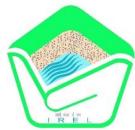




IREL (India) Limited, Corporate Office, Mumbai
Purchase Procedure
(for Private circulation within the company only)

PURCHASE PROCEDURE





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- GCOC for Goods
- GCOC for Works
- GCOC for Services
- GCOC for Consultancy Services



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CHAPTER-1

1.0 PREAMBLE

As a guiding principle of professional conduct, all employees of IREL (Procuring Entity) involved in acquisition of goods & services, works contract, capital procurement etc. will abide by the followings:

A. Principles:

Principle 1	To ensure specified quality/quantity at the most competitive price in a fair and transparent manner.
Principle 2	To ensure overall interest of the organization in all transactions of purchases.
Principle 3	To work with honesty and denounce all forms of corruption including extortion and bribery.
Principle 4	To accord a prompt and courteous reception to all who call up on to have legitimate business mission with IREL.
Principle 5	To promote a healthy and harmonious buyer and seller relationship.

B. General Guidelines (GG):

GG 1	An authority which is competent to incur expenditure may sanction the procurement required for use in accordance with provisions in the Delegation of Powers, following the procedure contained in the purchase procedure.
GG 2	An indent should not be divided into small quantities to make piecemeal procurement to avoid the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand. Further items of supply/ work of similar nature shall be clubbed together to the extent possible.
GG 3	Depending on the cost and nature of the goods to be purchased, it may also be necessary to enter into maintenance contract(s) of suitable period either with the supplier of the goods or with any other competent firm, not necessarily the supplier of the subject goods. Such maintenance contracts are especially needed for sophisticated and costly equipment and machinery. It may, however, be kept in mind that the equipment or machinery is maintained free of charge by the supplier during its warranty period or such other extended periods as the contract terms may provide and the said maintenance should commence only thereafter.
GG 4	To ensure placement of contract within the original validity of the bids. Extension of bid validity must be discouraged and resorted to only in exceptional circumstances.



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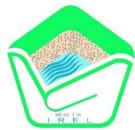
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CHAPTER-2

2.0 APPLICABILITY OF PURCHASE PROCEDURE:

- 2.1 All purchases are to be regulated as per procedure laid down herein, in this manual.
- 2.2 The scope of purchases includes supply contracts, works contracts, consultancy contracts, service contracts, rate contracts and write off & disposal (of unserviceable and obsolete capital & store items) procedure.
- 2.3 This is to be read in conjunction with the delegation of powers (*DoP*) laid down separately.
- 2.4 This document also covers the methodology to be adopted in write off disposal of store items and assets.
- 2.5 An illustrative guideline indicating some of the functions and responsibilities of the connected officials are given in Chapter -15.
- 2.6 CMD of IREL is hereby authorized to make amendments in the purchase procedure due to change in statutory guidelines and to make any amendments/ additions/ deletions/ waiver/ relaxations in any provision of the purchase procedure as and when required.
- 2.7 The updated Procurement Manuals for procurement of goods, works and Consultancy and other services (updated June, 2022) issued by Department of Expenditure, Ministry of Finance, Govt. of India shall be referred to for clarifications, if any in case of non-availability of same in this manual.



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CHAPTER-3

3.0 OBJECTIVES

- 3.1 The primary objective of purchase procedure is to regulate procurement of various items that include land, buildings, vehicles, plant and machinery, equipment, furniture & fittings, fixtures, spares, stores and materials etc. and to ensure that necessary works / service contract including consultancy as required by indenter is in place with a view to:
- (i) Helping and maintaining continuity of production and other allied function by making available required supplies and services in time as per user requirements.
 - (ii) Ensuring that the supplies and services are availed at most competitive price by taking into account their quality, durability, efficiency etc.
 - (iii) Developing effective and on- going vendor relationship to ensure fair play and equality with transparency.
 - (iv) Training of purchase personnel, concerned officials of other departments in the latest trends / practices of material management.
- 3.2 The materials/services obtained shall be:
- (i) of right quality
 - (ii) in right quantity
 - (iii) at right time
 - (iv) at right prices
 - (v) from right sources
 - (vi) by right method
 - (vii) at right place



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CHAPTER-4

4.0 BROAD CLASSIFICATION OF PURCHASES:

4.1 CAPITAL PROCUREMENT:

4.1.1 The capital procurement is broadly subdivided into **following four categories** which include procurement through indigenous and imported source:

- (a) The capital procurement is intended to create a new asset to increase throughput of the plant, operational efficiency & productivity, efficiency in energy management and for statutory requirement, if any.
- (b) Replacement of any capital item and upgradation/ modernization of obsolete machinery with higher version to achieve efficiency in operations and increase in capacity.
- (c) Capital purchases are also made to meet safety and environmental requirements and equipment relating to welfare including items for Corporate Social Responsibility (CSR) and Sustainable Development (SD) activities.
- (d) The capital procurement also covers Green field & brown field projects, purchase of land & buildings, furniture and fittings, vehicles and laboratory equipment relating to R&D Projects, software, hardware etc. It also includes procurement of intangible assets including Brand, Copyright, Patents, or any other software with enduring benefits etc.

4.1.2 Indenting procedure for Capital items

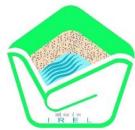
4.1.2.1 Purchases of items of capital nature are to be made after approval of competent authority subject to inclusion of the item in the approved capital budget / annual plan in the respective period of expenditure.

4.1.2.2 All capital proposals are required to be concurred by finance department of respective units/HO.

4.1.2.3 Indent for replacement of capital items needs to be supported with detailed technical write up and justification.

4.1.2.4 The following information is required to be furnished in case of capital replacement:

- (a) Year of purchase of original equipment.
- (b) Life of the equipment originally envisaged, wherever available and actually worked. Specific reason to be mentioned for replacement of equipment before expiry of life as originally envisaged.
- (c) In case, the equipment proposed to be procured is of improved versions, advantages of same over the present equipment need to be recorded.



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4.1.3 The following information inter alia is to be furnished in case of new capital purchases as applicable:

4.1.3.1 The proposal should provide complete details of estimate of purchase.

4.1.3.2 The proposal should contain justification in all cases of new capital procurements.

4.1.3.3 In case of mandatory projects, CSR projects or R&D projects statutory compliances and non-monetary benefits that are expected to flow to the company need to be emphasized.

4.2 Indenting procedure for Capital works

4.2.1 All indents for procurement are required to be raised in appropriate indent format.

4.2.2 Overall budget sanction is required before taking procurement action.

4.2.3 The indent / proposal shall indicate the estimate.

4.2.4 Justification for quantity indented shall be provided after taking into consideration the stock of indented item in the stores and in the pipeline.

4.3 REVENUE PROCUREMENT:

The revenue procurement includes supply items, works contract, service contract, rate contract which are aimed at providing necessary support service to help and maintain production by arranging appropriate supplies which are essential for optimum utilization of resources.

4.3.1 Scope of revenue procurements:

4.3.1.1 The scope of revenue purchases includes procurements made indigenously or from imported source for continuing the operation of the plant.

4.3.1.2 The revenue procurement includes purchase of stores and spares, valves, chemicals, solvents, raw materials, coal, petroleum oil and lubricants (POL), software and hardware, stationery items, welfare items and others.

4.3.1.3 All procurements are required to be raised in appropriate indent format

4.3.1.4 The Budget provision is required for taking procurement action.



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2. Scope of revenue works contract / service contract / rate contract:

- 4.3.2.1 Repairs, renewals/replacement including maintenance of existing building, electrical/ mechanical/ instrumentation installations, sewerage disposal systems etc.
- 4.3.2.2 Periodical maintenance services to buildings, air conditioners, office equipment, roads, general cleaning contracts, AMC of computers, spares of computers, etc.
- 4.3.2.3 Lease rents including rent for land, buildings, workshop equipment, etc.
- 4.3.2.4 Caretaking of buildings, sheds etc.
- 4.3.2.5 Insurance coverage for buildings, plant & machinery, and other current assets against risk of damage.
- 4.3.2.6 Transportation of stores/ products including beach wash, raw sand etc.

4.4 Procurement from Micro, Small and Medium Enterprises (MSEs):

The Procurement Policy for Micro and Small Enterprises, 2012 [as amended time to time] as notified by the Government in exercise of the powers conferred in Section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 is to be followed. Relevant details placed at **Annexure-I** .

4.5 Preference to Make in India

- 4.5.1 Public Procurement (Preference to Make in India), Order 2017 notified by Department of Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India (Superseded by Order issued by DPIIT dated 16.09.2020 and notified vide OM No. P-45021/2/2017-PP-(BE-II) dated 16.09.2020) is applicable on all the procurement of Goods, Works (including turnkey works) and Services with exemptions for procurements where the estimated value to be procured is less than Rs. 5 lakhs.

The procurement is not to be split for the purpose of avoiding the provisions of this Order.

- 4.5.2 The minimum local content, the margin of purchase preference and the procedure for preference to Make in India is to be specified in the notice inviting tenders or other form of procurement solicitation and it is not to be varied during a particular procurement transaction.

- 4.5.3 In respect of procurement through the Government E-marketplace (GeM), as far as possible, the items which meet the minimum local content is to be specifically marked while registering the item for display, and wherever feasible, provision for automated comparison with purchase preference and without purchase preference is to be made and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.



