reverse Auction Process
RCM	Reverse Charge Mechanism
SC	Scheduled Caste
SCC	Special Conditions of Contract
ST	Scheduled Tribe
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TIA	Tender Inviting Authority
TIS	Tender Information Summary

## **2 OBLIGATIONS OF THE CONTRACTOR**

### **2.1 Obligations of the Contractor**

- 2.1.1 Subject to and on the terms and conditions of this Agreement, the Contractor shall undertake the survey, investigation, design, engineering, procurement, and construction of the Project and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 2.1.2 The Contractor shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
- 2.1.3 Save and except as otherwise provided in this Agreement or Applicable Laws, as the case may be, the Contractor shall, in discharge of all its obligations under this Agreement, conform with and adhere to Good Industry Practice at all times.
- 2.1.4 The Contractor shall remedy any and all loss or damage to the Project, occurring on or after the Appointed Date and until the date of Provisional Certificate, with respect to the Works completed prior to the issuance of the Provisional Certificate and/or Completion Certificate, with respect to the Works referred to in the Punch List, at its own cost, save and except to the extent that any such loss or damage shall have arisen

from any default of the Authority or on account of a Force Majeure Event in which case the provisions of GCC Clause shall apply.

2.1.5 The Contractor shall remedy any and all loss or damage to the Project during the Defects Liability Period at its own cost, to the extent that such loss or damage shall have arisen out of the reasons specified in Clause GCC.

2.1.6 The Contractor shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

- make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits set forth in Schedule-E and obtain and keep in force and effect such Applicable Permits in conformity with Applicable Laws;
- procure, as required, the appropriate proprietary rights, licences, agreements and permissions for Materials, methods, processes, know-how and systems used or incorporated into the Project;
- make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Sub-contractors in connection with the performance of its obligations under this Agreement;
- ensure and procure that its Sub-contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Contractor's obligations under this Agreement;
- always act in a manner consistent with the provisions of this Agreement and not cause or fail to do any act, deed or thing, whether intentionally or otherwise, which may in any manner be violative of any of the provisions of this Agreement;
- support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement;
- ensure that the Contractor and its Sub-contractors comply with the safety and welfare measures for labour in accordance with Applicable Laws and Good Industry Practice;
- keep, on the Site, a copy of this Agreement, publications named in this Agreement, the Drawings, Documents relating to the Project, and Change of Scope Orders and other communications sent under this Agreement, and provide access to all these documents at all reasonable times to the Authority's Engineer and its authorised personnel;
- cooperate with other contractors employed by the Authority and personnel of any other public authority; and
- not interfere unnecessarily or improperly with the convenience of the public, or the access to and use and occupation of all the existing facilities within the Right of Way ,

irrespective of whether they are public or in the possession of the Authority or of others.

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

### **3.2 Obligations relating to sub-contracts and any other agreements**

3.2.1 The Contractor shall not sub-contract Works comprising more than 70% (seventy per cent) of the Contract Price and shall carry out Works for at least 30% (thirty per cent) of the total Contract Price directly under its own supervision and through its own personnel. The Parties expressly agree that for the purposes of computing the value of sub-contracts under this Clause, the Contract Price shall exclude any sub-contract for the procurement of goods and equipment such as [bitumen, cement, steel and equipment]. {The Parties agree that the obligation of the Contractor to carry out Works corresponding to at least 30% (thirty per cent) of the Contract Price shall be discharged solely by the Lead Member.}

3.2.2 In the event any sub-contract for Works, or the aggregate of such sub-contracts with any Sub-contractor, exceeds 5% (five per cent) of the Contract Price, the Contractor shall communicate the name and particulars, including the relevant experience of the sub-contractor, to the Authority prior to entering into any such sub-contract. The Authority shall examine the particulars of the sub-contractor from the national security and public interest perspective and may require the Contractor, no later than 15 (fifteen) business days from the date of receiving the communication from the Contractor, not to proceed with the sub-contract, and the Contractor shall comply therewith.

3.2.3 Without prejudice to the provisions of Clause in the event any sub-contract referred to in Clause relates to a sub-contractor who has, over the preceding 3 (three) years, not undertaken at least one work of a similar nature with a contract value exceeding 40% (forty per cent) of the value of the sub-contract to be awarded hereunder and received payments in respect thereof for an amount equal to at least 80% (eighty per cent) of such contract, the Authority may, no later than 15 (fifteen) business days from the date of receiving the communication from the Contractor, require the Contractor not to proceed with such sub-contract, and the Contractor shall comply therewith.

3.2.4 It is expressly agreed that the Contractor shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the agreements with its Sub-contractors or any other agreement that may be entered into by the Contractor, and no default under any such agreement shall excuse the Contractor from its obligations or liability hereunder.

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

The Contractor acknowledges, agrees and undertakes that employment of foreign personnel by the Contractor and/or its Sub-contractors and their sub-contractors shall be subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and



will always be of the Contractor. Notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Contractor or any of its Sub-contractors or their sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Contractor from the performance and discharge of its obligations and liabilities under this Agreement.

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

3.4.1 The Contractor shall ensure and procure that the personnel engaged by it or by its Sub-contractors for performance of its obligations under this Agreement are at all times appropriately qualified, skilled and experienced in their respective functions in conformity with Applicable Laws and Good Industry Practice.

3.4.2 The Authority's Engineer may, for reasons to be specified in writing, direct the Contractor to remove any member of the Contractor's or Sub-contractor's personnel from the Project. Provided that any such direction issued by the Authority's Engineer shall specify the reasons for the removal of such person.

3.4.3 The Contractor shall, on receiving a direction from the Authority's Engineer under the provisions of Clause ensure and procure the removal of such person or persons from the Project with immediate effect. The Contractor shall further ensure that such persons have no further connection with the Project.

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

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

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

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

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

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

### **3.8 Unforeseeable difficulties**

Except as otherwise specified in the Agreement:

- the Contractor accepts complete responsibility for having foreseen all difficulties and costs of successfully completing the Works;
- the Contract Price shall not be adjusted to take account of any unforeseen difficulties

or costs; and

- the Scheduled Completion Date shall not be adjusted to take account of any unforeseen difficulties or costs.

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

#### **4.1 Obligations of the Authority**

- 4.1.1 The Authority shall, at its own cost and expense, undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 4.1.2 The Authority shall be responsible for the correctness of the Scope of the Project, Project Facilities, Specifications and Standards and the criteria for Testing of the completed Works.
- 4.1.3 The Authority shall, upon receiving the Performance Security provide to the Contractor:
- ✓ the Right of Way in accordance within a period of 15 (fifteen) days from the date of this Agreement, on no less than 90% (ninety per cent) of the total land required for the Project;
  - ✓ approval of the general arrangement drawings (the “GAD”) for the Project in accordance with the Specifications and Standards, and subject to the terms and conditions specified in such approval, within a period of 60 (sixty) days from the Appointed Date; and
- 4.1.4 Delay in providing the Right of Way or approval of GAD by the authorities, as the case may be,] in accordance with the provisions of Clause shall entitle the Contractor to Damages in a sum calculated in accordance with the provisions of GCC Clause of this Agreement and Time Extension in accordance with the provisions of GCC Clause of this Agreement.[For the avoidance of doubt, the Parties agree that the Damages for delay in approval of GAD by the railway authorities for a particular road over-bridge/under-bridge shall be deemed to be equal to the Damages payable under the provisions of GCC Clause
- 4.1.5 Notwithstanding anything to the contrary contained in this Agreement, the Parties expressly agree that the aggregate Damages payable under GCC Clauses shall not exceed 3% (three per cent) of the Contract Price. For the avoidance of doubt, the Damages payable by the Authority under the aforesaid Clauses shall not be additive if they arise concurrently from more than one cause but relate to the same part of the Project.
- 4.1.6 The Authority agrees to provide support to the Contractor and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and Applicable Laws, the following:

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

## **4.2 Obligations relating to Operation & Maintenance**

The Authority shall undertake the operation and maintenance of the facilities existing prior to the Appointed Date [including bridges, structures and signalling works] within the Right of Way.

### **5.1 Representations and warranties of the Contractor**

The Contractor represents and warrants to the Authority that:

- ✓ it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- ✓ it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- ✓ this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the

terms hereof;

- ✓ it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- ✓ the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- ✓ the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum and articles of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- ✓ there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- ✓ it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- ✓ it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;
- ✓ no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- ✓ no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the contract or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith;
- ✓ all information provided by the {selected bidder/ members of the Consortium} in response to the Request for Qualification and Request for Proposals or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects;

- ✓ all undertakings and obligations of the Contractor arising from the Request for Qualification and Request for Proposals or otherwise shall be binding on the Contractor as if they form part of this Agreement; and
- ✓ nothing contained in this Agreement shall create any contractual relationship or obligation between the Authority and any Sub- contractors, designers, consultants or agents of the Contractor.

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

The Authority represents and warrants to the Contractor that:

- it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- it has taken all necessary actions under Applicable Laws to authorise the execution, delivery and performance of this Agreement;
- it has the financial standing and capacity to perform its obligations under this Agreement;
- this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement;
- it has complied with Applicable Laws in all material respects;
- it has good and valid right to the Site and has the power and authority to grant the Right of Way in respect thereof to the Contractor; and

## **5.3 Disclosure**

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

## **6.1 Disclaimer**

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

## **7.1 Performance Security**

- 7.1.1 The Contractor shall, for the performance of its obligations hereunder, provide to the Authority, within 15 (fifteen) days of the date of this Agreement, an irrevocable and unconditional guarantee, for an amount equal to 3% (three per cent) of the Contract Price, from a Bank in the form set forth in Annex-I of Schedule-F (the "**Performance Security**"). The Performance Security shall be valid until 60 (sixty) days of the expiry of the Defects Liability Period specified in Clause. Until such time the Performance Security is provided by the Contractor pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security, the Authority shall release

the Bid Security to the Contractor.

- 7.1.2 Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that in the event of failure of the Contractor to provide the Performance Security in accordance with the provisions of Clause and within the time specified therein or such extended period as may be provided by the Authority, in accordance with the provisions of Clause , the Authority may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Contractor under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.
- 7.1.3 In the event the Contractor fails to provide the Performance Security within 15 (fifteen) days of the date of this Agreement, it may seek extension of time for a period not exceeding a further 15 (fifteen) days on payment of Damages for such extended period in a sum calculated at the rate of 0.05% (zero point zero five per cent) of the Contract Price for each day until the Performance Security is provided.

## **7.2 Extension of Performance Security**

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

## **7.3 Appropriation of Performance Security**

- 7.3.1 Upon occurrence of a Contractor Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate from the Performance Security the amounts due to it as Damages for the Contractor's Default. Upon such encashment and appropriation from the Performance Security, the Contractor shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Contractor shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate the Agreement in accordance with Article 21. Upon such replenishment or furnishing of a fresh Performance Security, as the case may be, the Contractor shall be entitled to an additional Cure Period of 30 (thirty) days for remedying the Contractor Default, and in the event of the Contractor not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article

21.

#### **7.4 Release of Performance Security**

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

#### **7.5 Retention Money**

- 7.5.1 From every payment for Works due to the Contractor in accordance with the provisions of Clause **Money**) subject to the condition that the maximum amount of Retention Money shall not exceed 5% (five per cent) of the Contract Price.
- 7.5.2 Upon occurrence of a Contractor's Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to appropriate the relevant amounts from the Retention Money, the Authority shall deduct 6% (six per cent) thereof as guarantee money for performance of the obligations of the Contractor during the Construction Period (the "**Retention** as Damages for such Contractor's Default).
- 7.5.3 The Contractor may, upon furnishing an irrevocable and unconditional bank guarantee substantially in the form provided at Annex-II of Schedule-F, require the Authority to refund the Retention Money deducted by the Authority under the provisions of Clause. Provided that the refund hereunder shall be made in tranches of not less than 1% (one per cent) of the Contract Price.
- 7.5.4 Within 15 (fifteen) days of the date of issue of the Completion Certificate, the Authority shall discharge the bank guarantees, if any, furnished by the Contractor under the provisions of Clause 7 and refund the balance of Retention Money remaining with the Authority after adjusting the amounts appropriated under the provisions of Clause and the amounts refunded under the provisions of Clause
- 7.5.5 The Parties agree that in the event of Termination of this Agreement, the Retention Money and the bank guarantees specified in this Clause shall be treated as if they are Performance Security and shall be reckoned as such for the purposes of Termination Payment under Clause

#### **8.0 Labour Codes and Related Obligations**

##### **8.1 Independent Contractor**



The contractor's status shall be that of an independent contractor and Primary Employer of staff deployed during the contract by him or his sub-contractors or other associates. The contractor, its employees, agents, and subcontractors performing under this Contract are not employees or agents of the Procuring Organisation or Procuring Entity or Central or State Government or their agencies/ Enterprises, simply by Services delivered under this Contract.

### **8.1.1 Obligations of the contractor under Labour Codes and Rules**

- ✓ In cases where Services are to be performed by the contractor at the premises of the Procuring Entity or Beneficiary of Services, the contractor shall comply with the provisions of the Labour Codes including Code on Wages, 2019, The Industrial Relations Code 2020, Code on the Social Security 2020, and The Occupational Safety, Health and Working Conditions 2020, and Draft Rules made thereunder, as modified from time-to-time, wherever applicable and shall also indemnify the Procuring Entity from and against any claims under the aforesaid Labour codes and the Rules.
- ✓ The contractor shall obtain a valid licence under the aforesaid Labour codes and the Rules as modified from time to time before the commencement of the contract and continue to have a valid licence until the completion of the contract. Any failure to fulfil this requirement, the Procuring Entity shall treat it as a breach of contract for default as per the contract and avail any or all remedies thereunder.
- ✓ In respect of all labour directly or indirectly employed in the contract for the performance of the contractor's part of the contract, the contractor shall comply with or cause to comply with the provisions of the aforesaid Labour codes and the Rules wherever applicable. The contractor shall be solely responsible for submitting all the necessary returns under these Codes and the Rules. Nevertheless, the contractor shall submit monthly returns to the Procuring Entity to confirm compliance with such Codes and rules. Failure to do so shall entitle Procuring Entity to take any measure to ensure compliance to such codes and rules by the contractor and his associates, including, but not limited to, withholding contractor's on-account bills.
- ✓ The contractor shall pay the wages as per the Code on Wages to their workers not below the rate of minimum wages, as notified by the State Government or Central Government, whichever is higher, through the bank transfer. The contractor shall, notwithstanding the contract's provisions to the contrary, cause to be paid the wages to labour directly or indirectly engaged on the contract, including any engaged by his Sub-Contractors in connection with the said contract as if he had immediately employed the labour. The Procuring Entity shall, without any commitments or being obliged to do, may its discretion, monitor that such payments are being made. The contractor shall be required to submit, every month, documentary evidence in the form of a Bank Statement of having transferred the gross minimum wages to each worker. Failure to do so shall entail Procuring Entity taking up any measure to ensure the payment of wages including, but not limited to, withholding contractor's on-account bills.

