

## **11. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT**

**11a. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT  
FOR THE EQUIPMENTS  
HANDED OVER BY THE EMPLOYER  
FOR PERFORMANCE OF CONTRACT  
(Entire Equipment Consignment in one lot)**

(On Non-Judicial Stamp Paper of appropriate value)

**INDEMNITY-CUM-UNDERTAKING AGREEMENT**

THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT is made this ..... day of ..... 20 ..... between ..... (*Contractor's Name*) a Company /Partnership Firm / Proprietary Concern incorporated under the laws of ..... having its Registered Office at ..... (hereinafter called as 'Contractor' which expression shall include its successors and permitted assigns) and ..... (*Name of Employer*), a Company incorporated under the Indian Companies Act having its Registered Office at ..... and its project at ..... (hereinafter called "....." / "*Employer*" which expression shall include its successors and assigns):

WHEREAS the 'Employer' has awarded to the 'Contractor' a Contract for ..... vide its Notification of Award/Contract No.....dated ..... and its Amendment No. .... and Amendment No. ...., (*applicable when amendments have been issued*) (hereinafter called the "Contract") in terms of which .....@..... is required to hand over various Equipments to the 'Contractor' for execution of the Contract.

And WHEREAS by virtue of Clause No..... of the said Contract, the 'Contractor' and the 'Employer' are required to execute an Indemnity-cum-Undertaking Agreement for the Equipments handed over to the 'Contractor' by .....@..... for the purpose of performance of the Contract/Erection Portion of the Contract (hereinafter called the "Equipments")

AND THEREFORE, This Indemnity-cum-Undertaking Agreement witnesseth as follows:

1. That in consideration of various Equipments as mentioned in the Contract, a list whereof is also annexed to this Indemnity-cum-Undertaking Agreement at Schedule-A, valued at (*Currency and amount in Figures*) ..... (*Currency and amount in words*) ..... handed over to the 'Contractor' for the purpose of performance of the Contract, the 'Contractor' hereby undertakes to indemnify and shall keep the 'Employer' indemnified, for the full value of the Equipments. The Contractor hereby acknowledges actual receipt of the Equipments, etc. as per despatch title documents handed over to the 'Contractor' as detailed in the Schedule appended hereto. The 'Contractor' shall hold such Equipments, etc. in trust as a "Trustee" for and on behalf of the 'Employer'
2. @ Fill in abbreviated name of Employer.  
That the 'Contractor' is obliged and shall remain absolutely responsible for the safe transit/protection and custody of the Equipments at .....@..... project site against all risks whatsoever till the Equipments are duly used/erected in accordance with the terms of the Contract and the plant/package duly erected and commissioned in accordance with the terms of the Contract is taken over by the 'Employer'. The 'Contractor' undertakes to keep the 'Employer' harmless against any loss or damage that may be caused to the Equipments.
3. The 'Contractor' undertakes that the Equipments shall be used exclusively for the performance/execution of the Contract strictly in accordance with its terms and conditions and no part of the Equipments shall be utilised for any other work or purpose whatsoever. It is clearly understood by the 'Contractor' that non-observance of the obligations under this Indemnity-cum-Undertaking Agreement by the 'Contractor' shall inter-alia constitute a criminal breach of trust on the part of the 'Contractor' for all intents and purpose including legal/penal consequences.
4. That the 'Employer' is and shall remain the exclusive owner of the Equipments free from all encumbrances, charges or liens of any kind, whatsoever. The Equipments shall at all

times be open to inspection and checking by the Project Manager or other employees/agents authorised by the 'Employer' in this regard. Further the 'Employer' shall always be free at all times to take possession of the Equipments in whatever form the Equipments may be, if in its opinion, the Equipments are likely to be endangered, misutilised or converted to uses other than those specified in the Contract, by any acts of omission or commission on the part of the 'Contractor' or any other person or on account of any reason whatsoever and the 'Contractor' binds himself and undertakes to comply with the directions of demand of the 'Employer' to return the Equipments without any demur or reservation.