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4.5.4 Verification of local content:

The 'Class-I local supplier'/ 'Class-II local supplier' at the time of tender, bidding are to be asked to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'/ 'Class-II local supplier', as the case may be. They should also be asked to give details of the location(s) at which the local value addition is made.

In cases of procurement for a value in excess of Rs. 10 crores, the 'Class-I local supplier'/ 'Class-II local supplier' should be asked to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

- 4.6 Department of Expenditure OM no. 7/10/2021-PPD(1) dated 23rd February 2023 detailing restrictions on procurement from a bidder of a country which shares a land border with India along with the registration process and the Self declaration to be submitted by the bidders is to be referred and complied . The NIT for such tenders should have provisions for submission of declarations as provided in the OM.



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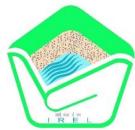
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CHAPTER-5

5.0 VENDOR SELECTION AND EVALUATION

5.1 REGISTRATION OF VENDOR:

- 5.1.1 With a view to establishing reliable sources for procurement commonly required for IREL use, the Material/Purchase Department will prepare and maintain item-wise lists of eligible and capable vendors. Such approved vendors will be known as "Registered Vendors".
- 5.1.2 Such registered vendors are *prima facie* eligible for consideration for procurement through Limited Tender Enquiry provided at least 3 (three) vendors are available in the list of particular category. Registration of the vendor should be done following a fair, transparent and reasonable procedure and after giving due publicity.
- 5.1.3 Credentials, technical capability, quality control systems, past performance, after-sales service, financial background etc. of the vendor(s) should be carefully verified before registration.
- 5.1.4 Vendor list is to be finalized by Evaluation Committee consisting of representative of purchase, finance and user department duly constituted by Competent Authority.
- 5.1.5 The vendor(s) will be registered for a fixed period of 3 years subject to clause 5.1.6. At the end of this period, the registered vendor(s) willing to continue with registration are to apply afresh for renewal of registration. Additional vendor(s) may also be considered for registration at any time, provided they fulfill all the required conditions.
- 5.1.6 Performance and conduct of every registered vendor is to be watched by the Materials/Purchase Department. The registered vendor(s) are liable to be removed from the list of approved vendors if they fail to abide by the terms and conditions of the registration or fail to supply the goods on time or supply substandard goods or make any false declaration or for any ground which, in the opinion of IREL, is not in public interest.
- 5.1.7 Evaluation committee will meet yearly for updating of registered vendors list.
- 5.1.8 The list of registered vendors for the subject matter of procurement shall be exhibited on the website of IREL.
- 5.1.9 Enlistment of registered agencies for each type of Service/ works shall be made at least once in three years through advertisement in newspapers and also in website.
- 5.1.10 In addition, facility for submission of application for registration online has been made available in the website to enable the agencies to apply for registration at any point of time. Such applications shall be scrutinized from



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time to time and list of Registered vendors will be updated once in every year to include any new eligible agencies or remove existing registered agencies whose performance is not satisfactory. In all above cases, approval from the competent authority shall be obtained.

- 5.1.11 Process owner of enhancing vendor base lies with Purchase Dept and other user Department of Unit; necessary co-ordination will be done at Corporate Office.

5.2 METHOD OF EVALUATION FOR EXISTING VENDORS:

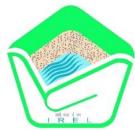
5.2.1 Vendor Rating:

Head of Materials/purchase department shall rate the performance of each vendor on a scale of 100 considering weightage for each criterion as follows:

Criteria	Weightage
Response to enquiries index (REI): • Promptness in submission of Bids within the due date i.e., without seeking extension : 05 • Submission of Responsive Bid : 10 • Promptness in Order acceptance and compliances as per Order including Security Deposit submission : 10	25
Promptness of delivery index (PDI)	30
Delivery of quality goods index (DQI)	30
After Sales Service (ASSI)	15

Composite performance index = (0.25 x REI+ 0.3x PDI+ 0.4 x DQI + 0.15*ASSI) x 100

- 5.2.2 No marks are to be awarded to vendors in case of supply of substandard goods/ services.
- 5.2.3 Vendors scoring less than 60 marks as per the Composite Performance Index in any year of evaluation will be informed to improve and will be liable for deletion from the vendor list for one year, if they score less than 60 marks in next evaluation.
- 5.2.4 Evaluation Committee will review the performance of registered vendors yearly and will finalize deletion from the approved list based on their performance.
- 5.2.5 Only after successful registration of a vendor, enquiry can be sent to the registered vendors based on the group of procurement for which it has been selected.



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5.3 METHOD OF BLACKLISTING/ BANNING VENDORS AND REVOCATION OF BAN:

- 5.3.1 Any failure by the vendor to supply/execute the contract as per order may result in blacklisting of vendors by the authority competent to conclude the contract. The blacklisted vendor shall not be considered for a minimum period of one year from the date of blacklisting.
- 5.3.2 Further the competent authority may blacklist the bidder, if the bidder changes bid either techno-commercial and / or price or withdraw his bid after receipt of the same and during the validity period of bid.
- 5.3.3 Further, the vendor shall be banned from doing any business with the company in case of:
- (a) If security considerations including question of loyalty to the state so warrant.
 - (b) If the proprietor of the firm, its partner or representative is convicted by a court of law following prosecution for offences relating to business dealings.
 - (c) If there is strong justification for believing that the proprietor or employee or representative of the firm has been guilty of malpractice such as bribery, corruption, fraud, substitution of tenders, interpolation, misrepresentation, evasion or habitual default in payment of any tax levied by law, etc.
- 5.3.4 All such banned orders should be well publicized, so that banned vendor is not engaged by any unit of IREL.
- 5.3.5 An order for ban/ suspension passed for a certain specified period shall be deemed to have been automatically revoked on expiry of that specified period and it will not be necessary to issue a specific formal order of revocation, except that an order of suspension/ban passed on account of doubtful loyalty or security consideration shall continue to remain in force until it is specifically revoked.
- 5.3.6 An order of ban on grounds of conviction by Court of Law may be revoked if, in respect of the same facts, the accused has been wholly acquitted by a court of law.
- 5.3.7 Under exceptional circumstances, the Competent Authority may on a review, revoke a ban.

Clause of blacklisting of vendors as mentioned above is to be incorporated in General Conditions of Contract (GCOC).

5.4 Debarment of Suppliers:

The terms “banning of firm”, ‘suspension’, ‘Black-Listing’ etc. convey the same meaning as of “Debarment”.



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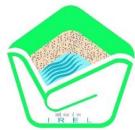
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Registration of vendors and their eligibility to participate in tendering process is subject to compliance with Code of Integrity for Public Procurement and good performance in contracts.

DoE's 'Debarment Guidelines' notified vide OM No. F.1/20/2018-PPD dated 02.11.2021 is to be referred which provides guidelines for

- (i) Debarment by a single Ministry/ Department
- (ii) Debarment across all Ministries/ Departments
- (iii) Revocation of order
- (iv) Other provisions &
- (v) Safeguarding Procuring Entity's Interests during debarment of suppliers.

The said guideline is to be followed as per need and provision of same may be kept in the NIT.



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CHAPTER- 6

6.0 BASIS OF ESTIMATES AND INDENTS

6.1 Estimates :

Estimates give a fair idea of Financial commitment and estimate is the vital element in establishing the reasonableness of price. Estimates need to be based on current market conditions or on the prices available in the latest PO/ WO for similar items of work undertaken duly updated with reference to the economic indices for the raw material/ labour and other input costs, exchange rates, taxes, duties etc., or on approved schedule of rates of local/PWD/CPWD as the case may be with a view to reduce variations between the estimated and tendered cost.

6.1.1 Purchases quantity:

Materials Management Department will be responsible for arranging all procurement. Indents/purchase requisitions shall form the basis for arranging procurement. Quantities reflected in the indents or the purchase requisitions will be arrived at based on past consumption pattern /projected requirements, minimum & maximum stock level required to be maintained, lead time of procurement, existing stock on hand and other related factors including stock in pipeline. However, indent for procurement can be released based on anticipated consumption in case of new item(s).

6.1.2 Works /consultation contract:

The estimate will contain cost schedule of quantities involved in case of works contract. In case of consultancy contract period, deliverables, proposed schedule of payment, expected consultancy fee will be considered to arrive at the estimates/ determine the contracts.

6.2 INDENTS

6.2.1 Indents shall be raised in the prescribed form by EIC/ OIC / Stores duly countersigned by head of the department and approved by the competent authority as per delegation of power after due verification of administrative approval required if any, availability of budget provision etc.

6.2.2 Indents shall be routed through the central stores to indicate the actual stock in hand, pending orders if any. The indenter may revise the requirement if any, based on lead time of the procurement, available stocks in stores, anticipated consumption and the availability of the item for plant operation, safety etc.

6.2.3 However, for store items for which minimum& maximum stock level is fixed, the indents will be raised preferably by the stores department in consultation with the concerned department for restocking.