- ✓ In every case in which, by virtue of the provisions of the aforesaid Labour codes and the Rules, the Procuring Entity is obliged to pay any amount of wages to a workman employed by the contractor or his Sub-Contractor in execution of the contract or to incur any expenditure in providing welfare and health amenities required to be provided under the aforesaid Labour codes and the Rules or to incur any expenditure on account of the contingent liability of the Procuring Entity due to the contractor's failure to fulfil his statutory obligations under the aforesaid Labour codes and the Rules the Procuring Entity shall recover from the contractor, the amount of wages so paid or the amount of expenditure so incurred, and without prejudice to the rights of the Procuring Entity under the aforesaid Labour codes and the Rules, the Procuring Entity shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/ or from any sum due by the Procuring Entity to the contractor whether under the contract or otherwise. The Procuring Entity shall not be bound to contest any claim made against it under the aforesaid Labour codes and the Rules except on the contractor's written request, and upon giving the Procuring Entity complete security for all costs, for which the Procuring Entity might become liable in contesting such claim. The decision of the Procuring Entity regarding the amount recoverable from the contractor as stated above shall be final and binding on the contractor.

#### **8.1.2 Occupational Safety, Health, Working Conditions, Social Security, and Industrial Relations Requirements:**

As per Labour Codes, which included Code on Wages, 2019, The Industrial Relations Code 2020, Code on the Social Security 2020, and The Occupational Safety, Health and Working Conditions 2020 and rules thereunder, the following provisions shall be ensured by the contractor.

- (1) Provisions for Workers:
  - ✓ At his own expense, the contractor shall make adequate arrangements for the housing, supply of drinking water, and provision of clean sanitation, including urinals, etc., for his staff and workers, directly or through the petty contractors or sub-contractors.
  - ✓ The contractor shall also provide a temporary creche (Bal-mandir) where 50 or more workers are employed at a time.
  - ✓ Suitable sites on Procuring Entity's land, if available, but without any obligation to do so, may be allotted to the contractor for the erection of labour camps, either free of charge or on such terms and conditions that the Procuring Entity may prescribe.
  - ✓ All camp sites shall be maintained in clean and sanitary conditions by the contractor at his own cost.
- (2) During the execution of services, unless otherwise stipulated in the contract, the contractor shall at his own cost provide the following materials as is necessary for:
  - ✓ the safety, hygiene, satisfaction, elegance, acceptance, proper handling of assets and shall ensure that no damage, injury, or loss is caused or likely to be caused to any person or assets or hindrance to other works/ services.
  - ✓ environmental requirements to conserve energy, water, wood, paper, and other resources, reduce waste, phase out the use of ozone-depleting substances, and

minimise the release of greenhouse gases, volatile organic compounds, and other substances damaging health and the environment.

- (3) **Medical Facilities:** the contractor shall provide medical facilities at the site as prescribed by the Contract Manager on the advice of the Procuring Entity's Medical Authority commensurate with the strength of the contractor's resident staff and workers. Such facilities shall include a First-Aid facility manned with staff trained in first aid as per labour codes or the Contract Manager's directions.

(4) **Medical Certificate of Fitness for Labour**

the contractor shall not employ a person below 18 years of age. For delivery of Services under the contract, unless a medical certificate of fitness in the prescribed form under labour codes (or as directed by the contract manager) is granted to each worker by a certifying surgeon certifying that he is fit to work as an adult, is obtained and kept in the custody of the contractor or a person nominated by him in this behalf and the person carries with his, while at work, a token giving a reference to such certificate.

- ✓ **Period of Validity of Medical Fitness Certificate:** A certificate of fitness granted or renewed for the above-said purposes shall be valid only for one year at a time. The certifying surgeon shall revoke a certificate granted or renewed if, in his opinion, the holder of it is no longer fit for work in the capacity stated therein. Where a certifying surgeon refuses to grant or renew a certificate or revoke a certificate, he shall, if so required by the person concerned, state his reasons in writing for doing so.
- ✓ **Medical Re-Examination of Labour:** Where any official appointed on this behalf by the Ministry of Labour believes that any person employed in connection with the execution of any work under this Contract in the age group 18 to 65 years is without a certificate of fitness or is having a certificate of fitness but no longer fit to work in the capacity stated in the certificate, he may serve on the contractor, or the person nominated by him in this regard, a notice requiring that a certifying surgeon and such person shall examine such persons shall not if the concerned official so directs, be employed or permitted to do any work under this Contract unless he has been medically examined and certified that he has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

8.1.3 **Mandatory Compliance of Government Welfare Schemes**

the contractor must ensure and provide documentary evidence for the following and must submit documentary evidence to show the coverage of all his workers or labour under the following schemes at all times during the contract period on an annual basis:

- ✓ All the contractor's workers or labour employed directly or indirectly must be enrolled under the Pradhan Mantri Jan Dhan Yojana (PMJDY), a scheme that aims to provide all the citizens of India a bank account, credit facility, insurance cover and debit card.
- ✓ All the workers or labour employed directly or indirectly by the contractor between the ages 18-70 years must be enrolled under the Pradhan Mantri Suraksha Bima Yojana (PMSBY), an accident insurance scheme which shall be a one-year cover,

renewable from year to year, offering accidental death and disability cover for death or disability on account of an accident. The contractor shall pay the premium per annum per member for all his workers during the contract period.

- ✓ All the workers or labour employed directly or indirectly by the contractor between the ages 18-50 years must be enrolled under the Pradhan Mantri Jeevan Jyoti Bima Yojana, an insurance scheme which shall be a one-year cover, renewable from year to year, offering life insurance cover for death due to any reason. The contractor shall pay the premium per annum per member for all his workers during the contract period.

#### **8.1.4 Contract Labour Records and Management System**

A comprehensive record needed for contract labour management and monitoring attendance (Identity Cards, Labour Records, Attendance, Time Sheets, Training Record, acknowledgements of labour Codes) for efficient performance and safeguarding workers' welfare must be maintained by the contractor. It shall be inspected during Site Inspections by the Contract Manager. The contractor shall put this system in place unless otherwise stipulated in the Special Conditions of Contract. If so stipulated in Special Conditions of Contract<sup>1</sup>, a computerised Contract Labour Management system shall be mandatory.

#### **8.1.5 The obligation of Contractor to ensure awareness of Labour Codes**

- ✓ the contractor has to mandatorily provide a comprehensive day-long training carried out by a certified Third-Party agency for the awareness of Labour codes and the Rules, grievance redressal mechanism and other provisions applicable to his and his Sub-contractor's staff, workers, labour employed by him directly or indirectly in delivery of service to the Procuring Entity. The contractor must submit relevant documentary proof to Procuring Entity of having conducted such training to all workers.
  - ✓ The contractor must provide a comprehensive booklet (Procuring Entity approves that) containing all the relevant updated labour codes, rules, and other applicable provisions, to every worker at the outset of the contract in the local vernacular language.
  - ✓ Procuring Entity, without any commitments or being obliged to do, may its discretion, provide following facilities for Contractor's Contract Labour working on this Contract:
  - ✓ Helpline for complaints from labour regarding payment of wages, work site facilities, sexual harassment etc
  - ✓ Provision for recording anonymous complaints from workers, citizens etc., regarding violation of Labour codes and the Rules by Contractor.
-

## **8.2 Insurances**

- (1) the contractor (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage, as stipulated in the contract or any applicable law including Labour Codes; and at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid.
- (2) the contractor at his cost shall provide, in the joint names of the Procuring Entity and the contractor, insurance cover from the start date to the date of completion of the contract, in the amounts and deductibles as per the instructions of the contract manager and the contract for the following events which are due to the contractor's risks:
  - ✓ loss of or damage to Equipment, materials for which advances have been paid;
  - ✓ loss of or damage to property of the Procuring Entity in connection with the contract;
  - ✓ Personal injury or death.
  - ✓ Penalties and demands by labour regulatory authoritiesInsurance policies and certificates for insurance shall be delivered to the Contract Manager for approval before the Start Date. All such insurance shall provide compensation payable in Indian Rupees to rectify the loss or damage incurred.
- (3) Alterations to the terms of insurance shall not be made without the approval of the Contract Manager.
- (4) Both parties shall comply with any conditions of the insurance policies.

## **8.3 Permits, Approvals and Licenses**

Whenever the delivery of Services and incidental Goods/ Works requires the contractor to obtain permits, approvals, and licenses from local public authorities, it shall be the contractor's sole responsibility to obtain these and keep these current and valid. Such requirements may include but not be restricted to licences or environmental clearance if required. If requested by the contractor, the Procuring Entity shall make its best effort to assist the contractor in complying with such requirements in a timely and expeditious manner, without any dilution of the Contractor's responsibility in this regard.

## **8.4 Accounting, Inspection and Auditing**

the contractor shall keep accurate and systematic accounts and records regarding the provision of the Services under this Contract, as per accounting principles prescribed in India.

## **8.5 Book Examination Clause**

*If explicitly invoked in the contract*, the Procuring Entity reserves the right for 'Book Examination' as follows:

- (1) the contractor shall, whenever called upon and required to produce or cause to be produced, for examination by any Government Officer duly authorised in that

behalf, any cost or other book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of or extract from any such document. The contractor shall also furnish information relating to the execution of this contract or relevant for verifying or ascertaining the cost of execution of this contract to such Government Officer in such manner as may be required. The decision of such Government Officer on the question of relevancy of any document, information of return being final and binding on the parties. The obligation imposed by this clause is without prejudice to the contractor's obligations under any other statute, rules or orders which shall be concurrently binding on the contractor.

- (2) The contractor shall, if the authorised Government Officer so requires (whether before or after the prices have been finally fixed), afford facilities to the Government Officer concerned to visit the contractor's premises to examine the processes of production and estimate or ascertain the cost of performance of Contract. The authorised Government Officer shall have power, mutadis mutandis, to examine all the relevant books of Contractor's subcontractor, or any subsidiary or allied firm or company, If any portion of the contract is entrusted or carried out by such entities.
- (3) If on such examination, it is established that the contracted price is more than the actual cost-plus reasonable margin of profit, the Procuring Entity shall have the right to reduce the price and determine the amount to a reasonable level.
- (4) The contractor or its agency is bound to allow examination of its books within 60 days from the date the notice is received by the contractor or its agencies calling for the production of documents under sub-clause (1) above. In the event of the contractor's or his agency's failure to do so, the contract price would be reduced and determined according to the best judgment of the Procuring Entity, which would be final and binding on the contractor and his agencies.

## **9.0 Procuring Entity's Obligations**

### **9.1 Facilities to be Provided by the Procuring Entity**

- (1) No Facilities (including Reference Documents, Medical facilities, Rooms, Furniture, Transport, Access to IT Services etc.) other than those stipulated explicitly in the contract shall be provided or loaned by the Procuring Entity to the contractor for performance of the contract. Whenever such assets are required to be issued to the contractor as per the contract, these would be issued only as per terms and conditions and against appropriate safeguards (including Insurances, Bank Guarantee, Indemnity Bonds, Retention Money etc.) specified therein. The contractor shall use such property for the execution of the contract and for no other purpose whatsoever.
- (2) Unless otherwise stipulated in the contract, The Procuring Entity may hire to the contractor non-key Equipment owned and sparable by Procuring Entity for use during execution of the Services on terms and conditions and on the chargeable

basis as may be stipulated in the contract or a separate agreement for Hire of such equipment.

## **9.2 Provision of Utilities at Site by Procuring Entity**

Unless otherwise stipulated in the contract, The Procuring Entity may supply without any obligation to do so, to the contractor part or whole of the quantity of the water and electricity required for the delivery of Services from the Procuring Entity's existing water/ electricity supply system at or near the site of Services on specified terms and conditions and on chargeable basis (unless specified otherwise), provided that the contractor shall arrange, at his own expense, to effect the connections and lay additional pipe/ power lines and accessories on the site. Nevertheless, it shall be the responsibility of the contractor to install adequate alternative arrangements to tide over outages in utilities or failure in supply by the Procuring Entity, and that the contractor shall not be entitled to any compensation– nor shall this be a reason for the delay in delivery of Services.

## **9.3 Custody and Return of the Procuring Entity's Assets loaned to Contractor**

- (1)The contractors shall sign accountable receipts for all tools, plants and materials or other assets/ properties made over to him by the Contract Manager. All such assets shall be deemed to be in good condition when received by the contractor unless he has within twenty-four hours of the receipt thereof notified the Procuring Entity to the contrary. Otherwise, he shall be deemed to have lost the right to do so at any subsequent stage.
- (2)These assets shall remain the property of the Procuring Entity, and the contractor shall take all reasonable care of all such assets. The contractor shall be responsible for all damage or loss from whatever cause caused while assets are possessed or controlled by the contractor, staff, workmen, or agents.
- (3)Where the contractor insures such assets against loss or fire at the request of the Procuring Entity, such insurance shall be deemed to be by way of additional precaution and shall not prejudice the contractor's liability as aforesaid.
- (4)The contractor shall return all such assets in good order and repair, fair wear and tear excepted, before the completion/ closure/ termination of the contract and shall be responsible for any failure to account for the same or any damage done to that as assessed by the Procuring Entity whose decision shall be final and binding.

## **10.0 Scope of Services, Performance Standards and Quality Assurance**

### **10.1 Scope of Services**

- (1)This contract is for the performance/ delivery of Services of the description, scope/ quantum, performance standards and quality outlined in the contract during the contract Period specified therein. Unless otherwise specified, the Services shall conform to performance and quality standards as stipulated in the contract or as per best standards in the market, where not so specified.

- (2)The contractor shall deliver Services and submit the reports, deliverables, outputs, and documents stipulated in Format 1.1: Description of Services to the Procuring Entity.
- (3)The Services shall include all such work-elements not mentioned explicitly in this Contract, but that can be reasonably inferred from this Contract as being required for attaining Completion of the Services as if such items were expressly mentioned in this Contract.
- (4)**Incidental Works/ Goods:** If so stipulated, the contractor shall be required to perform/ deliver specified incidental Works/ Goods as an integral part of the Services in the contract.

## **10.2 Performance Standards**

- (1)the contractor shall perform the Services as per Format 1.1: Description of Services, and carry out its obligations with all due diligence, efficiency, and economy, observing sound management practices, and employ appropriate advanced technology and safe methods as per the performance standards and quality control parameters as stipulated in the contract. For matters where the contract does not specify any Standard, the Services delivered shall conform to National/ International Standards or generally accepted professional techniques and practices.
- (2)**The shortfall in Performance:** In cases where the performance or/and quality of Services is/are found to be unsatisfactory, Procuring Entity or his representatives shall impose damages for the shortfall in performance as per GCC-clause below. This levy of damages shall not absolve the contractor from rectification or reperformance of the defective Service without further payment.

## **10.3 Quality Control and Defect Liability**

- (1)The Procuring Entity shall check the quality of the Services and shall inspect the contractor's performance according to the relevant section(s) of Format 1.1: Description of Services. The Procuring Entity shall promptly notify the contractor of any identified defects, requesting the correction of the notified defect within a reasonable time.
- (2)If the contractor has not corrected notified defect within the time stipulated in the Procuring Entity's notice, the Procuring Entity shall assess the cost of having the defect corrected. Without prejudice to any of its other remedies under this Contract or applicable law, procuring Entity shall be legally entitled to deduct such cost from the contract's payments, together with the damages for the shortfall in performance (as per clause above), a sum equivalent to the percentage stipulated in the contract.

## **10.4 Eligible Services - Country of Origin and Minimum Local Content**

Unless otherwise stipulated in SCC or Contract, country of origin of 'Services' and related 'Goods' under the contract shall have their origin in India or other countries and must conform to the declaration made by the contractor in its bid regarding but



not limited to i) restrictions on certain countries with land-borders with India; ii) minimum local content and location of value addition (Make in India Policy); iii) Contractor's status as MSE or Start-up. The term "origin" used in this clause means the place from where the Services (and incidental Goods, including subcontracted components) are arranged and delivered, or incidental goods are mined, grown, produced, or manufactured. For purposes of this Clause, the term 'Services' shall have the meaning as defined in GCC-clause.