5. That this Indemnity-cum-Undertaking Agreement is irrevocable. If at any time any loss or damage occurs to the Equipments or the same or any part thereof is mis-utilised in any manner whatsoever, then the 'Contractor' hereby agrees that the decision of the Project Manager of the 'Employer' as to assessment of loss or damage to the Equipments shall be final and binding on the 'Contractor'. The 'Contractor' binds itself and undertakes to replace the lost and/or damaged Equipments at its own cost and/or shall pay the amount of loss to the 'Employer' without any demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to the 'Employer' against the 'Contractor' under the Contract and under this Indemnity-cum-Undertaking Agreement.
6. NOW THE CONDITION of this Indemnity-cum-Undertaking Agreement is that if the 'Contractor' shall duly and punctually comply with the terms and conditions of this Indemnity-cum-Undertaking Agreement to the satisfaction of the 'Employer', THEN, the above Indemnity-cum-Undertaking Agreement shall become void after the due performance of the Contract, but otherwise, it shall remain in full force and virtue.

@ Fill in abbreviated name of Employer.

IN WITNESS WHEREOF, the 'Contractor' and the 'Employer' have hereunto set their hand through their authorised representative, the day, month and year first above mentioned.

**For and on behalf of**

**(Contractor's Name)**

Signature .....  
Name .....  
Designation of ..... \*  
Authorised representative \*

**For and on behalf of**

**(Employer's name)**

Signature .....  
Name .....  
Designation of ..... \*  
Authorised representative \*

**WITNESS :**

1. Signature .....
2. Name .....
3. Address .....

**WITNESS :**

1. Signature .....
2. Name .....
3. Address .....

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- \* Indemnity-cum-Undertaking Agreement are to be executed by the authorised person and (i) in case of contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity-cum-Undertaking Agreement , (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity-cum-Undertaking Agreement . In case of Employer, by the authorized representative of the Employer.

**SCHEDULE - A**

<b>Particulars of the Equipments handed over</b>	<b>Quantity</b>	<b>Particulars of Despatch Title Documents</b>	<b>Value of the Equip- ments</b>	<b>Signature of Attorney in token of receipt</b>
		RR/GR/Bill    Carrier of Lading No & Date		

**11b. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT FOR THE EQUIPMENTS  
HANDED OVER IN INSTALMENTS BY THE  
EMPLOYER FOR PERFORMANCE OF CONTRACT**

(On Non-Judicial Stamp Paper of appropriate value)

**INDEMNITY-CUM-UNDERTAKING AGREEMENT**

THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT is made this .....day of..... 20 ..... between .....(Contractor's Name) a Company /Partnership Firm / Proprietary Concern incorporated under the laws of ..... having its Registered Office at .....(hereinafter called as 'Contractor' which expression shall include its successors and permitted assigns) and .....(Name of Employer), a Company incorporated under the Indian Companies Act having its Registered Office at ..... and its project at .....(hereinafter called "....." / 'Employer' which expression shall include its successors and assigns):

WHEREAS the 'Employer' has awarded to the 'Contractor' a Contract for .....vide its Notification of Award/Contract No.....dated ..... and its Amendment No. .... and Amendment No. ...., (*applicable when amendments have been issued*) (hereinafter called the "Contract") in terms of which .....@..... is required to hand over various Equipments to the 'Contractor' for execution of the Contract.

And WHEREAS by virtue of Clause No..... of the said Contract, the 'Contractor' and the 'Employer' are required to execute an Indemnity-cum-Undertaking Agreement for the Equipments handed over to the 'Contractor' by .....@..... for the purpose of performance of the Contract/Erection Portion of the Contract (hereinafter called the "Equipments")

NOW THEREFORE, This Indemnity-cum-Undertaking Agreement witnesseth as follows:

1. That in consideration of various Equipments as mentioned in the Contract, valued at (*Currency and amount in figures*)..... (*Currency and amount in words*) ..... to be handed over to the 'Contractor' in instalments from time to time for the purpose of performance of the Contract, the 'Contractor' hereby undertakes to indemnify and shall keep the 'Employer' indemnified, for the full value of the Equipments. The Contractor hereby acknowledges actual receipt of the initial instalment of the Equipments, etc. as per details in the Schedule appended hereto. Further, the 'Contractor' agrees to acknowledge actual receipt of the subsequent instalments of the Equipments, etc. as required by .....@..... in the form of Schedules consecutively numbered which shall be attached to this Indemnity-cum-Undertaking Agreement so as to form integral parts of this Indemnity-cum-Undertaking Agreement. The 'Contractor' shall hold such Equipments, etc. in trust as a "Trustee" for and on behalf of the 'Employer'.