6.2.4 Flow of indent after recommendation is shown in Chapter-9.



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CHAPTER-7

7.1 SELECTION OF APPROPRIATE PROCUREMENT MODE

- 7.1.1 Invitation to tender and instructions at enquiry stage are important step as the vendor's offer is based upon these instructions. Any ill-conceived and incomplete action at this stage results not only in delays but leading to incorrect procurement and hampers production.
- 7.1.2 Tendering system shall be adopted to secure the most competitive rates and to eliminate chances of favour to any supplier/ contractor/service provider.
- 7.1.3 To improve the system of ethics in tendering and other business dealings an undertaking is to be obtained from all the bidders/ vendors/ suppliers to the effect that they will not provide any gift and/ or influence any employee of the company in connection with securing any decision in their favour. This should be included in all tenders. The relevant formats are available in Chapter-16.
- 7.1.4 Tendering procedure towards procurement/ award of contract is to give equal opportunities to all interested parties. So, post-facto approval for dispensing normal purchase procedure should be avoided as far as possible.
- 7.1.5 **Procurement though GeM:**
For procurement of goods & services through GEM Portal, availability needs to be checked at GEM Portal. If such item is available in GEM Portal, the same to be procured through GEM Portal mode.
- 7.1.5.1 Summarised procedure to be followed for adopting GEM Portal is as follows:
- Indentor shall check the availability of the indented goods/ services in the GeM portal and after receipt of Indent, Purchase Department will verify the same to re-confirm availability in GeM portal. This is mandatory for non-production items.
 - If item/Service is not available in GeM portal, action to be initiated for procurement outside GEM Portal.
 - GEM procurement shall be initiated as per the procedure of GeM i.e., either direct purchase or bidding or reverse auction.
 - GEM sanctioned order is to be created and considered as valid contract and incorporated in Purchase Order database of IREL.
 - On receipt of material and acceptance at our stores, CRAC (Consignee Receipt and Acceptance Certificate) document is to be approved.



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- f. Payment is to be done within 10 days of generation of CRAC and payment detail to be updated in GeM portal.
- g. The functionality for generating "GeM Availability Report and Past Transaction Summary" (GeMAR&PTS) is available on GeM to take informed procurement decisions in respect of availability of product/service on GeM along with necessary details relating to past transaction summary. It is mandatory to generate the 'GeM Availability Report and Past Transaction Summary' (GeMAR&PTS) in all cases for creating bids outside GeM.
- h. Integration of GeM with Central Public Procurement Portal (CPPP) and its sub-portals is in place. Uploading of approval documents from associated finance in support of urgent nature of procurement before publishing a tender on the (CPPP) without first obtaining a GeM Availability Report (GAR) and Past Transaction Summary ID needs to be done.

7.1.6 The GeM portal is to be utilized for **direct on-line purchases** as under (Amounts indicated are inclusive of Taxes):-

- (i) Up to Rs.25,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period.
- (ii) Above Rs.25,000/- and up to Rs.5,00,000/- through the GeM Seller adopting Comparison (**without bidding**) for having lowest price amongst the available sellers, of at least three different manufacturers, on GeM, meeting the requisite quality, specification, and delivery period. Bidding can also be done through 2 bidding system on the portal. Prior approval of Competent Authority for adopting either of the mode needs to be taken by Indenter giving due justifications.
- (iii) Above Rs.5,00,000/- through the supplier having lowest price meeting the requisite quality, specification, and delivery period after mandatorily obtaining bids, using online bidding or reverse auction tool provided on GeM.
- (iv) The above-mentioned monetary ceiling is applicable only for purchases made through GeM. For Purchases, if any, outside GeM, relevant clause of *Purchase Procedure* shall apply.
- (v) The Purchase Dept may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the Last Purchase Price on GeM, IREL's own Last Purchase Price etc.
- (vi) Estimated requirement for goods/services shall not be divided into small quantities to make piecemeal purchases to avoid procurement



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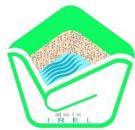
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through L-1 Buying / bidding / reverse auction on GeM or the necessity of obtaining the sanction of higher authorities as required in Purchase Procedure.

- (vii) If the items in one requisition could not be bunched as per the categories available in GeM, the tender can be split in the GeM bidding.
- (viii) **Procurement under Proprietary Article Certificate (PAC):**
Except for direct buying up to Rs. 25,000/- subject to establishing the reasonableness of price, the bidding is mandatory for procurements above Rs. 25,000/-. As result of bidding, the response could be as under:
 - i. Only OEM is available or only single authorised seller is available.
 - ii. OEM as well as multiple authorised Sellers are available.
- (ix) After bidding, decision to be taken for procurement with the approval of the competent authority before placement of contract.
- (x) All proposals exceeding Rs. 4,00,000/- in case of production items and proposals exceeding Rs.2,00,000/- in case of non-production item shall be put up to Purchase Committee (PC) for their recommendation. The PC will evaluate and recommend to competent authority for approval and placement of purchase order/ work order.
- (xi) **Push Button Procurement (PBP) :**
PBP can be only on GeM through bidding (PBP through Direct Purchase, L-1, Custom-bid etc. are not permitted) for procurement value not exceeding Rupees Five lakh, inclusive of all taxes. This method can be used only in case of at least five bids are received. In case of less than five bids are received, the procurement is to restart using usual procurement methods. No splitting of requirement is to be done so as to bring procurement under this method. Once bid is invited on GeM, contract will be placed directly by GeM without any human intervention.

The above is summarized guideline for procurement through GeM portal. In case of any contradictions in the GeM procurement procedure and IREL Purchase procedure, the provisions of GeM shall prevail in case of purchase through GeM.

Any change in guidelines issued in future for procurement through GeM portal by concerned Ministry shall be applicable.

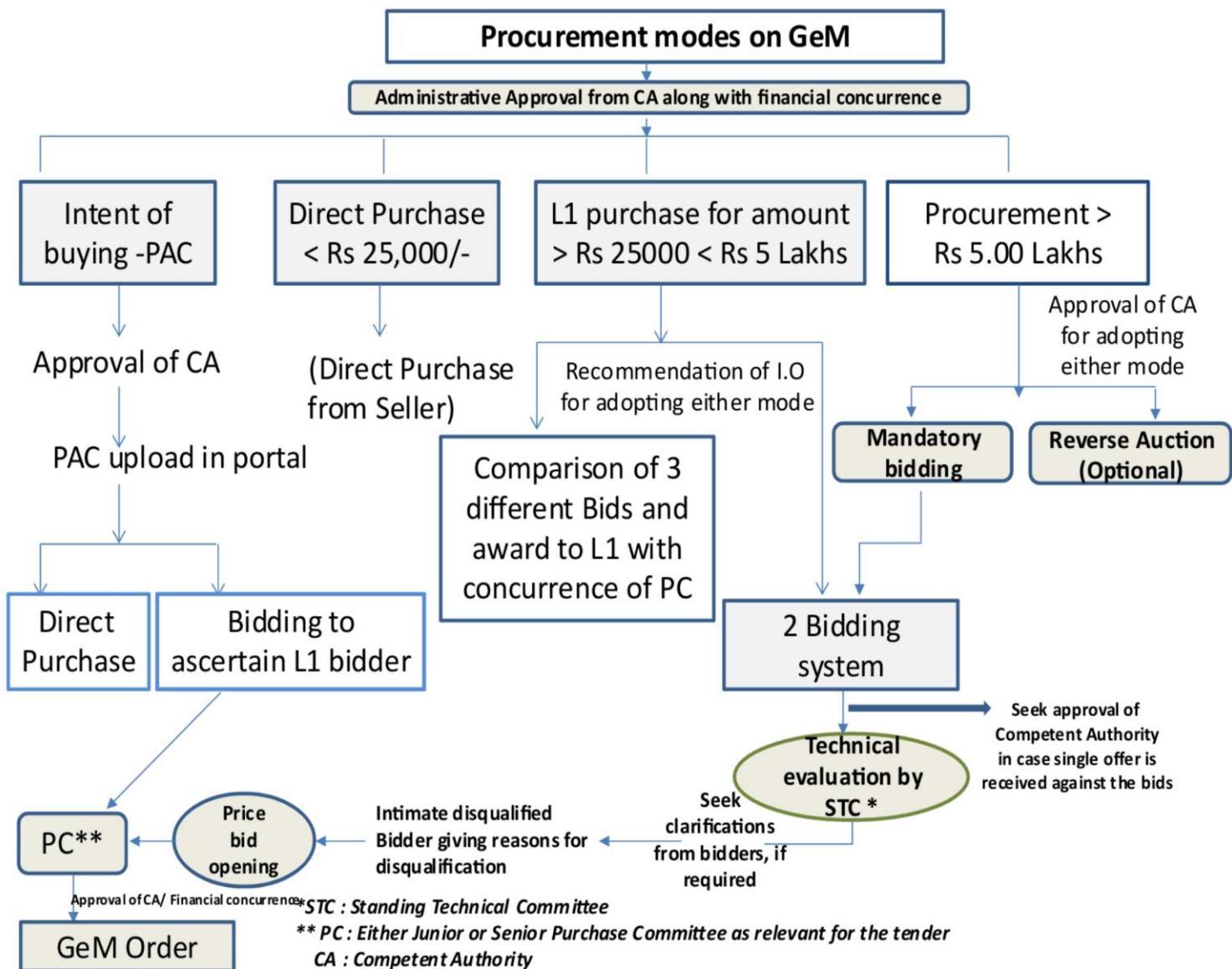


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Flow of processing procurements through GeM