## **10.5 Quantity Tolerance**

Unless otherwise stipulated in the contract, the obligation for completing Services shall be considered complete if the Services have been performed to the tolerance of plus or minus 5% of the quantum or the total value of Services ordered in the contract. Only the delivered / measured quantity shall be paid for as per the terms of the contract.

## **10.6 Contract Period and Option Clause**

### **10.6.1 Contract Period**

Unless otherwise stipulated in the contract, the contract Period for which the Service shall be provided shall be one year from the effective date of the contract, unless completed earlier or terminated as per the contract.

### **11.1 Option Clause**

If stipulated otherwise in the contract, the Procuring Entity shall have the right to exercise the following options, by written notification to the contractor no later than thirty (30) days before Contract end:

- (1) extend the contract Period only once (unless otherwise stipulated in the contract) by four months period (unless otherwise stipulated in the contract).
- (2) increase the ordered quantum of Services upto the percentage specified therein (or 25% if not specified) at any time, till the completion date of the contract, by giving reasonable notice and providing a reasonable extension in delivery period for increased quantum, even though the quantum ordered initially has been delivered in full before the completion Period.

## **12.0 Measurement, Variations and Modifications**

### **12.1 Quantities in Contract**

The quantities set out in the contract are the estimated quantities of the Services, and they shall not be taken as the actual and correct quantities of the Services to be executed by the contractor to fulfil his obligations under the contract. Payment shall be made for the actual quantities deployed/ delivered; however, payments shall not be made for quantities over and above those indicated in the contract unless extra quantity has been asked in a written order by the contract manager.

During the bidding process, should the bidder notice any possible discrepancy on the higher or lower sides of the quantities mentioned in the BOQ the same shall be brought to the notice of the procuring entity prior to submission of the bid.

## **12.2 The admeasurement of Inputs and Services**

- (1) Measurements shall be recorded based on the contractor's day-to-day records and authenticated by the Contract Manager or his representative as updated per the agreed Works Programme.
- (2) The contractor shall be paid for the Inputs /Services at the rates in the contract and extra inputs/ Services at rates determined under GCC-clause below on the measurements taken by the Contract Manager or his representative. The quantities for items the unit of which in the contract is 100 or 1000 shall be calculated to the nearest whole number, any fraction below half being dropped and a half and above being taken as one; for items, the unit of which in the contract is single (if not an integral quantity), the quantities shall be calculated to two places of decimals. Such measurements shall be taken of the Services in progress from time to time and at such intervals as in the opinion of the Contract Manager shall be proper regarding the progress of Service. The date and time on which 'on account' or 'final' measurements are to be made shall be communicated to the contractor who shall be present at the site and shall sign the results of the measurements (which shall also be signed by the Contract Manager or his representative) recorded in the official measurements book as an acknowledgement of his acceptance of the accuracy of the measurements.
- (3) If the contractor fails to attend, the service may be measured up in his absence, and such measurements shall, notwithstanding such absence, be binding upon the contractor whether or not he has signed the measurement books.
- (4) It shall be open to the contractor to take specific objection to any recorded measurements or Classification on any ground within seven days of the date of such measurements. Any re-measurement taken by the Contract Manager or his representative in the contractor's presence or absence after due notice has been given to him shall be final and binding on the contractor. No claim whatsoever shall after that be entertained regarding the accuracy and classification of the measurements. If the Contract Manager finds an objection raised by the contractor to be incorrect, the contractor shall be liable to pay the actual expenses incurred in re-measurements.

## **12.3 Variations and Claims**

### **12.3.1 Powers of Variations**

- (1) the Contract Manager, on behalf of the Procuring Entity, in consultation with the Contractor, order variations in writing to enlarge or extend, diminish, or reduce the Services or make any alterations in their design, inputs, site, quantities, sequence or timing, dimensions or the method of their execution or the combination and use of

materials for the execution thereof or to order any additional service to be performed or any Services not to be performed. The contractor shall not be entitled to any compensation for any increase/reduction in the quantities of work but shall be paid only for the actual amount of work done. Such variations shall not be more than plus/minus 15% of the value of the Contract and must be broadly within the original scope/ character and purpose of the original contract.

- (2) Unless otherwise stipulated, the accepted variation in the quantity of each contract item would be upto 25% of the quantity initially contracted. The contractor shall be bound to carry out the service at the agreed rates and shall not be entitled to any claim or compensation whatsoever upto the limit of 25% variation in the quantity of the individual item of services.
- (3) If the Contract Managers decide to increase the variation beyond 25% of Contracted quantity after internal approvals, the rates and acceptability shall be mutually agreed upon.
- (4) As far as items in Format 1.3: Price Schedule is concerned, the limit of 25% would apply to the value of the contract as a whole and not on individual items.

### **12.3.2 Valuation of Variations**

The variation referred to in sub-clause above shall in no degree affect the validity of the contract; but shall be performed by the contractor as provided therein and be subject to the same conditions, stipulations, and obligations as if they had been initially and expressly included and provided for in the contract and the amounts to be paid therefore shall be calculated as per the Price Schedule. Any extra items/quantities of Services falling outside the purview of the provisions of Price Schedule above shall be paid for at the rates determined under GCC-clause of these Conditions.

### **12.4 Rates for Extra Items**

- (1) Any extra item of Service carried out by the contractor on the instructions of the Contract Manager which is not included in the Price Schedule shall be executed at the rate agreed upon between the Contract Manager and the contractor before the execution of such items of service.
- (2) The contractors shall be bound to notify the Contract Manager at least seven days before the necessity arises to execute such extra items of Services for which the Price Schedule/ Contract does not include rate or rates.
- (3) The rates payable for such extra items shall be decided at the meeting between the Contract Manager and Contractor, in as short a period as possible after the need for the extra item has come to the notice. In case the contractor fails to attend the meeting after being notified to do so or in the event of no settlement being arrived at, the Procuring Entity shall be entitled to execute such extra items of Service by other means, and the contractor shall have no claim for loss or damage that may result from such procedure.

- (4) Provided that if the contractor commences such items of Service or incurs any expenditure in this regard before the rates as determined and agreed upon as mentioned above, then and in such a case, the contractor shall only be entitled to be paid in respect of the Services carried out or expenditure incurred by him before the date of determination of the rates as aforesaid according to the rates as shall be fixed by the Contract Manager. However, if the contractor is not satisfied with the decision of the Contract Manager in this respect, he may appeal to the Head of Procurement within 30 days of getting the decision of the Contract Manager, supported by analysis of the rates claimed. The Head of Procurement's decision after hearing both the parties in the matter would be final and binding on the contractor and the Procuring Entity.
- (5) Any claim for extra items shall be supported by invoices and capped on market rates as prevalent and the same shall be mutually agreed between the Contractor and the procuring entity.

### **13.0 Deployment of Resources**

#### **13.1 Site and Assets thereon**

##### **13.1.1 Site of Service Delivery**

- (1) The site for Service delivery shall be the lands, spaces, and other places on, under, in or through which the Services are to be carried out and any other lands or places provided by the Procuring Entity for the contract.
- (2) No land or building or any other asset belonging to or in possession of the Procuring Entity shall be occupied by the contractor without the permission of the Procuring Entity. The contractor shall not use or allow to be used the site for any purposes other than executing or concerning the execution of the services.
- (3) Facilities for Inspection: the contractor shall afford the Contract Manager and his representative every facility for entering in and upon every portion of the site at all hours for inspection or otherwise and shall provide all facilities required for the purpose. The Contract Manager and his representative shall have free access to every part of the site and all places at which materials, tools, and plants are stored or prepared for the Services.
- (4) Existing Roads and Waterways: Existing roads or water courses shall not be blocked, cut through, altered, diverted, or obstructed in any way by the contractor, except with the permission of the Contract Manager. All compensations claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the contractor or his agent or his staff shall be recoverable from the contractor by deduction from any sums which may become due to him in terms of Contract, or otherwise according to law.
- (5) Non-Obstruction of Access: During the progress of Services in any street or thoroughfare, the contractor shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or

thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reasons of the execution of the Services and shall react and maintain at his cost barriers, lights and other safeguards as prescribed by the Contract Manager, for the regulation of the traffic, and provide security staff necessary to prevent accidents.

- (6) No Obstruction to Flow of Work and Personnel of Procuring Entity: Contractor shall arrange his work in consultation with the Contract Manager in such a manner to avoid obstruction to the normal flow of work and personnel of the Procuring Entity at the site, preferably utilising non-business hours for such obstructive or hazardous activities.

### **13.1.2 Temporary Works at Site**

the contractor shall at his own expense erect temporary works, e.g., sheds, yards, and storehouses in such situations, and such numbers as in the opinion of the Procuring Entity is requisite for performing the Services. The contractor shall keep at each such sheds, yards, and store-houses a sufficient quantity of materials/ plant in stock as not to delay the performance of the Services with due expedition. The Procuring Entity and its representative shall have free access to the said sheds/yards/ store houses at any time to inspect the stock of materials or plant so kept in hand, and any materials or plant which the Procuring Entity may object to shall not be brought upon or used in the services but shall be forthwith removed from the sheds/yards/store houses by the contractor.

### **13.1.3 Security Arrangements**

- (1) The contractor shall secure security arrangements at the site against unauthorised access/ trespass, pilferage, theft, leakage or misuse of property or belongings of his or his staff or Procuring Entity and its Staff by his staff or third parties or trespassers.
- (2) Preservation of Peace
  - a) the contractor shall take requisite precautions and use their best endeavours to prevent any riotous or unlawful behaviour by or amongst their workers and others, employed directly or through the petty contractors or sub-contractors for services, and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the site of services.
  - b) If the Procuring Entity stipulates maintenance of a special Police Force at or in the vicinity of the site during the tenure of service Contract, the expenses thereof shall be borne by the contractor and, if paid by the Procuring Entity, shall be recoverable from the contractor.
- (3) Prohibition of Smoking and Intoxicants: the contractor or his staff or any labour employed through sub-contractors or petty contractors shall be prohibited from Smoking in 'No Smoking Zone' and in Public Places and also prohibited from the use of any intoxicating substances including, but not limited to, intoxicating beverages during the service period or on-site or near the site or in any of the facilities, sites, buildings, encampments, or tenements owned, occupied by or within the control of the contractor or any of his employees. The contractor shall

exercise influence and authority to the utmost extent to secure strict compliance with this condition.

#### **13.1.4 Safety Issues**

- (1) the contractor shall be responsible for the safety of all activities on the Site.
- (2) The contractor shall be responsible for the safety of all persons employed by him on Site, directly or through petty contractors or Sub-Contractors, and shall report accidents to any of them, however, and wherever occurring on Works, to the contract manager or his representative, and shall make every arrangement to render all possible assistance and to provide prompt and proper medical attention. The compensation for affected Workers or their relatives shall be paid by the contractor in such cases expeditiously as per the Workmen's Compensation Act and other labour codes.
- (3) Safety of Public and Third parties: the contractor shall be responsible for taking all precautions to ensure the safety of the public and third parties, whether on public or Procuring Entity's property and shall post look out, such persons as may, in the opinion of the Contract Manager, be required to comply with regulations appertaining to the service. No explosives shall be used for the Services rendered or on the site by the contractor.

#### **13.1.5 Clearance of Site on Completion**

On completion of the services, the contractor shall clear away and remove all tools /plants and surplus materials, rubbish and temporary works of every kind and leave the whole of the site clean to the satisfaction of the Contract Manager.

- (1) If the contractor provides temporary huts on the Procuring Entity land for labour engaged by him to execute services, the contractor shall arrange for handing over vacant possession of the said land after the service is completed.
- (2) No final payment in settlement of the accounts for the Services shall be paid, held to be due or shall be made to the contractor till, in addition to any other condition necessary for final payment, site clearance shall have been affected by him.
- (3) In the event of failure on the part of the contractor to comply with this provision within 7 days after receiving notice for clearance of Procuring Entity's site and lands, the Contract Manager shall cause them to be removed through public sales of such materials and property or in such a way as deemed fit and convenient and cost as increased by supervision and other incidental charges shall be recovered from the contractor. If the contractor's labour refuses to vacate and has to be ejected following due process by the Procuring Entity, necessary expenses incurred by the Procuring Entity in connection shall be borne by the contractor. The Procuring Entity shall not be held liable for any loss or damage to the contractor's property as may be on the site and due to such removal.

## **14.0 Key and Non-key Personnel**

### **14.1 Key Personnel**

- (1) The titles, job descriptions, minimum qualifications, and estimated periods of the contractor's Key Personnel engagement in carrying out the Services are described in Format 1.1.1.
- (2) Substitution of key personnel shall only be allowed in compelling or unavoidable situations, and the substitute shall be of equivalent or higher credentials. Such substitution shall not exceed the limit specified in SCC (or 30%, if not specified) of total key personnel.
- (3) Substitution of the first 10% of key personnel shall be subject to reduction of remuneration by a percentage specified in SCC (or 5%, if not specified) of the remuneration which would have been paid to the original personnel from the date of the replacement till completion of the contract. Such reduction in remuneration shall progressively increase further for subsequent substitutions as specified in SCC. If not specified, the reduction in remuneration shall be 10% and 15% respectively for the subsequent two slabs of 10% substitutions of key personnel (i.e. till 30% substitution).

### **14.2 Non-key Personnel**

- (1) the contractor must ensure deployment of non-key Personnel as per the Personnel Deployment Plan in Format 1.1.1 and approved Works Programme as updated. If the Contract Manager believes that the contractor is not employing sufficient staff and workers as is specified or otherwise for the proper execution of the Services, he shall issue a notice to the contractor for remedial measures. The contractor shall forthwith on receiving intimation to this effect deploy the additional number of staff and labour as specified by the Contract Manager immediately, and failure on the part of the contractor to comply with such instructions shall entitle the Procuring Entity to penalize the contractor for the shortfall in performance or terminate the contract as per the contract and avail all the remedies thereunder. Such action shall be in addition to deduction from Contractor's payment cost of shortfall personnel as per Format 1.1.1.
- (2) The contractor shall also deploy efficient and competent supervisory staff to give the necessary directions to his workers and to see that they provide their services desirably and adequately and shall employ only such supervisors, workers & labour in or about the execution of any of these Services as are careful and skilled in the various trades. Daily attendance records of such supervisors and labour shall be maintained.
- (3) Procuring Entity reserves its right to ask for additional manpower, and the contractor shall be contractually bound to provide such manpower at one week's advance notice – which shall be paid extra at rates quoted.
- (4) Police Verification of Labour employed by Contractor: the contractor must submit Police Verification certificates in a format prescribed by the Police Department (or

as directed by the Contract Manager) for all contractual staff hired for delivery of Services for Procuring Entity.

- (5) Restrictions on the Employment of Retired Staff or Officers or Managers of Procuring Entity Services within One Year of their Retirement: the contractor shall not, himself be a retired Government Manager of Gazetted rank, or engage any employee or associate who is a retired Government Manager of Gazetted rank, if such persons have not completed one year from the date of retirement, in connection with this Contract in any manner whatsoever without obtaining prior permission of the relevant authority. If the contractor is found to have contravened this provision, it shall constitute a breach of contract and Procuring Entity shall be entitled to terminate the contract and avail any or all the remedies thereunder.
- (6) The contractor shall, when he is not personally present on the site of the workplace, shall keep a responsible agent during working hours who shall, on receiving reasonable notice, present himself to the Contract Manager and orders given by the Contract Manager or his representative to the agent shall be deemed to have the same force as if they had been given to the contractor. Before absencing herself, the contractor shall furnish the name and address of his agent for this clause and failure on the contractor's part to comply with this provision at any time shall entitle the Procuring Entity to terminate the contract and avail any or all the remedies thereunder.