@ Fill in abbreviated name of Employer.

2. That the 'Contractor' is obliged and shall remain absolutely responsible for the safe transit/protection and custodoy of the Equipments at .....@..... project site against all risks whatsoever till the Equipments are duly used/erected in accordance with the terms of the Contract and the plant/package duly erected and commissioned in accordance with the terms of the Contract, is taken over by the 'Employer'. The 'Contractor' undertakes to keep the 'Employer' harmless against any loss or damage that may be caused to the Equipments.
3. The 'Contractor' undertakes that the Equipments shall be used exclusively for the performance/execution of the Contract strictly in accordance with its terms and conditions and no part of the Equipments shall be utilised for any other work or purpose whatsoever. It is clearly understood by the 'Contractor' that non-observance of the

obligations under this Indemnity-cum-Undertaking Agreement by the 'Contractor' shall inter-alia constitute a criminal breach of trust on the part of the 'Contractor' for all intents and purpose including legal/penal consequences.

4. That the 'Employer' is and shall remain the exclusive owner of the Equipments free from all encumbrances, charges or liens of any kind, whatsoever. The Equipments shall at all times be open to inspection and checking by the Project Manager or other employees/agents authorised by the 'Employer' in this regard. Further, the 'Employer' shall always be free at all times to take possession of the Equipments in whatever form the Equipments may be, if in its opinion, the Equipments are likely to be endangered, misutilised or converted to uses other than those specified in the Contract, by any acts of omission or commission on the part of the 'Contractor' or any other person or on account of any reason whatsoever and the 'Contractor' binds himself and undertakes to comply with the directions of demand of the 'Employer' to return the Equipments without any demur or reservation.
5. That this Indemnity-cum-Undertaking Agreement is irrevocable. If at any time any loss or damage occurs to the Equipments or the same or any part thereof is mis-utilised in any manner whatsoever, then the 'Contractor' hereby agrees that the decision of the Project Manager of the 'Employer' as to assessment of loss or damage to the Equipments shall be final and binding on the 'Contractor'. The 'Contractor' binds itself and undertakes to replace the lost and/or damaged Equipments at its own cost and/or shall pay the amount of loss to the 'Employer' without any demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to the 'Employer' against the 'Contractor' under the Contract and under this Indemnity-cum-Undertaking Agreement.
6. NOW THE CONDITION of this Indemnity-cum-Undertaking Agreement is that if the 'Contractor' shall duly and punctually comply with the terms and conditions of this Indemnity-cum-Undertaking Agreement to the satisfaction of the 'Employer', THEN, the above Indemnity-cum-Undertaking Agreement shall become void after the due performance of the Contract, but otherwise, it shall remain in full force and virtue.

@ Fill in abbreviated name of Employer.

IN WITNESS WHEREOF, the 'Contractor' and the 'Employer' have hereunto set their hand through their authorised representative, the day, month and year first above mentioned.

**For and on behalf of**  
.....  
**(Contractor's Name)**

Signature .....  
Name .....  
Designation of ..... \*  
Authorised representative \*

**For and on behalf of**  
.....  
**(Employer's name)**

Signature .....  
Name .....  
Designation of .....  
Authorised representative \*

**WITNESS :**

1. Signature .....
2. Name .....
3. Address .....

**WITNESS :**

1. Signature .....
2. Name .....
3. Address .....

- \* Indemnity-cum-Undertaking Agreement are to be executed by the authorised person and (i) in case of contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity-cum-Undertaking Agreement , (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity-cum-Undertaking Agreement . In case of Employer, by the authorized representative of the Employer.

**SCHEDULE No.1**

Particulars of the Equipments handed over	Quantity	Particulars of Despatch Title Documents	Value of the Equip- ments	Signature of Attorney in token of receipt

(Please number subsequent schedules)