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7.1.7 End to end e-procurement

- 7.1.7.1 All procurements with estimated value of Rs. 2 lakh or more are to be made through e-procurement solution either to use e-procurement solution developed by NIC accessible through Central Public Procurement Portal (CPP Portal) or through other service provider (like MSTC)/ other e-procurement solution developed in-house. Service charges payable to the portal provider by the prospective bidders shall however be borne by IREL to encourage digitization drive.
- 7.1.7.2 In case of e-tenders, the tender document is to be uploaded in the e-procurement portal in which the tender is hosted for bid participation. Bidders should upload their documents in the respective envelopes as called for in the tender.
- 7.1.7.3 Submission of transaction fees / EMD, if called for in the tender can be paid through NEFT/ IMPS/RTGS/ online payment and same is to be confirmed sharing Unique Transaction Reference (UTR) to the tender inviting authority/ e-procurement service provider as called for in tender. In case of submission of EMD in any other form other than online payment, the documentary evidence is to be uploaded in the e-procurement portal and the original documents to be submitted within 7 days of closure of e-tendering event.
- 7.1.7.4 In case documents such as Secrecy Agreement, Bank Guarantee(s) are required to be submitted, the scanned copies of the said documents needs to be uploaded and documents in original should be sent vide post/ copier to the tender inviting authority so as to reach within 7 days of closure of e-tendering event.
- 7.1.7.5 The tender should be opened by the TOC (Tender opening Committee) members simultaneous logging in using DSC's (Digital Signature Certificates) issued by Authorised Certified Agencies. Tender opening committee shall comprise of two or more officials from Purchase Dept / authorized representative possessing DSC's (Digital Signature Certificates) issued by Authorised Certified Agencies. Opening of e-tendering events needn't be witnessed by the Bidders.
- 7.1.7.6 In case of e-tenders the summary sheet detailing the techno-commercial conditions to be complied by Bidders needs to be signed by TOC members and it is to be ensured that all the attachments uploaded by all the bidders are downloaded. The printouts are to be made available in the file for further processing.
- 7.1.7.7 The Price bid summary sheet to be downloaded and signed by all the TOC members.
- 7.1.7.8 The reasons for rejection of the Bids after evaluation to be intimated to the bidders through the e-procurement portal.



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7.1.8 Modes of Procurement (All the values mentioned are Excl. of taxes):

The various modes of procurement that can be used in procurement of goods/ works (including services/consultancy) are as follows:

(i) **Open Tenders**

- a) Public Tender Enquiry (PTE); and
- b) Global Tender Enquiry (GTE)

(ii) **Procurement through Selected Suppliers**

a) Limited Tender Enquiry - LTE

Type of procurement	Limiting value
In case of works	< Rs. 5 (Rupees five) lakh
In case of non-consultancy services	< Rs. 10 (Rupees ten) lakh
In case of goods & consultancy services	< Rs. 25 (Rupees twenty-five) lakh

b) Special Limited Tender Enquiry

Type of procurement	Limiting value
Under special circumstances) (only in case of goods	\geq Rs. 25 (Rupees Twenty-five) lakh

(iii) **Nomination Basis Tenders**

- a) Single Tender Enquiry (STE) with Proprietary Article Certificate (PAC) (only in case of goods); and
- b) Single Tender Enquiry (STE) without PAC

(iv) **Procurements without Calling Tenders**

- a) Direct Procurement without Quotation.
- b) Direct Procurement by Purchase Committee.

(v) **Repeat Orders**

Procurement through buy-back & Rate contracts may be done through tendering mentioned above, as applicable.

7.1.8.1 PUBLIC TENDER (PT):

Public tender (PT) is an open tender and open for all the prospective bidders in following cases:

- a) Procurement where no feasible registered vendors list is available, irrespective of value



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b) Others:

Type of procurement	Amount
In case of works	More than or equal to Rs. 5 (Rupees five) lakh
In case of non-consultancy services	More than or equal to Rs. 10 (Rupees ten) lakh
In case of goods & consultancy services	More than or equal to Rs. 25 (Rupees twenty-five) lakh

Advertisement for PT is to be released in at least one leading National English Daily newspaper having wide circulation in India apart from web hosting in following cases only:

- (i) All tenders having estimated value more than Rs 1 Crores except for procurements of **Furnace Oil/ HSD** etc. wherein prospective bidders are PSE's only.
- (ii) Engagement of Consultants having estimated value **>Rs 25 lakhs**

Advertisements should be released through Nodal Agency "Bureau of Outreach and Communication" as per DPE's D.O No. 24013/34/2021-MUC-1 dated 25-10-2021. However, in case of exigencies/ denial from BOC, suitable alternative may be adopted with approval from Competent authority.

7.1.8.2

GLOBAL TENDER (GT):

Global Tender (GT) is also an open tender. Global tender should be done when it is felt that sufficient vendors to supply the items of procurement of the required quality, specifications etc., may not be indigenously available and it is necessary to also look for suitable competitive offers from abroad. In such cases IREL may send copies of the tender notice (NIT/RFP) to the Indian Embassies abroad as well as to the foreign Embassies in India. The selection of the Embassies will depend on the possibility of availability of the required goods in such countries. Besides this, the NIT/RFP shall also be advertised at least in one leading National English Daily newspaper having wide circulation. The NIT/RFP shall also be publicized in the Indian Trade Journal, IREL website and GOI tender website. In addition, NIT/RFP may also be sent to potential vendors specifically stating that tender documents are available at IREL website, GOI tender website and respective embassies.

The provisions of inviting Global Tender enquiry seeking relaxation for invitation of the same for procurements below Rs 200 Crores as outlined in guidelines of DPE is to be adopted.



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7.1.8.3 **LIMITED TENDERS:**

Limited tenders (LT) to be invited the likely vendors from the registered vendors list.

For procurement of consultancy services / non-consultancy services either of the following may be adopted:

- (i) Preparation of a list of potential consultants/ service providers based on list prepared by any Ministries or Govt. Departments or PSUs for similar purpose with or without modification ensuring minimum 3 vendors OR
- (ii) From own Registered vendor list

If the complexity of the project so justifies, a formal EoI may be advertised, even for procurement of consultancy services below Rs 25 (*Rupees Twenty five*) Lakhs, with the approval of CA.

Limited tender/enquiries shall only be sent through post/courier/e-mail to all the vendors in the approved panel unless it is personally collected by an authorized representative of registered vendors. Posting in **Websites (IREL & CPPP)** is mandatory for limited tenders of estimated value above Rs.50,000/- including GeM procurements.

In case a vendor who is blacklisted or vendor not in the approved list of panel for this tender submits the tender, the same should not be considered.

In case of procurement through a limited tender, the NIT is to be uploaded on CPPP Portal and IREL website with a note saying:

“This notice is being published for information only and is not an open invitation to quote in this limited tender. Participation in this tender is by invitation only and is limited to the selected IREL’s registered suppliers. Unsolicited offers are liable to be ignored. However, suppliers who desire to participate in such tenders in future may apply for registration with IREL as per procedure.”

7.1.8.4 **Special Limited Tender Enquiry for Procurements More than Rs. 25 (Rupees twenty-five) Lakh**

LTE mode, even for values Rs. 25 lakh (Rupees Twenty-five Lakh) or higher, where normally OTE should have been done, is permissible in following circumstances subject to approval of Competent Authority:

- i) There is an existing or prospective urgency for operational or technical requirements and any additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency.
- ii) There are sufficient reasons to be recorded in writing indicating that



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it will not be in public interest to procure the goods through advertised tender enquiry.

- iii) The sources of supply are definitely known and possibility of fresh source(s) beyond those being tapped is remote.
- iv) Nature of items to be procured is such that pre-verification of competence of firm is essential, hence requires registration of firms.; and
- v) Government policy designates procurement from specific agencies.

7.1.8.5 Single Tender Enquiry (STE) with Proprietary Article Certificate (PAC):

In procurement of goods, certain items are procured only from Original Equipment Manufacturers (OEMs) or manufacturers having proprietary rights (or their authorised dealers/stockists) against a PAC certificate signed by the appropriate authority. Users should enclose, with their Indent, a PAC certificate indicating the justification and approval at the appropriate level, for sourcing an item from OEM or PAC firms or their authorised agents;

Proprietary items shall be purchased only from a nominated manufacturer or its authorised dealer as recorded in the PAC certificate;

In certain unavoidable cases, the procuring authority may have no alternative but to waive payment of EMD/SD for procurement on a proprietary basis;

To the extent feasible, the firm may be asked to certify that the rates quoted by them are the same and not higher than those quoted with other Government, public sector or private organisations;

Note1:

Proprietary Article Certificate in the following form is to be provided by the indenting Department before procuring the goods from a single source above as applicable.

- (i) The indented goods are proprietary items of M/s.....
- (ii) The items from any other source is not acceptable as the same will not suit to the equipment/ assembly:

7.1.8.6 Single Tender Enquiry (STE) without PAC:

A tender invitation to one firm only without a PAC certificate is called a single tender.