#### **14.3 Removal of Personnel on Orders of Contract manager**

- (1) If the Procuring Entity finds that any of the Personnel have (i) committed severe misconduct or have been charged with having committed a criminal act, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the contractor shall, at the Procuring Entity's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity, subject to sub-clause below.
- (2) The contractor shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

#### **14.4 Key and Non-key Equipment, Tools and Plants**

- (1) The details of Key Equipment required to be deployed are described in Format 1.1.2.
- (2) Except as the Procuring Entity may otherwise agree, no changes shall be made in the deployment of Key Equipment. If it becomes necessary to replace any of the Key Equipment for any reason beyond the contractor's reasonable control, the contractor shall provide Equipment of equivalent or better performance as a replacement.
- (3) The contractor must ensure deployment of non-key Equipment as per the Equipment Deployment Plan in Format 1.1.2 and approved Works Programme as updated. In the event of the Contract Manager believing that the contractor is



not employing on the Services sufficient Equipment/Tools/ Plant as is specified or otherwise for the proper execution of the Services within the prescribed procedure and time, the contractor shall forthwith on receiving intimation to this effect deploy the additional equipment/ tools/ plants as specified by the Contract Manager immediately and failure on the part of the contractor to comply with such instructions shall entitle the Procuring Entity to penalize the contractor under shortfall in performance or terminate the contract as a breach of contract. Such action shall be in addition to a deduction from Contractor's payment cost of shortfall Equipment as per Equipment Deployment Plan in Format 1.1.2.

- (4) the Contract Manager or his representative shall be entitled to order within the time stipulated in the order:
  - ✓ The removal of any equipment/ tools/ plants which in their opinion are not as per the performance standards.
  - ✓ The substitution of proper and suitable equipment/ tools/ plants

## **15.0 Materials Deployment**

- (1)Deployment of adequate inventory and supply chain of materials specified and provided in the contract or necessary for the delivery of Services or Personnel and Equipment deployed shall be of specified specification and quality and if not specified as per the best of market and business practices. The materials may be subjected to tests employing such machines, instruments and appliances as the Procuring Officer may direct and wholly at the contractor's expense.
- (2)Except as the Procuring Entity may otherwise agree, no changes shall be made in such materials' deployment, inventory, or supply chain. If for any reason beyond the contractor's reasonable control, it becomes necessary to do so, the contractor shall provide a replacement by materials of equivalent or better quality.
- (3)The contractor must ensure the deployment of materials as per the Materials Deployment Plan in Format 1.1.3 and the approved Works Programme as updated. In the event of the Contract Manager believing that the contractor is not employing on the Services sufficient materials/ inventory as is specified or otherwise for the proper execution of the Services within the prescribed procedure and time, the contractor shall forthwith on receiving intimation to this effect deploy additional materials/ inventory as specified by the Contract Manager immediately and failure on the part of the contractor to comply with such instructions shall entitle the Procuring Entity to penalize the contractor under shortfall in performance or terminate the contract as a breach of contract. Such action shall be in addition to deduction from Contractor's payment cost of shortfall materials as per Materials Deployment Plan in Format 1.1.3

### **15.1 Property in Equipment and Materials brought to Site.**

The materials and plant brought by the contractor upon the site or on the land occupied by the contractor in connection with the Services and intended to be used for the execution shall not be removed from the site without the approval of the Procuring

Entity. However, materials/ equipment which the Contract Manager rejects under GCC-clause during the progress of the Services, or which after the grant of the certificate of completion, are declared as not needed or those that remain unused, can be removed from the site or the said land by the Contractor. This clause shall not in any way diminish the liability of the contractor nor shall the Procuring Entity be in any way answerable for any loss or damage which may happen to or in respect of any such materials or plant either by the same being lost, stolen, damaged, or destroyed by fire, tempest or otherwise.

## **16.0 Delivery of Services and delays**

### **16.1 Works Programme**

- (1) Before commencement of the Services, the contractor shall submit for approval of the Contract Manager a Works Programme showing the Methods; schedule of delivery of services, the deployment plans for Personnel; Equipment and Materials for the execution of the services. The programme of delivery of Services amended as necessary by discussions with the Contract Manager shall be treated as the agreed Works programme for this Contract. The Services shall be carried out and monitored as per the approved Program as updated.
- (2) Unless otherwise stipulated in the contract or agreed between the parties, the Works Programme shall be based on round-the-clock (24X7) operations without violating statutory regulations.

### **16.2 Compliance to Contract Manager's Instructions**

- (1) the Contract Manager shall direct the order in which the several components of the Services shall be provided, and the contractor shall execute without delay all orders given by the Contract Manager from time to time. Still, the contractor shall not be relieved thereby from responsibility for the due performance of the Services in all respects.
- (2) Any instructions or approval given by the Contract Manager's representative to Contractor in connection with the Services shall bind the contractor as though the Contract Manager had given it provided as follows -
  - Failure of the Contract Manager's representative to disapprove any work/ Services or materials shall not prejudice the power of the Contract Manager after that to disapprove such Services or material and order the rectification thereof.
  - If the contractor is dissatisfied because of any decision of the Contract Manager's representative, he shall be entitled to refer the matter to the Head of Procurement through the Contract Manager, who shall there upon confirm or vary such decision.
- (3) Compliance with Contractor's Request for Details: the Contract Manager shall furnish with reasonable promptness, after receipt of the contractor's request, additional instructions regarding procedures, specifications or otherwise, necessary for the proper performance of the Services or any part thereof. All

such procedures, specifications and instructions shall be consistent with the contract Documents and reasonably inferable from them.

## **17 Commencement of Services**

- (1) Effective Date of Contract: Contractor shall commence the Services and shall proceed with due expedition and without delay, from the effective date of Contract (all dates of delivery shall be counted from such a date), which shall be the date mentioned as the effective date in the contract, or if not so mentioned:
- ✓ days from (unless specified otherwise in that order) the date of an order to this effect from the Contract Manager, or if no such order is issued,
  - ✓ days from the date Contract has been signed by the Procuring Entity

### **17.1 Time for Delivery of services and Extensions Thereof**

The time and uninterrupted delivery of Services shall be deemed to be the essence of the contract. Subject to any requirement in the contract as to the completion of any portions or portions of the Services before completion of the whole; the contractor shall fully and finally complete the whole of the services comprised in the contract as per the Delivery and Completion Schedule stipulated in Format 1.1: Description of Services. If at any time during the currency of the contract, the contractor encounters conditions hindering the timely performance of services, the contractor shall promptly inform the Procuring Entity in writing about the same and its likely duration. He must make a request to the Procuring Entity for an extension of the delivery schedule. On receiving the contractor's communication, the Procuring Entity shall examine the situation and, at its discretion, may agree to extend the completion schedule, with or without liquidated damages and with and without denial clause by issuing an amendment to the contract in terms of the following clauses.

### **17.2 Extension Due to Modification**

The Contract Manager might grant a reasonable extension of the completion date if any modifications ordered materially increase the time for delivery of the services. The contractor shall be responsible for requesting such extension of the date as soon as the cause thereof shall arise and, in any case, not less than one month before the expiry of the date fixed for completion of the services.

### **17.3 Extension for Delay Not Due to Contractor**

- (1) If in the opinion of the contractor, the progress of Services has any time been delayed due to following reasons, then within 15 days of such happening causing delay, he shall give notice thereof in writing to the Contract Manager, but shall nevertheless do due diligence to bring down or make good the delays and to proceed with the services:

- ✓ any act or neglect of other contractor employed by the Procuring Entity or in executing the work/service not forming part of the contract but on which Contractor's performance necessarily depends or
  - ✓ proceeding taken or threatened by or dispute with external third parties arising otherwise than from the contractor's own default etc. or
  - ✓ any act or neglect of Procuring Entity's employees or
  - ✓ delay authorized by the Contract Manager pending arbitration or
  - ✓ the contractor not having received in due time necessary instructions from the Procuring Entity for which he shall have especially applied in writing to the Contract Manager or his authorized representative.
  - ✓ hand over possession of the site or the necessary facilities/ documents/ data or instructions by the Procuring Entity to the contractor or
  - ✓ give the necessary notice to commence the services, or
  - ✓ any other delay caused by the Procuring Entity due to any other cause whatsoever.
- (2) the contractor may also indicate the period for which the Services is likely to be delayed and ask for a necessary extension of time. On receipt of such request from the contractor, the Contract Manager shall consider the same and grant such extension of time as in his opinion is reasonable regarding the nature and period of delay and the type and quantum of work affected thereby. No other compensation shall be payable for works so carried forward to the extended period. The same rates, terms, and conditions as the original Contract shall apply during the extended period.

#### **17.4 Extension of Time for Delay Due to Contractor**

- (1) If the contractor fails to deliver the Services within the fixed/ extended period for reasons other than those stipulated in GCC-clause above, the Procuring Entity may, if satisfied that the service delivery can still be completed within a reasonable time, extend the period further.
- (2) On such extension, the Procuring Entity shall be entitled without prejudice to any other right and remedy available on that behalf to recover from the contractor as agreed damages and not by way of penalty Liquidated Damages as per GCC-clause below.
- (3) Provided further, that if the Procuring Entity is not satisfied that the service can be completed by the contractor or in the event of failure on the part of the contractor to complete the service within the extension of time allowed further as aforesaid, the Procuring Entity shall be entitled without prejudice to any other right or remedy available in that behalf, treat the delay as a breach of contract and avail any or all the remedies thereunder, whether or not actual damage is caused by such default.
- (4) Inordinate Delays: Delays due to the contractor of more than one-fourth (25%) of the total completion period shall be treated as inordinate delays. Such inordinate delays shall be noted as poor performance and be held against the contractor in future tenders. A show-cause notice shall be issued to the

contractor before declaring it a poor performance. Such delays may be considered as a breach of the contract at the option of the Procuring Entity.

## **18 Damages and Deductions Thereof**

### **18.1 Right of the Procuring Entity to recover Damages.**

Procuring Entity shall be entitled to, and it shall be lawful for him to recover damages for the shortfall in performance and Liquidated damages as detailed in this clause from all payments due or any Performance Security or any retention money. This clause does not limit Procuring Entity from imposing more than one damages under the contract, and such damages shall be applied concurrently.

### **18.2 Damages for Shortfall in Performance**

The Procuring Entity shall, without prejudice to other rights and remedies under the contract, recover as damages for the shortfall in performance, but not as a penalty, 0.5% percent (or any other percentage prescribed) of the delivered price (including elements of GST & freight) of the defective Services, If the contractor fails to perform the Services as per Performance Standards and Quality, without having to prove actual loss incurred.

## **19 Liquidated damages**

- (1) Subject to GCC-clause, if the contractor fails to perform the Services within the time frame(s) incorporated in the contract, the Procuring Entity shall, without prejudice to other rights and remedies available to the Procuring Entity under the contract, deduct from the contract price, as liquidated damages for each week of delay or part thereof until actual delivery or performance, but not as a penalty, a sum equivalent to the 0.125% percent (or any other percentage if prescribed) of the related monthly bill of the Services. Besides liquidated damages during such a delay, the denial clause as per GCC-clause shall also apply.
- (2) Any failure or delay by any sub-contractor, though their employment may have been sanctioned, shall not be admitted as a ground for any extension of time or for exempting the contractor from liability for any such loss or damage as aforesaid.

## **20 Denial Clause:**

- (1) No increases in price on account of any statutory increase in or fresh Imposition of GST, or on account of any other taxes/ duty/ cess/ levy) leviable in respect of the Services and incidental goods/ works stipulated in the said Contract which takes place after the original delivery date shall be admissible on such of the said Services, as are delivered after the said date; and
- (2) Notwithstanding any stipulation in the contract for an increase in price on any other ground, including the price variation clause, no such increase after the original delivery date shall be admissible on such Services delivered after the said date.
- (3) Nevertheless, the Procuring Entity shall be entitled to the benefit of any decrease in price on account of reduction in or remission of GST, or on account of any other Tax

or duty or any other ground as stipulated in the price variation clause, which takes place after the expiry of the original delivery date.

## **21 Limit on total Damages**

However, deduction on account of damages for delays and performance under this clause of GCC, put together shall be subject to a maximum of 10% (or any other percentage if prescribed) of the entire value of Contract of Services. Penalties/liabilities outside this clause shall be covered by GCC clause

## **22 Suspension of Services**

### **22.1 Suspension Ordered by Contract Manager**

the contractor shall, on the order of the Contract Manager, suspend the progress of the Services or any part thereof for such time or times and in such manner as the Contract Manager may consider necessary, and shall during such suspension, adequately protect and secure the site and assets so far as is necessary in the opinion of the Contract Manager. If such suspension is -

- 1) Provided for in the contract, or
- 2) Necessary for the proper execution of the Services or because of extraneous conditions or by some default on the part of the contractor and  
or
- 3) Necessary for the safety of the Services or any part thereof

#### **a. Extension of Time and Compensation**

the contractor shall not be entitled to the extra costs, if any, incurred by him during the period of suspension of the service, but in the event of any suspension ordered by the Contract Manager for reasons other than aforementioned and when each such period of suspension exceeds 14 days, the Contract Manager shall extend the time of service for completion of the Services as he may consider proper, having regard to the period or periods of such suspensions and such compensations as the Contract Manager may consider reasonable in respect of expenses incurred by the contractor during the periods of such suspension.

#### **b. Suspension Lasting More Than 3 Months**

If the Contract Manager suspends the Services or any part thereof for more than three months at a time, the contractor may serve a written notice on the Contract Manager requesting permission to proceed with the suspended part(s) of service. If such permission is not granted within 15 days from the receipt thereof, the contractor by further written notice may, treat the suspended part(s) of the service as deleted from the Contract. If the whole of the services has been suspended, he may treat it as a breach of the contract by the Procuring Entity and avail any or all remedies provided in this regard in the contract.

## **23 Force Majeure**

- (1) On the occurrence of any unforeseen event, beyond the control of either Party, directly interfering with the delivery of Services arising during the currency of the contract, such as war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts, or acts of God, the affected Party shall, within a week from the commencement thereof, notify the same in writing to the other Party with reasonable evidence thereof. Unless otherwise directed by the Procuring Entity in writing, the contractor shall continue to perform its obligations under the contract as far as reasonably practicable and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. If the force majeure condition(s) mentioned above be in force for 90 days or more at any time, either party shall have the option to terminate the contract on expiry of 90 days of commencement of such force majeure by giving 14 days' notice to the other party in writing. In case of such termination, no damages shall be claimed by either party against the other, save and except those which had occurred under any other clause of this Contract before such termination.
- (2) Notwithstanding the remedial provisions contained in GCC-clause, none of the Party shall seek any such remedies or damages for the delay and/ or failure of the other Party in fulfilling its obligations under the contract if it is the result of an event of Force Majeure.

## **24 Prices and Payments**

### **24.1 Prices**

#### **24.1.1 Firm Prices**

Unless otherwise stipulated in the contract, Prices shall be fixed and firm. If the Price Variation Clause is included, such up and down variations shall also be payable.

#### **24.1.2 Price Variation Clause**

- (1) In case the contract provides for a Price Variation Clause or variation on any other account, the price shall be subject to adjustment as per such clauses, only during the original Delivery Period, subject to the following:
- (2) Any increase due to such variations during the extended delivery period, beyond the original delivery period, shall not be paid by the Procuring Entity; however, it shall be entitled to any reduction during this period under the GCC-clause (Denial Clause).
- (3) Taxes and duties, if any, chargeable and payable on the Services shall be charged on the nett price after variations.
- (4) While claiming payments where such variations are applicable, the contractor must submit its calculations for each invoice, even if the payment on account of these variations is nil. Any price reduction due to such variations must be passed on to the Procuring Entity.

- (5) No Other Claim due to Variations: With the payment of such variations, no additional individual claim shall be admissible on account of fluctuations in market rates, increase in taxes/any other levies/tolls etc.
- (6) If the Price Variation clause is applicable as per the contract, the price shall be subject to adjustment to take care of the changes in the cost of labour, material, and fuel/ power components as per the price variation formula specified therein. The amount payable on account of Price variation shall be settled every quarter.
- (7) Base Month and Quarter: Unless otherwise stipulated in the contract, the Base Month for 'Price Variation Clause' shall be taken as the month before the month of the last date of bid submission, if any, unless otherwise stated elsewhere. The Base Quarter for applicability of PVC shall end on the Base Month. Unless the contract has stipulated a different time lag for reckoning Price Variation, the month of reckoning the varied price shall be the month before the month in which delivery has been made. The Quarter of reckoning for applicability of PVC shall end on the Month of reckoning. The Price Variation shall be based on the relevant Indices in the Base Quarter and Quarter of reckoning.
- (8) Applicability: If Contract provides for some inputs to be supplied by Procuring Entity free or at a fixed rate, cost of such inputs shall be excluded from the value of the Goods supplied in the relevant quarter for payment/recovery Of price variation.

## **25 Taxes and Duties**

- (1) the contractor shall be entirely responsible for all taxes, duties, fees, levies etc., incurred until delivery of the Services to the Procuring Entity. Further instruction, if any, shall be as provided in the SCC.
- (2) If applicable under relevant tax laws and rules, the Procuring Entity shall deduct from all payments and deposit required taxes to respective authorities on account of GST Reverse Charge Mechanism; Tax Deducted at Source (TDS), and Tax Collected at Source (TCS) relating to Income Tax, labour cess, royalty etc.

## **26 Payment of GST Tax under the contract:**

- a) The payment of GST and GST Cess to the contractor shall be made only on the latter submitting a GST compliant Bill/ invoice indicating the appropriate HSN code and applicable GST rate thereon duly supported with documentary evidence as per the provision of relevant GST Act and the Rules made there under. The delivery of Services shall be shown being made in the name, location/ state, and GSTIN of the beneficiary of the Services only, the location of the procurement office of the procuring entity has no bearing on the invoicing.
- b) While claiming reimbursement of duties, taxes etc. (like GST) from the Procuring Entity, as and if permitted under the contract, the contractor shall also



certify that in case it gets any refund out of such taxes and duties from the concerned authorities at a later date, it (the contractor) shall refund to the Procuring Entity, the Procuring Entity's share out of such refund received by the contractor. The contractor shall also refund the appropriate amount to the Procuring Entity immediately after receiving the same from the concerned authorities.

- c) All necessary adjustment vouchers such as Credit Notes/ Debit Notes for any short/ excess delivery of Services or revision in prices or any other reason under the contract shall be submitted to the Procuring Entity in compliance with GST provisions.
- d) GST shall be paid as per the rate at which it is liable to be assessed or has been assessed provided the provision of Services is legally liable to such taxes and is payable as per the terms of the contract subject to the following conditions:
  - ✓ The Procuring Entity shall not pay a higher GST rate if leviable due to any misclassification of HSN number or incorrect GST rate incorporated in the contract due to contractor's fault. Wherever the contractor invoices the Goods at GST rate or HSN number, which is different from that incorporated in the contract, payment shall be made as per GST rate, which is lower of the GST rates incorporated in the contract or billed.
  - ✓ However, the Procuring Entity shall not be responsible for the contractor's tax payment or duty under a misapprehension of the law.
  - ✓ Bidder is informed that he shall be required to adjust his basic price to the extent required by a higher tax rate billed as per invoice to match the all-inclusive price mentioned in the contract.
  - ✓ In case of profiteering by the contractor relating to GST tax, the contractor shall treat it as a violation of the Code of Integrity in the contract and avail any or all punitive actions thereunder, in addition to recovery and action by the GST authorities under the Act.
  - ✓ The contractor should issue Receipt vouchers immediately on receipt of all types of payments along with tax invoices after adjusting advance payments, if any, as per Contractual terms and GST Provisions.
  - ✓ Liquidated damages or any other recoveries should be shown as deductions on the invoice, and GST shall be applicable only on the nett balance payment due.

**26.1 Statutory Variation Clause:** Unless otherwise stated in the contract, statutory increase in applicable GST rate only during the original delivery period shall be to Procuring Entity's account. Any increase in the rates of GST beyond the original completion date during the extended delivery period shall be borne by the contractor. The benefit of any reduction in GST rate must be passed on to the Procuring Entity during the original and extended delivery period. However, GST rate amendments shall be considered for quoted HSN code only, against documentary evidence, provided such an increase of GST rates takes place after the last date of bid submission.

## **26.2 Terms and Mode of Payment**

- (1) Unless otherwise stipulated, the usual payment term is 100% on delivery and acceptance of Services at 'the Site' by the Procuring Entity and the contractor's production of all required documents.
- (2) The payments shall be made in the manner as per Procuring Entity's payment procedures. Unless otherwise stipulated in the contract, payments above INR 5,000 (or any other threshold specified) to Contractors shall be made through EFT only. The contractor shall give his consent in a mandate form for receipt of payment through NEFT. In case of non-payment through EFT, or where the EFT facility is not available, payment may be released through cheque.
- (3) In Domestic Contracts, payments shall only be made in Indian Rupees. In Global Tenders, payment to foreign bidders shall be made in the currency/ currencies authorized in the contract. However, agency commission and local value addition shall be paid only in Indian Rupees.
- (4) the contractor shall send its claim for payment in writing as per GST compliant Invoice and documents, when contractually due, along with relevant documents etc., as stipulated in Contract and a manner as also specified therein.
- (5) While claiming payment, the contractor is also to certify in the bill that the payment being claimed is strictly in terms of the contract and all the obligations on the part of the contractor for claiming that payment has been fulfilled as required under the contract.

## **26.3 Withholding and lien in respect of sums claimed:**

- (1) Whenever any claim or claims for payment of a sum of money arises against the contractor, out of or under the contract, the Procuring Entity shall be entitled, and it shall be lawful on his part, to withhold and also have a lien to retain such sum or sums, in whole or in part pending finalisation or adjudication of any such claim from -
  - ✓ any security or retention money, if any, deposited by the contractor.
  - ✓ any sum(s) payable till now or hereafter to the contractor under the same Contract or any other contract with the Procuring Entity if the security is insufficient or if no security has been taken from the contractor.
- (2) Where the contractor is a partnership firm or a limited company, the Procuring Entity shall be entitled, and it shall be lawful on his part, to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/ limited company, as the case may be, whether in his capacity or otherwise.
- (3) It is an agreed term of the contract that the sum(s) of money so withheld or retained under the lien referred above shall be kept withheld or retained till the claim arising out of or under the contract is determined under clause GCC
- (4) The contractor shall have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the contractor.

- (5) Lien in respect of Claims in other Contracts: Any sum of money due and payable to the contractor (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the Procuring Entity or Government against any claim of the Procuring Entity or Government in respect of payment of a sum of money arising out of or under any other contract made by the contractor with the Procuring Entity or Government.

#### **26.4 Payments to Contractor**

- (1) Time-Based (Inputs admeasurement): Unless instructed in writing by the Procuring entity, payments shall not be made for any extra inputs deployed over and above the Input Deployment Plans (Personnel, equipment, materials etc.) mentioned in the contract. Nevertheless, if such inputs are deployed less than those stipulated, deductions shall be made based on the rates indicated for the inputs (Personnel, equipment, materials etc.) in the contract.
- (2) Unit-Rate (Output admeasurements): Unless otherwise stipulated, payments shall be made every month for the volume of Services rendered during the period.
- (3) Lumpsum: Unless otherwise stipulated, payments shall be made only on completion of Services.
- (4) Percentage (of Value of Transactions): The payment for the total price of Services calculated at the percentage of the actual value of Activities rendered shall be made either every month or on completion of milestones or on completion of entire Services whichever is stipulated in the contract.

#### **26.5 "On-Account" Payments**

the contractor shall be entitled to be paid every month (unless otherwise stipulated in the contract) by way of "On-Account" payment, only for such Services, as in the opinion of the Contract Manager, the contractor has executed in terms of the contract during the month. All payments due against the Contract Manager or his representative's certificates of measurements shall be subject to any deductions, which may be made under the contract, always provided that the Contract Manager may by any certificate make any correction or modification in any previous certificate, which he may have issued. The Contract Manager may withhold any certificate if the Services or any part thereof are not being carried out as per the contractual performance standards.

#### **26.6 On Account Payments Not Prejudicial to Final Settlement**

"On-Account" payments made to the contractor shall be without any prejudice to the final settlement of the accounts (except where measurements are noted explicitly in the Measurement Book as "Final Measurements" and the contractor has signed it such). They shall in no respect be considered or used as evidence of any facts stated in or to be inferred from such accounts nor of any particular quantity of service having been executed nor of the manner of its execution being satisfactory.

## 26.7 Claims for Variations

the contractor shall prepare and furnish to the Contract Manager once in every month an account giving complete and detailed particulars of all claims for any additional expenses to which the contractor may consider himself entitled to and of all extra or additional works ordered by the Contract Manager which he has executed during the preceding month and no claim for payment for and such work shall be considered which has not been included in such particulars.

## 27 Advance Payments

- (1) If the contract provides explicitly for Advance Payments to be made to the contractor, the following procedure shall apply:
  - a) On the request of the contractor, the Procuring Entity shall make the following advance payment (subject to a maximum of 10% (ten percent) of the initial contract price) to the contractor against submission by the contractor of an Unconditional Bank Guarantee from a Commercial bank acceptable to the Procuring Entity in amounts equal to 110% (one hundred ten percent) of the amount of the advance payment being requested. Advance payments shall be released in not less than two instalments, commensurate with the progress of work and mobilization of required equipment etc.:
    - ✓ Mobilization advances up to 5% (five percent) of the initial contract price.
    - ✓ Equipment Advance up to 90 % (ninety percent) of the cost of the new equipment brought to the site,
  - (2) The Bank Guarantee shall remain effective until the advance payment has been repaid, but the amounts repaid by the contractor shall progressively reduce the guaranteed amount. Interest shall not be charged on the advance payment. However, if the contract is terminated due to the contractor's default, the Mobilization Advance and the Equipment Advance shall be deemed an interest-bearing advance at the prevailing rate (MIBID - Mumbai Interbank Bid Rate) on the date of such advance payment.
  - (3) the contractor is to use the advance payment only to pay for Equipment, plant and Mobilization expenses explicitly required for the performance of Services. The contractor shall demonstrate that the advance payment has been used in this way by Utilization certificate enclosing copies of invoices or other documents to the Contract Manager. Further instalments shall be released after getting a satisfactory utilization certificate from the contractor for the earlier instalment. In case of Equipment advance, insurance and hypothecation to the Procuring Entity must be ensured by the Contractor.
  - (4) The advance payment shall be recovered in a time-based manner not linked with the progress of work by deducting proportionate amounts from payments otherwise due to the contractor for the Services performed. Any delayed recoveries due to late submission of bills by the contractor shall attract interest at the prevailing rate (MIBID - Mumbai Interbank Bid Rate). No account shall be taken of the advance payment or repayment in assessing valuations of Services performed, variations, price adjustments, or liquidated damages.

## **28 Preconditions for Passing the Bills**

- (1) the Contract Manager shall ensure and cross-check with all relevant records before passing the bills of the contractor. Upon verification of the records by Procuring Entity, payments can be released to the contractor.
- (2) The contractor shall ensure that Minimum gross wages, including ESI, EPF etc., is paid as per the actuals by the contractor to all workers, and portions to be deposited with the relevant authorities has also been deposited by him. If the contractor fails to pay the gross minimum wages, the same shall be informed to the Regional Labour Commissioner.
- (3) the Contract Manager shall ensure that the contractor submits all the relevant records related to statutory obligations and agreement conditions for claiming monthly bills.
- (4) Procuring Entity shall upload the details of the contractor online on the Employees' Provident Fund Organisation (EPFO) portal. Every month, Procuring Entity may, if required, cross-verify the contractor's monthly statements regarding EPF and other contributions from the EPFO's records online. The contractor must provide documentary evidence to show coverage of all his workers or labour under the schemes mentioned in GCC-clause annually.

## **29 Completion Certificate and Final payment**

### **29.1 Completion Certificate**

Upon a written intimation from the contractor, the Contract Manager shall issue a certificate of completion duly indicating the date of completion after satisfying himself of the following. The Contract Manager may also issue such a certificate indicating the date of completion concerning any part of the service (before the completion of the whole of service), which has been completed to the satisfaction of the Contract Manager:

- (1) that the whole of the Services to be done under the provisions of the contracts have been completed or when any such certificate is given in respect of part of a service, such part shall be considered completed.
- (2) that they have been inspected by him since their completion and found to be in good and substantial order,
- (3) that such completed services have satisfactorily passed any final test or tests that may be prescribed,
- (4) that all properties, works and things, removed, disturbed, or damaged in consequence of the Services have been adequately replaced and
- (5) that the contractor has returned in good condition, all assets loaned or hired from the Procuring Entity and has given a satisfactory account of payments made to or retained by the Procuring Entity for such loaned/ hired assets,
- (6) that the contractor has made good and satisfied in conformity with the contract all expenses and demands:

- a) incurred by or made upon by the Procuring Entity.
- b) for or in respect of damages or losses from or in consequence of the services.

## **29.2 Approval Only by Completion Certificate:**

No certificate other than completion certificate referred to in sub-clause above shall be deemed to constitute approval of any service or other matter in respect of which it is issued or shall be taken as an admission of the due performance of the contract or any part thereof or of the accuracy of any claim or demand made by the contractor or of additional varied Services having been ordered by the Contract Manager nor shall any other certificate conclude or prejudice any of the powers of the Contract Manager.

## **29.3 Cessation of Procuring Entity's Liability**

After the issue of Completion Certificate, the Procuring Entity shall not be liable to the contractor for any matter arising out of or in connection with the contract for the delivery of the Services, unless the contractor shall have claimed in writing in respect thereof before the issue of the Completion Certificate for service in Contract.

## **29.4 Unfulfilled Obligations**

Notwithstanding the issue of Completion Certificate for service, the contractor and the Procuring Entity shall remain liable for the fulfilment of any obligation incurred under the provision of the contract before the issue of the Completion Certificate for service, which remains unperformed at the time such certificate is issued. The contract shall be deemed to remain in force till the nature and extent of any such obligations are determined.