7.1.8.6.1 Single Tender Enquiry (STE) without PAC for Goods

In case of goods, it may be resorted to under following conditions:

- i) In a case of existing or prospective emergency relating to operational or technical requirements to be certified by the indenter, the required



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goods are necessarily to be purchased from a particular source subject to the reason for such decision being recorded and approval of the competent authority obtained.

- ii) For standardization of machinery or components or spare parts to be compatible to the existing sets of machinery/equipment (on the advice of a competent technical expert and approved by the competent authority), the required goods are to be purchased only from a selected firm.

7.1.8.6.2 Single Tender Enquiry (STE) without PAC for Works:

In case of works, it should be resorted to only under following conditions:

- i) There is an urgent need for the work and engaging in competitive tendering process would, therefore, be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by procuring entity nor the result of dilatory conduct on its part.
- ii) Works that represent a natural continuation of previous work carried out by the firm when considering the limited size of the additional work in relation to the original procurement and the reasonableness of the price it will be cost effective to resort to single source procurement. However, the incremental work should not be more than 25 (twenty-five) percent of the original contract value;
- iii) In case of an emergency situation, situations arising after natural disasters, situations where timely completion of the work is of utmost importance subject to the reason for such decision being recorded and approval of the competent authority obtained.
- iv) Situations where execution of the work may involve use of proprietary techniques or only one contractor has requisite expertise.
- v) Under some special circumstances, it may become necessary to select a particular Agency where adequate justification is available for such single-source selection in the context of the overall interest of the company.

7.1.8.6.3 Single Source Selection (SSS) / Selection by nomination in case of Consultancy Services :

The selection by SSS/ nomination is permissible under exceptional circumstance such as:

- i) tasks that represent a natural continuation of previous work carried out by the firm;
- ii) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance;
- iii) situations where execution of the assignment may involve use of



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- proprietary techniques or only one consultant has requisite expertise;
- iv) At times, other PSUs or Government Organizations are used to provide technical expertise. It is possible to use the expertise of such institutions on a SSS basis;
 - v) Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of Organisation. Full justification for single source selection should be recorded in the file and approval of the competent authority should be obtained before resorting to such single-source selection.

7.1.8.6.4

Procurement of Non-consulting services by nomination.

In an exceptional situation, IREL may procure a non-consulting service from a specifically chosen contractor. In such cases the detailed justification, the circumstances leading to such procurement by choice and the special interest or purpose it shall serve, shall form an integral part of the proposal. Full justification for single source selection should be recorded in the file and approval of the competent authority should be obtained before resorting to such single-source selection.

7.1.8.6.5

Quarterly report detailing the Orders finalized on Single Tender/ nomination basis by the Units is to be forwarded to Corporate Finance.

7.1.8.7

Procurement without quotation

In case certain items are not available in GEM Portal, Procurement costing above Procurement upto the value of Rs. 25,000/- (Rupees twenty-five thousand) only on each occasion may be made without inviting quotations or bids on the basis of a certificate to be recorded by the indentor in the following format, however payment should be made keeping in mind relevant Income Tax provision in this regard:

"I,....., am personally satisfied that the procurement is of the requisite quality and specification and has been procured from a reliable supplier at a reasonable price."

7.1.8.8

Procurement by Purchase Committee:

In case certain items are not available in GEM Portal, procurement costing above Procurement costing above Rs. 25,000/- (Rupees twenty-five thousand only) and upto Rs.2,00,000/- (Rupees two lakh only) on each occasion may be made on the recommendations of a duly constituted Local Purchase Committee consisting of three members (one from finance, one from purchase and one from user department) of an appropriate level as



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decided by the Head of the Department. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier.

Before recommending placement of the order, the members of the committee will jointly record a certificate as under:

"Certified that we, members of the purchase committee are jointly and individually satisfied that the procurements recommended are of the requisite specification and quality, priced at the prevailing market rate and the supplier recommended is reliable and competent to supply, and it is not debarred by IREL."

7.1.8.9 REPEAT ORDER

It is imperative that action needs to be initiated beforehand in order to ensure that fresh contracts are in place prior to expiry of the running supplies / job contracts. However, due to unavoidable circumstances, preventing processing of the Indent or placement of fresh order in time, for the item / job contract for which continuity is essential and also in circumstance that tendering may invite higher prices as revealed from movements of national Indices as revealed from lists published from time to time, it may be necessary to place repeat order on existing party/ contractor.

After recording the reasons leading to placement of repeat order(s), the proposal for repeat order on same rate or discounted rate, terms, conditions & specifications may be considered on ascertaining the following:

- (i) Not more than one year has elapsed since placement of the original order.
- (ii) The quantity/ scope considered for ordering should be upto 100% of the original ordered quantity/ scope
- (iii) The original purchase order/ work order/ service contract/ consultancy contract/ rate contract was placed on the basis of a lowest technically acceptable offer.
- (iv) The requirement is for stores/works of identical description.
- (v) The supplier/ contractor concerned are willing to accept a purchase order on identical items and conditions.
- (vi) There is no downward trend of the prices/ rates since the original purchase order/work order/service contract/consultancy contract/ rate contract was placed which is to be certified by purchase in charge.
- (vii) Efforts are made to obtain a suitable rebate from the supplier/contractor concerned for the increase in quantity and the results of the efforts are recorded in writing before repeat order is released.



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In case tender has the provision for extending the purchase order/work order/service contract/consultancy contract/ rate contract at the discretion of IREL, the same shall not fall under the ambit of repeat order and in such situation fresh approval of competent authority is not required in case the authority has already approved such extension while releasing the original order. Provision of repeat order shall not be applicable in such cases.

7.1.8.10 PROCUREMENT THROUGH BUYBACK:

In order to replace some existing goods with their new and better versions/substitutes, indenter may decide to trade the existing old goods while purchasing the new goods. For this purpose, suitable clauses are to be incorporated in the tender enquiry so that the interested tenderers can submit their tenders accordingly. The tender document should also have a provision for prospective bidder to inspect the old goods to be traded through this transaction.

In the above referred process, it shall be ensured that approval for disposal of those existing goods from competent authority is obtained.

7.1.8.11 RATE CONTRACTS FOR SUPPLIES/ WORKS

- a) **Procurement of Goods:** In respect of store for which there is regular and recurring demand, the price of which is not subject to appreciable fluctuation and in cases of common user items required by the Projects/Units, the Unit shall conclude, rate or running contracts based on appropriate tendering method for an appropriate period preferably for one year indicating the estimated quantity. Option to extend rate contracts valid for more than one year, if any, should be mentioned in the tender. As far as possible, rate contracts shall be entered into with manufacturers directly or with their authorized representative.
- b) **Purchase of coal/Furnace oil/petrol/diesel/lubricants/steel** can be finalized directly from respective PSU as the case may be without inviting tenders based on ruling prices, ensuring best possible discount and after approval of competent authority. In case unit feels that adopting normal purchase procedure is in the interest of the company the same shall be followed.
- c) **Term Contract for Service outsourcing/ works:** Wherever rates for various items are fixed, which will be valid for a specific period, Term contracts may be established. Units can establish two or more term contractors for alternate availability and for speedy execution simultaneously depending up on the necessity. In such case the conditions pertaining to splitting of order shall be indicated in the instructions to tenderers in the tender document. Estimated Qty &



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estimated value of such Term contract to be defined and approval will be obtained from approving authority.

d)

Splitting of Term Contract for Works/ Requirements for Purchase:
Where it has been decided that two or more agencies are required to be established due to critical or vital nature of supply/ service, then it is essential that ratio of splitting of supply/ service should be pre-disclosed in Tender enquiry. For this purpose, Clause 9.3.6 of the procedure for negotiation to be followed. In case, where 2 agencies are required to be established, then the total work may be distributed among the two tenderers in the ratio of 60:40 / 70:30 between L1 & L2 tenderer respectively or in the inverse ratio of prices and at the L1 accepted rates and terms & conditions.

7.1.8.12 Award of work in stalled contracts:

In cases, where a contractor abandons or stops the work mid-way, either due to insolvency or a dispute or other reason, engagement of the new contractor takes considerable time.

Limited/ single tenders can be invited to deal with part completed contracts, wherever the work is abandoned by the contractor mid-way. However, for issuance of limited/single tenders in such cases, at least 20% of work should have been billed by the contractor who has abandoned the work. Procurement approval of such limited/single tender should be at the next higher level, or such level as may be prescribed.



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7.1.9 Bidding Systems:

A. Single Stage Bidding System

In single stage bidding, all bids are to be invited together in a single envelope or in multiple envelopes system. This bidding system is suitable where technical requirements are simple or moderate; capability of source of supply is not too crucial and the value of procurement is not too high;

i. Single Stage Single Envelop System:

Where qualitative requirements and technical specifications are clear; capability of source of supply isn't critical and value of procurement is low or moderate, the single envelop system, where eligibility, technical/commercial and financial details are submitted together in the same envelop may be followed.

For evaluation of such tenders, after opening of Bids the Comparative Statement of Eligibility Conditions is to be prepared by the User Dept/ Indentor for ascertaining technically qualified bidders.

After recommendation from User Dept, the Comparative statement of Financial bids of the technically qualified bidders is to be prepared by Purchase Department .

Thereafter, the Order is to be processed on the bidder offering the lowest responsive priced bid that meets the eligibility criteria, technical and commercial requirements as per laid down procedure.

ii. Single Stage Two Envelop System

In technically complex requirements but where capability of source of supply is still not crucial and value of procurement is not low, a two envelop system is to be followed.

The tenderers should be asked to bifurcate their quotations in two envelopes.

Envelope-1 "Techno-commercial bid" : It contains the eligibility, technical quality and performance aspects, tender cost and EMD, commercial terms and conditions and documents sought in the tender, except the price and relevant financial details.

Envelope – 2 "Financial bid" : It contains the price quotation along with other financial details.

Both the envelopes are to be submitted together in a sealed outer envelope.

Envelope No 1 shall be opened first and evaluated by a committee constituted by competent authority. For the same, Comparative Statement of Eligibility Conditions is to be prepared by the User Dept/ Indentor for



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evaluation by the Committee. Any clarifications, desired for Techno-commercial evaluation may be obtained from the bidders.

Envelope no. 2 i.e., the financial bid of Techno-commercially eligible bidders shall be opened on recommendation of above committee on a notified date and time after sending advance notice to all qualified bidders for being present.

The Comparative statement of Financial bids of the technically qualified bidders is to be prepared by Purchase Department for further processing of the procurement file.

Unopened price bids of unqualified bidders shall be returned back in sealed condition once the order is issued.

iii. Single Stage Three Envelopes System:

Where the procurement is moderately complex and the time, effort and money required from the bidder to participate in a tender is not very high, instead of a separate stage of Pre-Qualification bidding a clear-cut, fail-pass qualification criteria can be asked to be submitted as the first (additional) envelop in a three envelop single stage bidding. In such cases, the tenderers shall be required to submit the bids in three envelopes.

Envelope –1: Documents related to eligibility criteria (PQ), tender cost and EMD, if applicable.

Envelope – 2: Techno-commercial bid.

Envelope – 3: Financial bid.

All the three envelopes shall be sealed and submitted together in a bigger envelope.

Envelope No 1 shall be opened first and evaluated by a committee constituted by competent authority. For the same, Comparative Statement of Eligibility Conditions is to be prepared by the User Dept/ Indentor for evaluation by the Committee. Any clarifications desired for Techno-commercial evaluation may be obtained from the bidders.

Envelope no. 2 of those bidders who are qualified as per recommendation of the above committee shall be opened and evaluated by the same committee.

Envelope no. 3 i.e., the financial bid of PQ and Techno-commercially eligible bidders shall be opened on recommendation of above committee on a notified date and time after sending advance notice to all qualified bidders for being present.



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The Comparative statement of Financial bids of the technically qualified bidders is to be prepared by Purchase Department for further processing of the procurement file.

Unopened price bids of unqualified bidders shall be returned back in sealed condition once the order is issued.

B. Pre-qualification Bidding (PQB)

In complex technical requirements where capability of source of supply is crucial (for example in procurement of complex machinery and equipments or complex works), for the successful performance of the contract, besides considering techno-commercial suitability, it is necessary to ensure that competition is only among bidders with requisite capabilities matching the challenges of the task.

In PQB stage, competent qualified tenderers are shortlisted by using a Pre-qualification Criterion (PQC – for example, i) Past experience of similar contracts, ii) Performance capability and iii) Financial strength) prior to the issue of the bid document exclusively to shortlisted bidders in the second stage.

PQB should be done only as an exception under specified circumstances. It should not be a routine/ normal mode of procurement of goods and an eligibility criteria clause as part of single/two envelop/cover tendering should suffice in normal/ routine situations.

The pre-qualification shall be valid for such period as may be specified in the pre-qualification document and for a single subsequent procurement within this period, except when it is determined that engaging in fresh pre-qualification shall not result in enhanced competition.

During the period of such validity, invitation of bids for procurement (Request for Proposals – RFP) from pre-qualified bidders should be done and all other bids may be treated as unsolicited offers which are normally rejected.

In case bids are not invited within such a period, fresh pre-qualification shall be done.

It is desirable that the time gap between the pre-qualification approval and floating of the linked main procurement tender is less than six months.

C. Two Stage Bidding - Expression of Interest Tenders – Market Exploration:

The instances wherein the equipment/ plant to be procured is of complex nature and the full knowledge of either the various technical solutions available or the likely sources for such products in the market may not be known. To meet the desired objectives of a transparent procurement that ensures value for money simultaneously ensuring upgradation of technology & capacity building- it would be prudent to invite a two-stage Expression of Interest (EoI) Bids and proceed to explore the market and to finalise specifications based on technical



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discussions/ presentations with the experienced manufacturers/suppliers in a transparent manner.

Expression of Interest (EoI) bids may be invited in following situations:

- (a) It is not feasible to formulate detailed specifications or identify specific characteristics for the subject matter of procurement, without receiving inputs regarding its technical aspects from bidders; or
 - (b) the character of the subject matter of procurement is subject to rapid technological advances or market fluctuations or both; or
 - (c) IREL seeks to enter a contract for the purpose of research, experiment study or development, except where the contract includes the production of items in quantities sufficient to establish their commercial viability or to recover research and development costs; or
 - (d) The bidder is expected to carry out a detailed survey or investigation and undertake a comprehensive assessment of risks, costs and obligations associated with the particular procurement.
-
- (i) The procedure for two stage bidding shall include the following, namely:
Invitation of EoI bids containing the broad objectives, technical and financial eligibility criteria, terms and conditions of the proposed procurement etc. without a bid price. On receipt of the Expressions of Interest, technical discussions/ presentations may be held with the short-listed manufacturers/suppliers, which are *prima facie* considered technically and financially capable of supplying the material or executing the proposed work, giving equal opportunity to all such bidders to participate in the discussions. A committee constituted for evaluation may hold discussions with the bidders and if any such discussion is held, equal opportunity shall be given to all bidders to participate in the discussions to firm up the revised terms and conditions of procurement. During these technical discussions stage other stakeholders may also be involved in the discussions who could add value to the decision making on the various technical aspects and evaluation criteria. Based on the discussions/ presentations so held, one or more acceptable technical solutions could be decided upon laying down detailed technical specifications for each acceptable technical solution, quality benchmarks, warranty requirements, delivery milestones etc. in a manner that is consistent with the objectives of the transparent procurement. At the same time care should be taken to make the specifications generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussions/ presentations and the process of decision making should be kept;
 - ii) In revising the relevant terms and conditions of the procurement, if found necessary as a result of discussions with the shortlisted bidders, the fundamental nature of the procurement itself shouldn't be modified;



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- iii) In the second stage of the bidding process, the bids are to be invited from all those bidders whose bids at the first stage were not rejected, to present final bid with bid prices in response to a revised set of terms and conditions of the procurement; and
- iv) Any bidder, invited to bid but not in a position to supply the subject matter of procurement due to modification in the specifications or terms and conditions, may withdraw from the bidding proceedings without forfeiting any bid security that he may have been required to provide or being penalised in any way, by declaring his intention to withdraw from the procurement proceedings with adequate justification.
- v) If it is felt that after EoI stage, there is likelihood of further participation by many more bidders and to avoid getting trapped into a legacy technology, the second stage bidding may not be restricted only to the shortlisted bidders of EoI stage and it may be so declared in the EoI document ab-initio. Thereafter in the second stage, normal OTE/ GTE bidding may be done.

7.1.10 Pre-bid conference:

There may be a pre-bid conference in which discussions shall be held on suggestions proposed by the bidders and doubts of the intending bidders if any shall be clarified. There would be no bar to hold the pre-bid conference more than once, especially in more complex types of procurement. Based on the discussions/ presentations so held acceptable techno commercial solutions shall be decided considering all parameters i.e. technical specifications, quality benchmarks, warranty requirements, delivery milestones, payment terms, evaluation criteria, estimates etc., While framing the technical specifications care should be taken to make the specifications generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussions/ presentations and the process of decision making should be kept.

In respect of consultancy services further detailed procedure is indicated in chapter 13.



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CHAPTER-8

8.1 NOTICE INVITING TENDER (NIT)

- 8.1.1 The tender conditions shall be binding on all the tenderers.
- 8.1.2 All types of tenders shall invariably be invited by a “Notice Inviting Tender” (NIT) to be issued by the concerned officer of purchase department/ tender accepting authority.
- 8.1.3 All tenders above estimated value of Rs.50,000/- should also be uploaded in IREL and Govt. website (CPP portal) except procurement through purchase committee.
- 8.1.4 In case of open tender, tender documents shall be priced (excluding tax as applicable) as follows (Amount indicated is Excl. of Taxes):

Cost of tender document (Rs.)	Estimated Value of supply/ work
Nil	Upto 5 lakh
Rs. 500	> 5 lakh upto 25 lakh
Rs. 1500	>25 lakh upto 2 Crores
Rs. 2500	> 2 crores upto 25 crores
Rs. 5000	>25 crores

- 8.1.5 Tender documents are to be issued free of cost in following cases:
- (i) In case of all Limited tenders and Single Tender Enquiry (STE)
 - (ii) In case bidders download the Tender document from the website and the said provision of non-payment of Tender document cost is notified in the tender document.
 - (iii) To MSEs as per prevailing guidelines in this regard.