## **29.5 Final Payment**

The contractor shall submit a Final bill on the Contract Manager's certificate of completion regarding the services. The Final payment shall be made as per the following calculations to the contractor after receiving a clear "No Claim Certificate" signed from him:

- (1) the total quantity of service executed by the contractor upto the completion date based on the Contract Manager or his representative's certified measurements.
- (2) priced at the rates in the Price Schedule in the contract and for extra works on rates determined under GCC-clause of these Conditions.
- (3) necessary adjustment for any payments already made or retained
- (4) any deduction which may be made under the contract,
- (5) a complete account of all claims Contractor may have on the Procuring Entity, and the Contract Manager gave a certificate in writing that such claims are correct,

## **30 No Claim Certificate and Release of Contract Securities**

The contractor shall submit a 'No-claim certificate' to the Procuring Entity in such form as shall be required by the Procuring Entity after the Services are finally admeasured and before the final payment/ performance securities are released. The

Procuring Entity shall release the contractual securities without any interest if no outstanding obligation, asset, or payments are due from the contractor. The contractor shall not be entitled to make any claim whatsoever against the Procuring Entity under or arising out of this Contract, nor shall the Procuring Entity entertain or consider any such claim, if made by the contractor, after he shall have signed a "No Claim" Certificate in favour of the Procuring Entity. The Contractor shall be debarred from disputing the correctness of the items covered by the "No Claim" Certificate or demanding a clearance to arbitration in respect thereof.

### **31 Post Payment Audit**

Notwithstanding the issue of Completion Certificate and release of final Payment, the Procuring Entity reserves the right to carry out within 180 days (unless otherwise stipulated in the contract) of such completion/ final payment, a post-payment audit and/ or technical examination of the Services and the final bill including all supporting vouchers, abstracts etc. If any over-payment to the contractor is discovered due to such examination, the Procuring Entity shall claim such amount from the contractor.

### **32 Signature on Receipts for Amounts**

Every receipt for money, which may become payable, or for any security which may become transferable to the contractors, under the contract, shall if signed in the partnership name by any one of the partners of a Contractor's firm, be a suitable and sufficient discharge to the Procuring Entity in respect of the sums of money or security purported to be acknowledged thereby. In the event of death of any contractor, partners during the pendency of the contract, every receipt by anyone of the surviving constituents shall be suitable and sufficient discharge as aforesaid. Nothing in this Clause shall be deemed to prejudice or effect any claim that the Procuring Entity may hereafter have against the legal representative regarding any breach of any contract conditions by any contractor partner/member so dying. Nothing in this clause shall be deemed to prejudice or effect the respective rights or obligations of the contractor partners/ members and the legal representatives of any deceased Contractor partners/ members.

### **33 Defects Liability Period**

- (1) the contractor warrants that the Services have been delivered as per description, scope/ quantum, performance standards and quality outlined in the contract. This Defect Liability shall be in effect for a period of 24 months from the issue of completion certificate by the procuring entity
- (2) .The contract shall be deemed alive during this period, even if final payment and/ or Performance Guarantee has been released.
- (3) During the Defects Liability Period, upon discovering any deficiencies in outputs/ outcomes attributable to a shortfall in scope/ quantum, performance standards and quality of the performed Services, the Procuring Entity shall give written notice to the contractor.

- (4) Upon receiving such notice, the contractor shall, within 21 days (or within any other period, if stipulated in the contract), expeditiously remedy or reperform the Services or parts thereof, free of cost, at the site.
- (5) If the contractor, having been notified, fails to rectify/ replace the defect(s) within 21 days (or within any other period, if stipulated in the contract), it shall amount to breach of Contract, and the Procuring Entity shall proceed to take such remedial action(s) as deemed fit by it as detailed.

### **34 Payment Against Time-Barred Claims**

All claims against the Procuring Entity shall be legally time-barred after three years calculated from the date when the payment falls due unless the payment claim has been under correspondence. The Procuring Entity is entitled to, and it shall be lawful for it to reject such claims.

### **35 Commissions and Fees**

The Service Provider shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents concerning the selection process or execution and performance of this Contract. The information disclosed must include the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee in a format similar to Form 1.3 of the Tender Document.

### **36 Resolution of Disputes**

#### **36.1 Disputes and Excepted Matters**

All disputes and differences between the parties hereto, as to the construction or operation of this Contract, or the respective rights and liabilities of the parties on any matter in question; or any other account whatsoever, but excluding the Excepted Matters (detailed below); arising out of or in connection with the contract, within thirty (30) days from aggrieved Party notifying the other Party of such matters; whether before or after the completion/ termination of the contract, that cannot be resolved amicably between the Contract Manager and the contractor, shall be hereinafter called the "Dispute". The aggrieved party shall give a 'Notice of Dispute' indicating the Dispute and claims citing relevant Contractual clause to the designated authority requesting for invoking the following dispute resolution mechanism. The Dispute shall be resolved without recourse to courts through dispute resolution mechanisms detailed subsequently, in the sequence as mentioned below, and the next mechanism shall not be invoked unless the earlier mechanism has been invoked or has failed to resolve it within the deadline mentioned therein.

- 1) Adjudication
- 2) Conciliation
- 3) Arbitration



### **36.2 Excepted Matters**

Matters for which provision has been made in any Clause of the contract shall be deemed as 'excepted matters' (matters not disputable/ arbitrable), and decisions of the Procuring Entity, thereon shall be final and binding on the contractor. The 'excepted matters' shall stand expressly excluded from the purview of the sub-clauses below, including Arbitration. However, where the Procuring Entity has raised the dispute, this sub-clause shall not apply. Unless otherwise stipulated in the contract, excepted matters shall include but not limited to:

- (1) any controversies or claims brought by a third party for bodily injury, death, property damage or any indirect or consequential loss arising out of or in any way related to the performance of this Contract ("Third Party Claim"), including, but not limited to, a Party's right to seek contribution or indemnity from the other Party in respect of a Third-Party Claim.
- (2) Issues related to the pre-award tender process or conditions
- (3) Issues related to ambiguity in Contract terms shall not be taken up after a Contract has been signed. All such issues should be highlighted before the signing of the contract by the contractor.
- (4) Provisions incorporated in the contract, which are beyond the purview of The Procurement Entity or are in pursuance of policies of Government, including but not limited to
  - ✓ Provisions of restrictions regarding local content and Purchase Preference to Local suppliers in terms of Make in India policy of the Government
  - ✓ Provisions regarding restrictions on Entities from Countries having land borders with India in terms of the Government's policies in this regard Purchase preference policies regarding MSEs and Start-ups

### **36.3 Adjudication**

After exhausting efforts to resolve the Dispute with the Contract Manager executing the contract on behalf of the Procuring Entity, the contractor shall give a 'Notice of Adjudication' specifying the matters which are in question, or subject of the dispute or difference indicating the relevant contractual clause, as also the amount of claim item-wise to Head of Procurement or any other authority mentioned in the contract (hereinafter called the "Adjudicator") for invoking resolution of the dispute through Adjudication. During his adjudication, the Adjudicator shall give adequate opportunity to the contractor to present his case. Within 60 days after receiving the representation, the Adjudicator shall make and notify decisions in writing on all matters referred to him. The parties shall not initiate, during the adjudication proceedings, any conciliation or arbitral or judicial proceedings in respect of a dispute that is the subject matter of the adjudication proceedings. If not satisfied by the decision in adjudication, or if the adjudicator fails to notify his decision within the abovementioned time-frame, the contractor may proceed to invoke the process of Conciliation as follows.

## **36.4 Conciliation of disputes**

- (1) Any party may invoke Conciliation by submitting “Notice of Conciliation” to the Head of the Procuring Organisation. Since conciliation is a voluntary process, within 30 days of receipt of “Notice of Conciliation”, the Head of the Procuring Organisation shall notify a sole Conciliator if the other party is agreeable to enter Conciliation. If the other party is not agreeable to Conciliation, the aggrieved party may invoke Arbitration.
- (2) The Conciliator shall proactively assist the parties to reach an amicable settlement independently and impartially within the terms of Contract, within 60 days from the date of appointment of Conciliator.
- (3) If the parties reach an agreement on a dispute settlement, they shall draw up a written settlement agreement duly signed by the parties and conciliator. When the parties sign the settlement agreement, it shall be final and binding on the parties. The dispute shall be treated as resolved on the date of such agreement.
- (4) The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings.
- (5) Termination of Conciliation: Disputes shall remain alive if the conciliation is terminated as follows:
  - ✓ By written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of such declaration; or
  - ✓ By a written declaration of any party to the conciliator to the effect that the conciliation proceedings are terminated, on the date of such declaration; or
  - ✓ If the parties fail to reach an agreement on a settlement of the dispute, within 60 days of the appointment of Conciliator
- (6) On termination of Conciliation, if the dispute is still alive, the aggrieved party shall be free to invoke Arbitration.

## **37 Arbitration Agreement**

### **37.1 This Agreement**

- (1) This Arbitration Agreement (hereinafter referred to as this “Agreement”) relating to this Contract (hereinafter called the “Main Agreement” for this agreement) is made under the provisions of The Arbitration and Conciliation Act, 1996 as amended from time to time and the rules thereunder (hereinafter called The Arbitration Act). This Agreement shall continue to survive termination, completion, or closure of the Main Agreement for 120 days after that.
- (2) Subject to aforesaid provisions, relevant clauses of the contract shall apply to the appointment of arbitrators and arbitration proceedings under this Agreement.
- (3) The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 provides parties to a dispute (where one of the parties is a Micro or Small Enterprise) to be referred to Micro and Small Enterprises Facilitation Council if

the dispute is regarding any amount due under Section 17 of the MSMED Act, 2006. If a Micro or Small Enterprise, being a party to dispute, refers to the provisions in MSMED Act 2006, these provisions shall prevail over this Agreement.

### **37.2 Notice for Arbitration**

- (1) Authority to Appoint Arbitrator(s): For this Arbitration Agreement 'The Appointing Authority', to appoint the arbitrator shall be Head of the Procuring Organisation named in the contract and includes if there be no such authority, the officer who is for the time being discharging the functions of that authority, whether in addition to other functions or otherwise.
- (2) In the event of any dispute as per GCC-clause above, if the Adjudicator fails to decide within 60 days or the Conciliation is terminated then, parties to the contract, after 60 days but within 120 days of 'Notice of Dispute' shall request the Appointing Authority through a "Notice for Arbitration" in writing requesting that the dispute or difference be referred to arbitration.
- (3) The "Notice for arbitration" shall specify the matters in question or subject of the dispute or difference indicating the relevant contractual clause, as well as the amount of claim item-wise.

### **37.3 Reference to Arbitration**

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

### **37.4 Appointment of Arbitrator**

- (1) **Qualification of Arbitrators:**
  - ✓ In the case of retired officers of The Procuring organisation, he shall have retired in the rank of Senior administrative grade (or equivalent) and shall have retired at least 1 years prior and must not be over 70 years of age on the date of Notice for arbitration.
  - ✓ He/ they shall not have had an opportunity to deal with the matters to which the contract relates or who, in the course of his/ their duties as officers of the Procuring Organisation, expressed views on any or all of the matters under dispute or differences. A certification to this effect (as per Format 1.1.4) shall be taken from Arbitrators. The proceedings of the Arbitral tribunal or the award made by such Tribunal shall, however, not be invalid merely for the reason that one or more arbitrators had in the course of his service, an opportunity to deal with the matters to which the contract relates or who in the course of his/ their duties expressed views on all or any of the matters under dispute.
  - ✓ An Arbitrator may be appointed notwithstanding the total no. of arbitration cases in which he has been appointed in the past.

- ✓ Not be other than the person appointed by The Appointing Authority and that if for any reason that is not possible, the matter shall not be referred to arbitration at all.

## **(2) Replacement of Arbitrators**

If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or in the event of the arbitrator dying, neglecting/ unable or unwilling or refusing to act for any reason, or his award being set aside by the court for any reason, or in the opinion of The Appointing Authority fails to act without undue delay, the Appointing Authority shall appoint new arbitrator/ arbitrators to act in his/ their place in the same manner in which the earlier arbitrator/ arbitrators had been appointed. Such a re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).

## **(3) Appointment of Arbitrator:**

- ✓ In cases where the total value of all claims in question added together does not exceed Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of sole Arbitrator. For this purpose, The Appointing Authority shall send to the contractor, within 60 days from the day of receipt of a written and valid notice for arbitration, a panel of at least four (4) names of retired officers, duly indicating their retirement dates.
- ✓ The contractor shall be asked to nominate at least two names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the sole arbitrator within 30 days from the receipt of the names of the contractor's nominees.
- ✓ In cases where the total value of all claims in question added together exceeds Rs 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of three (3) retired Officers of the Procuring Organisation. For this purpose, The Appointing Authority shall send a panel of at least four (4) names of such Officer(s) empanelled to work as Arbitrators duly indicating their retirement date to the contractor within 60 days from the day when a written and The Appointing Authority receives valid demand for arbitration.
- ✓ The contractor shall be asked to nominate at least 2 names out of the panel for appointment as his nominee within 30 days from the dispatch date of the request by The Appointing Authority. The Appointing Authority shall appoint at least one out of them as the contractor's nominee. It shall also simultaneously appoint the balance number of arbitrators either from the panel or outside the panel, duly indicating the 'Presiding Arbitrator' from amongst the 3 arbitrators so appointed, within 30 days from the receipt of the names of Contractor's nominees.
- ✓ If the contractor does not suggest his nominees for the arbitral tribunal within the prescribed timeframe, The Appointing Authority shall proceed for appointment of the arbitral tribunal within 30 days of the expiry of such time provided to the Contractor.

## **37.5 Failure to appoint Arbitrators.**

If The Appointing Authority fails to appoint an arbitrator within 60 (sixty) days, then subject to the survival of this Arbitration Agreement, in international commercial arbitration, the Supreme Court of India shall designate the arbitral institution for the appointment of arbitrators. In case of national arbitrations, the High Court shall designate arbitral institutions. The Arbitration Council of India must have graded these arbitration institutions. These arbitral institutions must complete the selection process within thirty days of accepting the request for the arbitrator's appointment.

### **37.6 The Arbitral Procedure**

- (1) **Effective Date of Entering Reference:** The arbitral tribunal shall be deemed to have entered the reference on the date on which the arbitrator(s) have received notice of their appointment. All subsequent time limits shall be counted from such date.
- (2) **Seat and Venue of Arbitration:** The seat of arbitration shall be the place from which the Letter of Award or the contract is issued. The venue of arbitration shall be the same as the seat of arbitration. However, in terms of section 20 of The Arbitration Act, the arbitrator, at his discretion, may determine a venue other than the seat of the arbitration without in any way affecting the legal jurisdictional issues linked to the seat of the arbitration.
- (3) If the Adjudication and/ or Conciliation mechanisms had not been exhausted before such reference to Arbitration, the Arbitrator should ask the aggrieved party to approach designated authority for such mechanisms before the Arbitration proceedings are started.
- (4) The claimant shall submit to the Arbitrator(s) with copies to the respondent his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within 30 days from the date of appointment of the Arbitral Tribunal unless otherwise extension has been granted by Arbitral Tribunal.
- (5) On receipt of such claims, the respondent shall submit its defence statement and counterclaim(s), if any, within 60 days of receipt of the copy of claims, unless otherwise extension has been granted by Arbitral Tribunal.
- (6) No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during arbitration proceedings subject to acceptance by the Tribunal having due regard to the delay in making it.
- (7) Statement of claims, counterclaims and defence shall be completed within six months from the effective reference date.
- (8) **Oral arguments to be held on a day-to-day basis:** Oral arguments as far as possible shall be heard by the arbitral tribunal on a day-to-day basis, and no adjournments shall be granted without sufficient cause. The arbitrator (s) may impose an exemplary cost on the party seeking adjournment without sufficient cause.
- (9) **Award within 12 (twelve) months:** The arbitral tribunal is statutorily bound to deliver an award within 12 (twelve) months from the date when the arbitral tribunal enters reference. The award can be delayed by a maximum of six months

only under exceptional circumstances where all parties consent to such extension of time. The court's approval shall be required for further extension if the award is not made out within such an extended period. During the period of an application for extension of time is awaiting before the court, the arbitrator's proceedings shall continue until the disposal of the application.

- (10) **Fast Track Procedure:** The parties to arbitration may choose to opt for a fast-track procedure either before or after the commencement of the arbitration. The award in fast-track arbitration is to be made out within six months, and the arbitral tribunal shall be entitled to additional fees. The salient features of the fast-track arbitration are:
- ✓ The dispute is to be decided based on written pleadings only.
  - ✓ Arbitral Tribunal shall have the power to call for clarifications in addition to the written pleadings where it deems necessary.
  - ✓ An oral hearing may be held only if all the parties request or the arbitral tribunal considers it necessary.
  - ✓ The parties are free to decide the fees of the arbitrator(s) for fast-track procedure.
- (11) **Powers of Arbitral Tribunal to grant Interim Relief:** The parties to arbitration may approach the arbitral tribunal for seeking interim relief on the grounds available under section 9 of the act. The tribunal has the powers of a court while making interim awards in the proceedings before it.
- (12) **Confidentiality:** As provided in Section 42A of The Arbitration Act, all the details and particulars of the arbitration proceedings shall be kept confidential except in certain situations, like if the disclosure is necessary for the implementation or execution of the arbitral award.
- (13) **Obligation During Pendency of Arbitration:** Performance of the contract shall, unless otherwise directed by the Procuring Entity, continue during the arbitration proceedings, and no payment due or payable by the Procuring Entity shall be withheld on account of such proceedings, provided; however, it shall be open for Arbitral Tribunal to consider and decide whether or not the performance of the contract or payment therein should continue during arbitration proceedings.

### **37.7 The Arbitral Award**

- (1) In the case of the Tribunal, comprising of three members, any ruling on award shall be made by a majority of members of the Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- (2) The arbitral award shall state item-wise the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award can be inferred from it.
- (3) It is further a term of this arbitration agreement that where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made in terms of Section 31 (7) (a) of The Arbitration Act.
- (4) The award of the arbitrator shall be final and binding on the parties to this Contract.

- (5) A party may apply for corrections of any computational errors, typographical or clerical errors, or any other error of similar nature occurring in the award or interpretation of a specific point of the award to the Tribunal within 60 days of receipt of the award.
- (6) A party may apply to the Tribunal within 60 days of receiving the award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

### **37.8 Savings**

The Arbitral Tribunal shall decide any matter related to Arbitration not covered under this Arbitration Agreement as per the provisions of The Arbitration Act.

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

- (1) The concerned parties shall bear the cost of arbitration in terms of section 31 (A) of The Arbitration Act. The cost shall inter-alia include fees of the Arbitrator. Further, the fees payable to the Arbitrator shall be governed by instructions issued on the subject by the Procuring Entity and/ or the Government from time to time, in line with the Arbitration and Conciliation Act, irrespective of the fact whether the Arbitrator is appointed by the Procuring Entity or the Government under this clause or by any court of law unless directed explicitly by Hon'ble court otherwise on the matter. A sole arbitrator shall be entitled to a 25% extra fee over such a prescribed fee.
- (2) The arbitrator shall be entitled to a 50 percent extra fee if the award is made within 6 months in terms of provisions contained in section 29(A) (2) of The Arbitration Act.
- (3) Besides the above, Arbitrator shall also be entitled to this extra fee in cases where Fast Track Procedure in terms of section 29 (B) of The Arbitration Act is followed.

## **38 Termination due to Breach, Default, and Insolvency**

### **38.1 Defaults and Breach of Contract**

In case the contractor undergoes insolvency or receivership; neglects or defaults, or expresses inability or disinclination to honour his obligations relating to the performance of the contract or ethical standards or any other obligation that substantively affects the Procuring Entity's rights and benefits under the contract, it shall be treated as a breach of Contract. Such defaults could include inter-alia:

- (1) Default in Performance and Obligations: if the contractor fails to deliver any or all of the Services or fails to perform any other contractual obligations (including Code of Integrity or obligation to maintain eligibility and Qualifications based on which contract was awarded) within the period stipulated in the contract or within any extension thereof granted by the Procuring Entity.

- (2) Insolvency: If the contractor being an individual or if a firm, any partner thereof, shall at any time, be adjudged insolvent or shall have a receiving order or order for the administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or enter into any assignment or composition with his creditors or suspend payment or if the firm be dissolved under the Partnership Act, or
- (3) Liquidation: if the contractor is a company being wound up voluntarily, or by order of a Court or a Receiver, Liquidator or Manager on behalf of the Debenture-holders is appointed, or circumstances shall have arisen which entitle the Court or Debenture- holders to appoint a Receiver, Liquidator or Manager

### **38.2 Notice for Default:**

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

### **38.3 Terminations for Default**

- (1) Notice for Termination for Default: In the event of unsatisfactory resolution of 'Notice of Default' within two weeks of its issue as per sub-clause above, the Procuring Entity, if so decided, shall by written Notice of Termination for Default sent to the contractor, terminate the contract in whole or in part, without compensation to the contractor.
- (2) Such termination shall not prejudice or affect the rights and remedies, including under sub-clause below, which have accrued and/ or shall accrue to the Procuring Entity after that.
- (3) Unless otherwise instructed by the Procuring Entity, the contractor shall continue to perform the contract to the extent not terminated.
- (4) All Defect Liability obligations, if any, shall continue to survive despite the termination.

### **38.4 Contractual Remedies for Breaches/ Defaults or Termination for Default**

If there is an unsatisfactory resolution within this period, the Procuring Entity shall take one; or more of the following contractual remedies.

- 1) Temporary withhold payments due to the contractor till recoveries due to invocation of other contractual remedies are complete.
- 2) Call back any loaned property or advances of payment, if any, with a levy of interest at the prevailing rate (MIBID - Mumbai Interbank Bid Rate).
- 3) Recover liquidated damages and invoke denial clause for delays.
- 4) Encash and/ or Forfeit performance or other contractual securities.
- 5) Prefer claims against insurances, if any.



- 6) Terminate Contract for default, fully or partially including its right for Risk-and-Cost Procurement as per following sub-clause.
- 7) **Risk and Cost Procurement:** In addition to termination for default, the Procuring Entity shall be entitled, and it shall be lawful on his part, to procure Services similar to those terminated, with such terms and conditions and in such manner as it deems fit at the “Risk and Cost” of the contractor. Such Risk and Cost Procurement must be contracted within six months from the breach of Contract. The contractor shall be liable for any loss which the Procuring Entity may sustain on that account provided the procurement, or, if there is an agreement to procure, such agreement is made. The contractor shall not be entitled to any gain on such procurement, and the manner and method of such procurement shall be in the entire discretion of the Procuring Entity. It shall not be necessary for the Procuring Entity to notify the contractor of such procurement. It shall, however, be at the discretion of the Procuring Entity to collect or not the security deposit from the firm/ firms on whom the contract is placed at the risk and cost of the defaulted firm.  
*Note: Regarding the Services that are not readily available in the market and where procurement difficulties are experienced, the period for making risk procurement shall be nine months instead of six months provided above.*
- 8) Initiate proceedings in a court of law for the transgression of a law, tort, and loss, not addressable by the above means.

### **38.5 Limitation of Liability**

Except in cases of criminal negligence or willful misconduct, the aggregate liability of the contractor to the Procuring Entity, 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 Procuring Entity concerning IPR infringement.

## **39 Termination for Default/ Convenience of Procuring Entity and Frustration**

### **39.1 Notice for Determination of Contract**

- 1) The Procuring Entity reserves the right to terminate the contract, in whole or in part for its (the Procuring Entity’s) convenience or frustration of Contract as per sub-clause below, by serving written ‘Notice for Determination of Contract’ on the contractor at any time during the currency of the contract. The notice shall specify that the termination is for the convenience of the Procuring Entity or the frustration of the contract. The notice shall also indicate inter-alia, the extent to which the contractor’s performance under the contract is terminated, and the date with effect from which such termination shall become effective.
- 2) Such termination shall not prejudice or affect the rights and remedies accrued and/ or shall accrue after that to the Parties.
- 3) Unless otherwise instructed by the Procuring Entity, the contractor shall continue to perform the contract to the extent not terminated.

- 4) All Defect Liability obligations, if any, shall continue to survive despite the termination.
- 5) The Services and incidental goods/ works that can be delivered or performed within thirty days after the contractor's receipt of the notice of termination shall be accepted by the Procuring Entity as per the contract terms. For the remaining Services and incidental goods/ works, the Procuring Entity may decide:
  - a) To get any portion of the balance completed and delivered at the contract terms, conditions, and prices; and/ or
  - b) To cancel the remaining portion of the Services and incidental goods/ works and compensate the contractor by paying an agreed amount for the cost incurred by the contractor, if any, towards the remaining portion of the Services and incidental goods/ works.

### **39.2 Frustration of Contract**

- (1) Notice of Frustration Event: Upon a supervening cause occurring after the effective date of the contract, including a change in law, beyond the control of either party whether as a result of the Force Majeure clause or within the scope of section 56 of the Indian Contract Act, 1872, that makes it impossible to perform the contract within a reasonable timeframe, the affected party shall give a 'Notice of Frustration Event' to the other party giving justification. The parties shall use reasonable efforts to agree to amend the contract, as may be necessary to complete its performance. However, if the parties cannot reach a mutual agreement within 60 days of the initial notice, the Procuring Entity shall issue a 'Notice for Determining the contract' and terminate the contract due to its frustration as in the sub-clause above.
- (2) However, the following shall not be considered as such a supervening cause
  - a) Lack of commercial feasibility or viability or profitability or availability of funds
  - b) if caused by either party's breach of its obligations under this Contract or failure to act in good faith or use commercially reasonable due diligence to prevent such an event.

### **39.3 Closure of Contract**

The contract shall stand closed upon

- 1) successful performance of all obligations by both parties, including completion of Defect Liability obligations and final payment.
- 2) termination and settlements after that, if any, as per GCC clause above.

### **40 Make in India Order**

Orders issued by the Government of India regarding eligibility to participate and for purchase preference to "Local Suppliers" to encourage 'Make in India' and promote manufacturing and production of goods and services in India shall apply to this procurement, as detailed below.

#### **40.1 Categories of Local Suppliers**

Bidders/Contractors are divided into three categories based on Local Content. Local content in the context of this policy is the total value of the service procured (excluding net domestic indirect taxes) minus the value of imported content in the service/ incidental Goods (including all customs duties) as a proportion of the total value, in percent):

- 1) 'Class-I local Supplier' with local content equal to or more than that prescribed in TIS or 50% if not prescribed.
- 2) 'Class-II local Supplier' with local content equal or more than that prescribed in TIS or 20% if not prescribed, but less than that applicable for Class-I local Supplier.
- 3) 'Non - Local Supplier' with local content less than that applicable for Class-II local Supplier, in sub-clause above.

#### **40.2 Eligibility Restrictions based on Reciprocity.**

If so stipulated in the Tender Document, entities from such countries identified as not allowing Indian companies to participate in their Government procurement shall not be allowed to participate on a reciprocal basis in this tender. The term entity of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.

**SECTION 8 – SPECIAL CONDITIONS OF  
CONTRACT(SCC)**

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

<b>Ref. GCC</b>	<b>Subject</b>	<b>Data</b>
1.2	<b>Employer's name and address</b>	Development Commissioner, SEEPZ- SEZ, Mumbai Postal Address: SEEPZ SEZ, MIDC Central Road, Andheri East, Mumbai 400096. E-Mail: dcseepz-mah@nic.in Landline: 022-28294728/29
1.2	<b>Engineer's name and address</b>	Mr. Achal Khilnani, (Sr Engineer WAPCOS) 9527677147(M)
10.6.1	<b>Time for Completion</b>	8 Months from date of Work Order issued
33	<b>Defects Liability Period</b>	2 years from the date of completion.
12.3	<b>Engineer's Duties and Authority</b>	Variations resulting in an increase of the Accepted Contract Amount in excess of 5 % shall require approval of the Employer.
7.1	<b>Performance Security</b>	The performance security will be in the form of an unconditional bank guarantee of 3 % of the awarded of contract amount(s)
–	<b>Facilities, Utilities to be provided by Procuring Entity</b>	The site shall be handed over by the SEEPZ SEZ Authority without any hindrance for accessibility.  Co-ordination and support for the statutory compliances shall be provided by the SEEPZ SEZ Authority.  Financial Inputs for the components not factored in i.e. royalties and statutory fees shall be paid by the SEEPZ SEZ Authority.  The designs provided in this RFP are only indicative preliminary designs.
2.0	<b>Contractor's Obligations</b>	The Contractor shall take possession of site and provide barrication as per site

		<p>requirement.</p> <p>The Contractor shall obtain design approvals, commencement certificate (CC) prior to the initiation of the execution works from the Special Planning Authority (SPA) i.e. Maharashtra Industrial Development Corporation (MIDC) in consultation with the trade representatives of the SEEPZ SEZ.</p> <p>The Contractor shall execute the works from foundation to finish i.e. earthworks, piling, civil, structural, MEP, interiors etc. with commissioning and handing over of the Building to the SEEPZ SEZ Authority.</p> <p>The Spatial and Directional mandates mentioned in this RFP to be followed by the Contractor during design stage.</p> <p><b>SOIL INVESTIGATION(S):</b> Soil Investigation in respect of site has not been carried by the SEEPZ SEZ Authority and the Soil Reports of adjacent site are enclosed with the tender documents as Appendix for indicative idea. Therefore, the bidders have to ascertain the Soil Conditions themselves before bidding and bidders to note that no claim for variation in soil conditions / properties shall be admissible.</p> <p><b>TOPOGRAPHIC SURVEY(S):</b> Topographic survey in respect of site has been carried out by the SEEPZ SEZ Authority and is enclosed as Appendix. However, the bidders have to ascertain the site levels themselves and bidders to note that no claim what-so-ever shall be admissible.</p> <p>The overall completion timeline shall be till 01.05.2023 and penalty / liquidated damages clauses as defined in this RFP shall be applicable if the timeline is not adhered to.</p>
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18.0	<b>Delay damages for the Works</b>	<u>0.1</u> % of the Contract Price per day, in the currencies and proportions in which the Contract Price is payable.
-	<b>Maximum amount of delay damages</b>	10 % of the Contract Price.
7.5	<b>Percentage of Retention</b>	5 %
7.5	<b>Limit of Retention Money</b>	5 % of the Accepted Contract Amount.
36	<b>Date by which the Dispute Board shall be appointed</b>	28 days after the Commencement
37	<b>Place of Arbitration</b>	Mumbai
38	<b>Integrity pact</b>	Bidder to sign & submit as given in appendix 4
-	<b>Contractors All Risk Insurance Policy</b>	Bidder should comply to all risk insurance during execution of work

## **SECTION 9 - CONTRACT FORMS**



**Appendix-1**  
**Notification of Award**

..... date.....

To:..... *Name and address of the contractor* .....

Subject: ..... *Notification of Award Contract No.* .....

This is to notify you that your Bid dated . . . . *date* . . . . for execution of the . . . . .  
. *name of the contract and identification number, as given in the Bid Data Sheet* . . . . .  
. for the Accepted Contract Amount of the equivalent of . . . . . *amount in words and*  
*figures and name of currency* . . . . ., as corrected and modified in accordance with  
the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with  
the Conditions of Contract, using for that purpose the Performance Security Form  
included in Section 9 (Contract Forms) of the Bidding Document.