Further, tender documents are to be issued free of cost in following cases subject to approval of Competent authority (the said provision is to be notified in the tender document).:

- (i) In case of Global tenders for all bidders
- (ii) To Government Body(s)/ PSU(s)

- 8.1.6 A “Register for sale of tender documents”, shall be maintained by the Purchase Department.

- 8.1.7 Tenderer shall be informed that the demand draft (DD)/ Banker's cheque/ Pay Order towards cost of tender document should be kept in a separate cover and should not be kept inside price bid. This has to be specifically mentioned in all tenders.

- 8.1.8 General Conditions of Contracts (GCOC), Special Conditions of Contract (SCOC), detailed technical specification, drawing and schedules of quantities wherever necessary, shall always be enclosed with tender



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enquiry to enable the tenderers to take into account all requirements while quoting.

8.1.9 **Modification to bidding document:**

- (a) In case any modification is made to the bidding document or any clarification is issued which materially affects the terms contained in the bidding document, IREL shall publish or communicate such modification or clarification in the same manner as the publication or communication of the initial bidding document was made.
- (b) In case a clarification or modification is issued to the bidding document, IREL shall, before the last date for submission of bids, extend such time limit, if, in its opinion more time is required by bidders to take into account the clarification or modification, as the case may be, while submitting their bids.
- (c) Any bidder who has submitted his bid in response to the original invitation shall have the opportunity to modify or resubmit it, as the case may be, or withdraw such bid in case the modification to bidding document materially affect the essential terms of the procurement, within the period initially allotted or such extended time as may be allowed for submission of bids, after the modifications are made to the bidding document by the procuring entity:

Provided that the bid last submitted, or the bid as modified by the bidder shall be considered for evaluation

8.1.10 **Pre-qualification (PQ) criteria:**

Pre-qualification (PQ) criterion should be clearly specified in the tender documents and should neither be stringent nor be lax to restrict/facilitate participation of bidders.

The following points are to be kept in view while fixing the eligibility criteria:

A) For Civil/ Electrical Works:

- i) Average annual financial turn over during the last 3 years, ending 31st March of the previous financial year, should be at least 30% of the estimated cost.
- ii) Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following:
 - a. Three similar completed works costing not less than the amount equal to 40% of the estimated cost.
or
 - b. Two similar completed works costing not less than the amount equal to 50% of the estimated cost.
or



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- c. One similar completed work costing not less than the amount equal to 80% of the estimated cost.
- iii) Definition of "similar work" should be clearly defined.

B) For Other Procurements:

Prequalification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their (i) experience and past performance on similar contracts (ii) financial standing through latest Income Tax return (ITR)/ Annual report containing balance sheet and statement of profit & loss account. The quantity, delivery and value requirement shall be kept in view, while fixing the PQ criteria. PQ criteria cannot be altered at any stage once it is mentioned in the tender documents.

The following provision is to be kept in the PQC for ensuring Bidders spare capacity to perform the assignment desired to be executed :

Concurrent Commitment :

In order to assess Bidder's capability and spare capacity to perform the assignment of execution of works, the PQC may have provision seeking concurrent commitments from the bidders should the circumstances so warrant in the overall interests of the company.

In said case, bidders should be asked to disclose all works being executed by them as per the format given herewith in the Technical Bid:

DETAILS OF CONCURRENT COMMITMENTS

SR NO	FULL POSTAL ADDRESS OF CLIENT AND NAME OF OFFICER INCHARGE	DESCRIPTION OF THE WORK	VALUE OF CONTRACT	DATE OF COMMENCEMENT OF WORK	SCHEDULED COMPLETION PERIOD	% COMPLETION AS ON DATE	REMARKS

Criteria for disqualification :

In order to ascertain the bidder having adequate resources to execute the tendered work the following criteria may be mentioned in the NIT for disqualification of the Bidder :

The annualized concurrent commitments of the bidder plus annualized estimated value of the work under consideration exceeds 4 times the average annual turnover of the preceding 3 years.

Approval of Competent Authority is to be obtained in case the said provisioning of Concurrent Commitment is not required to be kept in NIT.



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- 8.1.11 Where it is considered to have more than one source of supply, tender must clearly stipulate the basis of splitting the order.
- 8.1.12 Tender should clearly stipulate method of loading in case of non-technical deviation from tender condition.
- 8.1.13 Wherever price schedule format is attached along with tender document the bidder must submit his bid strictly according to the format. Efforts should be taken to ensure all tender documents has price schedule format.
- 8.1.14 Performance criteria, evaluation criteria, etc. should be incorporated in the tender document in clear and unambiguous manner.
- 8.1.15 The tender must specify clearly the method of evaluation of L1. L-1 will be considered in totality on the basis of net cost to the company (IREL).
- 8.1.16 In case of open/Limited Tenders due date shall not be postponed normally. However, if it is decided to extend the due date for any reasons, the postponement shall be intimated well in advance to all the tenderers. Any change in the tender terms and conditions, specifications or tender opening date etc. is to be notified to all the bidders and posted on web site (in case the original tender was published on web site), sufficiently in advance.
- 8.1.17 Bids submitted by related parties in which there seems to be collusion are liable to be rejected. Parties are considered to be related if one party has the ability to control the other party or exercise significant influence over the other party in making financial and /or operating decision.
- 8.1.18 Tender must mention concessions to MSME's / Start-up's as per Govt. guidelines from time to time. The condition of prior turnover and prior experience may be relaxed for Startups (as defined by Department of Industrial Policy and Promotion) subject to meeting of quality & technical specifications and making suitable provisions in the bidding document. As per Department of Expenditure's OM No.F.20/2/2014-PPD dated 20.09.2016, relaxation regarding the prior turnover and prior experience is applicable only to all startups recognized by Department of Industry & Internal Trade (DPIIT) subject to meeting of quality and technical specifications. Startups may be MSMEs or otherwise.
- 8.1.19 **Conflict of Interest among Bidders/ Agents:**
A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:
 - a) they have controlling partner (s) in common; or
 - b) they receive or have received any direct or indirect subsidy/ financial stake from any of them; or
 - c) they have the same legal representative/agent for purposes of this bid;



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or

- d) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; or
- e) Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all bids in which the parties are involved. However, this does not limit the inclusion of the components/ sub-assembly/ Assemblies from one bidding manufacturer in more than one bid.
- f) In cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorise only one agent/dealer. There can be only one bid from the following:
 - (i) The principal manufacturer directly or through one Indian agent on his behalf; and
 - (ii) Indian/foreign agent on behalf of only one principal.
- g) Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid;
- h) In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/ similar line of business.

- 8.1.20 **“Fraudulent practice:** Bidders, suppliers, contractors and consultants should observe the highest standard of ethics and should not indulge in the following prohibited practice, either directly or indirectly, at any stage during the procurement process or during execution of resultant contracts:

Any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. This includes making false declaration or providing false information for participation in a tender process or to secure a contract or in execution of the contract.

8.2 SECRECY AGREEMENT

Signing of an ‘secrecy agreement’ would be considered between IREL and the bidders in case where IREL is providing flow sheet, analysis of beach sand reserve, equipment drawings, or any other information which IREL feels are required to be protected in the interest of the company. Wherever applicable, the tender should stipulate clearly that the tenderer is required



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to enter into secrecy agreement with IREL. A copy of the secrecy agreement is attached in Chapter 16.

8.3 SUBMISSION OF SAMPLE:

In case of procurement for which sample is required, the details thereof should be clearly mentioned in the tenders.

8.3.1 Procurement involving evaluation of samples to be discouraged:

Purchase in accordance with a sample should not be usually undertaken. Calling for a sample along with the tender and deciding on the basis of evaluation of the sample may NOT be done.

In certain specifications, there may be a built-in sample clause. Usually such clauses are stipulated to illustrate indeterminable characteristics such as shade/tone, make-up, feel, finish and workmanship, and so on. In some specifications, there may not be a sample clause but such indeterminable characteristics are left to be agreed to between the seller and buyer. One way to procure/ indigenise certain spares whose drawings/specifications are not available is to procure in accordance with an available sample of the part. In such cases, supply must be in conformity with an agreed reference sample in such respects only, whereas for the remaining characteristics it must be in conformity with the laid down drawings/specifications. Procurement of such items should be decided on the basis of detailed specifications/drawings and no sample should be called for or evaluated along with the bids.

If desired, a purchaser's reference sample may be displayed for prospective tenderers to illustrate the desired indeterminable characteristics, which final supplies from successful bidder(s) will have to meet in addition to the specifications/drawings. If required, in addition to the purchaser's reference sample, the provision for the submission of a pre-production sample matching the purchaser's sample by successful bidder(s) may be stipulated for indeterminable characteristics, before giving clearance for bulk production of the supply. The Indent for items which are to be procured in accordance with a sample must be accompanied with three sealed samples as far as possible.

8.4 EARNEST MONEY DEPOSIT (EMD)/ BID SECURITY

8.4.1 Earnest Money Deposit (EMD) is a deposit received from the tenderers in token of their earnestness in submitting their offer to undertake the supplies/works/services/consultancy contracts and conclude a contract if entrusted to them on the basis of their tender.