Authorized Signature: .....

Name and Title of Signatory: .....

Name of Agency: .....

**APPENDIX 2**  
**CONTRACT AGREEMENT**

THIS AGREEMENT made the . . . . .day of . . . . ., . . . . ., between . . . . .  
. . . . . *name of the employer*. . . . . (hereinafter “the Employer”), of the one part, and . . . . .  
*name of the contractor*. . . . . (hereinafter “the Contractor”), of the other part:

WHEREAS the Employer desires that the Works known as . . . . . *name of the contract*. . .  
. . . should be executed by the Contractor, and has accepted a Bid by the Contractor for the  
execution and completion of these Works and the remedying of any defects therein.

The Employer and the Contractor agree as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - (a) Contract Agreement,
  - (b) Letter of Acceptance,
  - (c) Letter of Transmittal
  - (d) Special Conditions of Contract
  - (e) General Conditions of Contract,
  - (f) Specifications,
  - (g) Drawings,
  - (h) Any other documents shall be added here.<sup>1</sup>
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of . . . . *name of the borrowing country*. . . .on the day, month and year indicated above.

Signed by .....

Signed by .....

for and on behalf of the Employer  
in the presence of

for and on behalf the Contractor  
in the presence of

Witness, Name, Signature, Address, Date

Witness, Name, Signature, Address, Date

**APPENDIX-3**

**Bank Guarantee Format for Performance Security**

To  
Development Commissioner, SEEPZ- SEZ, Mumbai  
Postal Address: SEEPZ SEZ, MIDC Central Road,  
Andheri East, Mumbai 400096.

Whereas..... (name and address of the contractor)  
(hereinafter called “the contractor”) has undertaken, in pursuance of contract no .....  
date..... to delivery ..... (description of Services) (hereinafter called “the  
contract”).

And Whereas you have stipulated it in the said contract that the contractor shall furnish you with  
a bank guarantee by a Commercial bank for the sum specified therein as security for compliance  
with its obligations as per the contract;

And Whereas we have agreed to give the contractor such a bank guarantee.

Now Therefore we hereby affirm that we are guarantors and responsible to you, on behalf of the  
contractor, up to a total of .....(amount of the  
guarantee in words and figures), and we undertake to pay you, upon your first written demand  
declaring the contractor to be in default under the contract and without cavil or argument, any  
sum or sums within the limits of (amount of guarantee) as aforesaid, without your needing to  
prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the contractor before  
presenting us with demand.

We further agree that no change or addition to or other modification of the terms of the contract  
to be performed thereunder or of any of the contract documents which may be made between you  
and the contractor shall in any way release us from any liability under this guarantee, and we  
hereby waive notice of any such change, addition, or modification.

This guarantee shall be valid until the .....day of .....20.....  
Our.....branch at.....\*(Name & Address of the  
.....\*(branch) is liable to pay the guaranteed amount depending on the filing of  
a claim and any part thereof under this Bank Guarantee only and only if you serve upon us at our  
.....\* branch a written claim or demand and received by us at our .....\*  
branch on or before Dt..... otherwise, the bank shall be discharged of all liabilities under  
this guarantee after that.

(Signature of the authorized officer of the Bank)

.....  
.....

Name and designation of the officer

.....

Seal, name & address of the Bank and address of Branch

\*Preferably at the headquarters of the authority competent to sanction the expenditure for  
procurement of goods/ service or at the concerned district headquarters or the state headquarters.

**APPENDIX-4(A)**  
**CONSENT LETTER FOR INTEGRITY PACT**

To,

Development Commissioner, SEEPZ- SEZ, Mumbai  
Postal Address: SEEPZ SEZ, MIDC Central Road,  
Andheri East, Mumbai 400096.

**Sub: Integrity Pact for “Epc Developer (Design & Build) For Construction Of New Standard Design Factory (Sdf) – 09 For Electronic Hardware & Software Units At Seepz-Sez, Andheri, Mumbai, Maharashtra**

Dear Sir,

I/We acknowledge that WAPCOS is committed to follow the principles thereof as enumerated in the Integrity Agreement enclosed with the tender/bid document.

I/We agree that the Notice Inviting Tender (NIT) is an invitation to offer made on the condition that I/We will sign the enclosed integrity Agreement, which is an integral part of tender documents, failing which I/We will stand disqualified from the tendering process. I/We acknowledge that **THE MAKING OF THE BID SHALL BE REGARDED AS AN UNCONDITIONAL AND ABSOLUTE ACCEPTANCE** of this condition of the NIT.

I/We confirm acceptance and compliance with the Integrity Agreement in letter and spirit and further agree that execution of the said Integrity Agreement shall be separate and distinct from the main contract, which will come into existence when tender/bid is finally accepted by WAPCOS. I/We acknowledge and accept the duration of the Integrity Agreement, which shall be in the line with Article 1 of the enclosed Integrity Agreement.

I/We acknowledge that in the event of my/our failure to sign and accept the Integrity Agreement, while submitting the tender/bid, WAPCOS shall have unqualified, absolute and unfettered right to disqualify the tenderer/bidder and reject the tender/bid in accordance with terms and conditions of the tender/bid.

Yours faithfully,

Date:

(Signature, name and designation  
of the Authorized signatory)

Place:

**Name and seal of Bidder**

**APPENDIX-4(B)**  
**INTEGRITY PACT**

**Tender Document No.**

**Tender No./ xxxx;**

**Tender Title: Epc Developer (Design & Build) For Construction Of New Standard Design Factory (Sdf) – 09 For Electronic Hardware & Software Units At Seepz-Sez, Andheri, Mumbai, Maharashtra**

This Agreement (hereinafter called the Integrity Pact) is made on \_\_\_\_\_ day of the month of \_\_\_\_\_202\_\_ at \_\_\_\_\_, India.

BETWEEN

Procuring Organisation, ----- through Head of the Procuring Organisation, for and on behalf of President of India (hereinafter called the “The Principal”, which expression shall mean and include unless the context otherwise requires, his successors in office and assigns) of the First Part

AND

M/ s. \_\_\_\_\_ (hereinafter called the “The Bidder/ Contractor” which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

PREAMBLE

‘The Principal’ intends to award, under laid down organizational procedures, contract/ s for \_\_\_\_\_, ‘The Principal’ values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/ transparency in its relations with its Bidder(s) and/ or Contractor(s).

In order to achieve these goals, the Principal shall appoint Independent External Monitors (IEMs) who shall monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

**Section 1 - Commitments of the ‘The Principal’**

- (1) 'The Principal' commits itself to take all measures necessary to prevent corruption and to observe the following principles: -
  - a. No employee of the Principal, personally or through family members, shall in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
  - b. The Principal shall, during the tender process, treat all Bidder(s) with equity and reason. The Principal shall in particular, before and during the tender process, provide to all Bidder(s) the same information and shall not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
  - c. The Principal shall exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees, which is a criminal offence under the IPC/ PC Act, or if there be a substantive suspicion in this regard, the Principal shall inform the Chief Vigilance Officer and in addition, can initiate disciplinary actions.

## **Section 2 - Commitments of the 'Bidder/ Contractor'**

- (1) The 'Bidder/ Contractor' commit themselves to take all measures necessary to prevent corruption. The 'Bidder/ Contractor' commit themselves to observe the following principles during participation in the tender process and during the contract execution.
  - a. The 'Bidder/ Contractor' shall not, directly or through any other person or firm, offer, promise, or give to any of the Principal's employees involved in the tender process or the execution of the contract, or to any third person any material or other benefit which he is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
  - b. The 'Bidder/ Contractor' shall not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the tender process.
  - c. The 'Bidder/ Contractor' shall not commit any offence under the relevant IPC/ PC Act; further, the 'Bidder/ Contractor' shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals, and business details, including information contained or transmitted electronically.
  - d. The 'Bidder/ Contractor' of foreign origin shall disclose the name and address of the Agents/ representatives in India if any. Similarly, the Bidder/ Contractors of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be

disclosed by the Bidder/ Contractor. Further, as mentioned in the Guidelines, all the payments made to the Indian agent/ representative have to be in Indian Rupees only. Copy of the “Guidelines on Indian Agents of Foreign Suppliers” is placed in Appendix to this agreement.

- e. The ‘Bidder/ Contractor’ shall, when presenting their bid, disclose any and all payments made, is committed to, or intends to make to agents, brokers, or any other intermediaries in connection with the award of the contract.
  - f. Bidder/ Contractor who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.
- (2) The ‘Bidder/ Contractor’ shall not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3 - Disqualification from tender process and exclusion from future contracts**

If the ‘Bidder/ Contractor’, before award or during execution, has committed a transgression through a violation of Section 2, above or in any other form such as to put their reliability or credibility in question, the Principal is entitled to disqualify the ‘Bidder/ Contractor’ from the tender process or take action as per the procedure mentioned in the “Guidelines on Banning of business dealings”.

### **Section 4 - Compensation for Damages**

- (1) If the Principal has disqualified the ‘Bidder/ Contractor’ from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover from ‘Bidder/ Contractor’ the damages equivalent to Earnest Money Deposit/ Bid Security.
- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the contractor liquidated damages of the contract value or the amount equivalent to Performance Bank Guarantee.

### **Section 5 - Previous transgression**

- (1) Bidder declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (2) If Bidder makes an incorrect statement on this subject, he can be disqualified from the tender process, or action can be taken as per the procedure mentioned in “Guidelines on Banning of business dealings”.

### **Section 6 - Equal treatment of all Bidders/ Contractors/ Subcontractors**

- (1) In the case of Sub-contracting, the Principal Contractor shall take responsibility for the adoption of the Integrity Pact by the Sub-contractor.



- (2) The Principal shall enter into agreements with identical conditions as this one with all Bidders and Contractors.
- (3) The Principal shall disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

**Section 7 - Criminal charges against violating Bidder(s)/ Contractor(s)/ Subcontractor(s)**

If the Principal obtains knowledge of the conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal shall inform the same to the Chief Vigilance Officer.

**Section 8 - Independent External Monitor**

- (1) The Principal appoints a competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. The Monitor would have access to all Contract documents whenever required. It shall be obligatory for him/ her to treat the information and documents of the Bidders/ Contractors as confidential. He/ she reports to the Head of the Procuring Organisation.
- (3) The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal, including that provided by the contractor. The contractor shall also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Sub-contractors.
- (4) The Monitor is under contractual obligation to treat the information and documents of the Bidder/ Contractor(s)/ Sub-contractor(s) with confidentiality. The Monitor has also signed declarations on 'Non-Disclosure of Confidential Information' and of 'Absence of Conflict of Interest'. In case of any conflict of interest arising at a later date, the IEM shall inform the Head of the Procuring Organisation and recuse himself/ herself from that case.
- (5) The Principal shall provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the contractor. The parties offer the Monitor the option to participate in such meetings.
- (6) As soon as the Monitor notices, or believes to have noticed, a violation of this agreement, he shall so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can, in this regard, submit non-binding recommendations. Beyond this, the Monitor has no right

to demand from the parties that they act in a specific manner, refrain from action, or tolerate action.

- (7) The Monitor shall submit a written report to the Head of the Procuring Organisation within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (8) If the Monitor has reported to Head of the Procuring Organisation, a substantiated suspicion of an offence under relevant IPC/ PC Act, and Head of the Procuring Organisation has not, within the reasonable time, taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (9) The word 'Monitor' would include both singular and plural.

### **Section 9 - Pact Duration**

This Pact begins when both parties have legally signed it. It expires for the contractor 12 months after the last payment under the contract and for all other Bidders 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

If any claim is made/ lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above unless it is discharged/ determined by the Head of the Procuring Organisation.

### **Section 10 - Other provisions**

- (1) This agreement is subject to Indian Law. The place of performance and jurisdiction is the Registered Office of the Principal, i.e., New Delhi.
- (2) Changes and supplements, as well as termination notices, need to be made in writing. Side agreements have not been made.
- (3) If the contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties shall strive to come to an agreement with their original intentions.
- (5) Issues like Warranty/ Guarantee etc., shall be outside the purview of IEMs.
- (6) In the event of any contradiction between the Integrity Pact and its Appendix, the Clause in the Integrity Pact shall prevail.

For and on behalf of the Principal

(Name of the Officer and Designation)  
(Office Seal)

For and on behalf of 'Bidder/ Contractor.'

(Name of the Officer and Designation)  
(Office Seal)

For and on behalf of the Principal

Place

Date

Witness 1:

(Name & Address)

Witness 2:

(Name & Address)

**APPENDIX-5**  
**ADVANCE PAYMENT SECURITY**

..... *Bank's name, and address of issuing branch or office*<sup>1</sup> .....

**Beneficiary:** ..... *Name and address of the employer* .....

**Date:** .....

**Advance Payment Guarantee No.:** .....

We have been informed that ..... *name of the contractor*. .... (hereinafter called "the Contractor") has entered into Contract No. .... *reference number of the contract*. .... dated ..... with you, for the execution of ..... *name of contract and brief description of works*. .... (hereinafter called "the Contract").

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum ..... *name of the currency and amount in words*<sup>2</sup>. .... (. .... *amount in figures*. .... ) is to be made against an advance payment guarantee.

At the request of the Contractor, we ..... *name of the bank*. .... hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of ..... *name of the currency and amount in words*<sup>3</sup>. .... (. .... *amount in figures*. .... ) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number ..... *Contractor's account number*. .... at ..... *name and address of the bank*. ....

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety percent (90%) of the Contract Price has been certified for payment, or on the . . . day of . . . . . , . . . . .<sup>4</sup>, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458 (or ICC Publication No. 758 as applicable).

.....  
*Signature(s) and seal of bank (where appropriate)*

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# CHECK LIST

<b>BIDDING FORM</b>			
FORM No.	Details of Enclosure	Enclosed Yes/No	page number
1	Letter of Technical Proposal		
2	Organisation details		
3(A)	Blacklisting /Non Conviction		
3(B)	Litigation		
4	Understanding of Project site		
5	Average Annual Turnover		
	Audited Balance Sheet and Profit & Loss statement for the past five financial years duly certified by a Chartered Accountant.		
6	Solvency		
7(A)	Similar Work		
	<ul style="list-style-type: none"> <li>• Work Orders, Agreement, Completion Certificates to be submitted</li> <li>• TDS (26 AS) downloaded from the web matching with the experience certificate should be attached.</li> </ul>		
7(B)	<ul style="list-style-type: none"> <li>• Method statement</li> <li>• Mobilization schedule</li> <li>• Construction schedule</li> <li>• Work plan</li> <li>• Quality assurance programme</li> </ul>		
8	Equipment & Machinery		
9	Key Personal		
<b>CONTRACT FORM</b>			
Appendix No.	Details of Enclosure	Enclosed Yes/No	page number
1	Notification for award		
2	Contract agreement		
3	Bank Guarantee for performance security		
4	Consent letter of Integrity Pact		
5	Advance Payment bank Guarantee		

**OTHER DOCUMENTS**

	<b>Details of Enclosure</b>	<b>Enclosed Yes/No</b>	<b>page number</b>
	Original Authorization Letter to sign the Tender.		
	Proof of Payment for EMD.		
	Copies GST, PAN, ESIC, EPFO		
	Self-certified undertaking on company letterhead confirming acceptance of the timelines for handing over the building with 1Basement + Ground + 6 floors.		

**SIGNATURE OF BIDDER(S)**