8.4.2 EMD is to be remitted by way of 'Insurance Surety Bonds' or 'account payee demand draft' or 'fixed deposit receipt' or 'bankers cheque' or 'Bank Guarantee from any scheduled commercial Banks' or "online payment" in



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favour of IREL. In case of online payment, bidders should submit the UTR no. enabling verification of receipt of the amount.

- 8.4.3 In appropriate cases, in place of a Bid security, Bidders may be asked to sign a Bid securing declaration accepting that if they withdraw or modify their Bids during the period of validity, or if they are awarded the contract and they fail to sign the contract, or to submit a performance security before the deadline defined in the request for bids/ request for proposals document, they will be suspended for the period of time specified in the request for bids/ request for proposals document from being eligible to submit Bids/ Proposals for contracts with IREL. For the same, specific approval of Competent Authority is to be taken.
- 8.4.4 Submission of the bid security may be waived with the Competent Authority's (CA's) approval, especially in the case of indigenisation/ development tenders, limited tenders, single tenders and procurements directly from the manufacturer or authorised agents.
- 8.4.5 Government Body/Public Sector Undertakings may be exempted from payment of EMD with the approval of Competent Authority.
- 8.4.6 Approval for exemption from remittance of EMD, if required shall be obtained prior to invitation of tender and the same to be notified in the tender document.
- 8.4.7 Amount of EMD / Bid Security shall be a fixed sum based on estimated value as given below:

Estimated Value of Supply/ Work (Rs.)	Amount of EMD (Rs.)
Up to 5,00,000/-	Nil
5,00,001/- to 10,00,000/-	20,000/-
>10,00,000/-	2% of the estimated value subject to minimum of Rs 20,000/- and maximum of Rs 1,00,00,000/-

EMD amount/ Bid Security if called for in the tender should be arrived at considering estimate ignoring the taxes.

EMD amount in rupee value is to be mentioned as a fixed amount in the tender and not as a percentage of the estimated cost and no interest is payable on the EMD.

In case of GTE, bidders are to be asked to submit equivalent \$ rounded to nearest \$10, depending upon exchange rate (TT selling rate to be



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considered for foreign currency exchange rate as on date of instrument of EMD).

- 8.4.8 EMD shall be exempted to MSEs and Start-ups as per prevailing guidelines in this regard.
- 8.4.9 EMD is liable to be forfeited if:
- a) The tenderer changes the terms and conditions or prices or withdraw his quotation subsequent to the date of opening/ The tenderer impairs or derogates from the tender in any respect within the period of validity of the tender
 - b) The tenderer fails to accept the order when placed or fails to commence supplies/works/services after accepting the order.
 - c) In case bidder submits false/fabricated documents.
 - d) In case bidder fails to submit SD as stipulated in the tender.
- 8.4.10 The offers received from tenderers without EMD and/or tender cost shall be summarily rejected except where an exemption is provided in the tender.
- 8.4.11 EMD may be adjusted against security deposit / performance security of the successful bidder. EMD of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity period and latest by the 30th day after the award of the contract. Bid security should be refunded to the successful bidder on receipt of performance security. However, in case of two stage bidding/ 2or 3 envelope bidding, EMD of unsuccessful bidders during first stage i.e. technical evaluation etc. should be returned within 30 days of declaration of result of first stage i.e. technical evaluation etc.
- 8.4.12 In case where the EMD is provided in form of BG in the prescribed format to be attached with the tender, the BG shall be obtained from a scheduled commercial Bank with validity of 45 days beyond final bid validity period. The genuineness of BG should be verified.

8.5 Integrity Pact:

The Integrity Pact should cover all types of contracts i.e., Goods, Works & Services it shall be applicable for all contracts having estimated value (Excl. of GST) > Rs 10 Cr. The Pre-Contract Integrity Pact Agreement is given at 16.10.

- 8.5.1 This pact essentially envisages an agreement between the prospective vendors/ bidders and the buyer, committing the persons/officials of both sides, not to resort to any corrupt practices in any aspect/stage of the



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contract. Only those vendors/bidders, who commit themselves to such a Pact with the buyer, are to be considered competent to participate in the bidding process. In other words, entering into this Pact is required be a preliminary qualification.

- 8.5.2 Integrity Pact (IP) is to be implemented through a panel of Independent External Monitors (IEMs) and the names and contact details of the Independent External Monitor(s) should be listed in Notice Inviting Tender (NIT).
- 8.5.3 In tenders meeting the criteria of threshold value/ nature of procurement: Integrity Pact clause and format should be included in the Bid Documents. Each page of such Integrity pact proforma is to be duly signed by competent signatory from Purchase Department. All pages of the Integrity Pact are to be returned by the bidder (along with the technical bid) duly signed by the same signatory who signed the bid, i.e., who is duly authorized to sign the bid and to make binding commitments on behalf of his company. Any bid not accompanied by Integrity Pact duly signed by the bidder is to be considered to be a non-responsive bid and shall be rejected straightway.
- 8.5.4 At least one IEM should be invariably cited in the NIT. In the event of any dispute with contractor relating to those contracts where Integrity Pact is applicable, in case, both the parties are agreeable, it may be tried to settle dispute through mediation before the panel of IEMs in a time bound manner. In case, the dispute remains unresolved even after mediation by the panel of IEMs, further action as per the terms & conditions of the contract may be undertaken.

8.6 Code of Integrity for Public Procurement (CIPP)

In order to mitigate the ethical risks and prevent any sort of corruption in procurement activities, the officials involved in procurement and the bidders/ suppliers must abide by the Code of Integrity for Public Procurement (CIPP). All Procuring officials are required to sign declarations to this effect periodically and in various Procurement decisions (including Need Assessment). The bidders/ suppliers should be asked to sign a declaration about abiding by a Code of Integrity for Public Procurement in registration applications and in bid documents, with a warning that, in case of any transgression of this code, its name is not only liable to be removed from the list of registered suppliers, but it would be liable for other punitive actions such as cancellation of contracts, banning and blacklisting or action in Competition Commission of India, and so on.



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CHAPTER-9

RECEIVING, OPENING AND CONSIDERATION OF TENDERS

9.1 RECEIVING

- 9.1.1 Tenders (including all received by post/ courier and personal delivery) shall be deposited in a locked tender box with two different locks or lock can be opened using two different keys. Two officers shall be nominated and each one will hold one key each. Nomination of officer in case of corporate office & units shall be done by concerned Director & Head of unit respectively. Tender receiving Committee members should maintain secrecy regarding the particular of the tender received and about the proceedings of the committee.
- 9.1.2 The tender box for receiving tenders shall be kept at a place easily accessible to the bidders. Name and designation of the nominated officers are to be displayed in front of entrance or reception where tenders are accepted/tender box is placed.
- 9.1.3 Normally the receipt of tender should be through tender boxes. In cases when it is unavoidable to submit the tenders by hand due to the bulky size of the tender documents, it is to be ensured that the names and designations of at least two officers are mentioned in the tender documents who shall receive the tender by hand as per the time schedule as mentioned therein. The information about these officers should also be displayed at the entrance/reception of the premises where the tenders are to be deposited so as to ensure a convenient approach for the bidders.
- 9.1.4 In case of bids received through fax/ email, a printout of the same should be put in a sealed envelope and deposited in the tender box. A record of such cases should be kept for reference. However, bids received through fax/e-mail for single tender may be considered subject to receipt of original documents before award of work.
- 9.1.5 In case of two stage bidding/ 2 or 3 envelope bidding, exercise of short listing qualifying firms must be completed prior to opening of price bids and the firms who are not meeting the qualification criteria after evaluation must be intimated along with return of un-opened price bid.
- 9.1.6 The Company reserves the right to reject any tender either in full or in part with suitable reasons properly recorded.
- 9.1.7 **Unresponsive Tenders:**

Tenders that do not meet the basic requirements specified in the bid documents are to be treated as unresponsive and ignored. All tenders received needs to be first scrutinised to see whether the tenders meet the basic requirements as incorporated in the Bid document and to identify



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unresponsive tenders, if any.

Some important points on the basis of which a tender may be declared as unresponsive and be ignored during the initial scrutiny are:

- i) The tender is not in the prescribed format or is unsigned or not signed as per the stipulations in the bid document;
- ii) The required EMD has not been provided or exemption from EMD is claimed without acceptable proof of exemption;
- iii) The bidder is not eligible to participate in the bid as per laid down eligibility criteria (example: the tender enquiry condition says that the bidder has to be a registered MSE unit but the tenderer is a, say, a large scale unit);
- iv) The tenderer has quoted for goods manufactured by a different firm without the required authority letter from the proposed manufacturer;
- v) The bid departs from the essential requirements specified in the bidding document (for example, the tenderer has not agreed to give the required performance security); or
- vi) Against a schedule in the list of requirements in the tender enquiry, the tenderer has not quoted for the entire requirement as specified in that schedule (example: in a schedule, it has been stipulated that the tenderer will supply the equipment, install and commission it and also train the purchaser's operators for operating the equipment. The tenderer has, however, quoted only for supply of the equipment).

9.1.8

Discrepancies between Original and Additional/ Scanned Copies of a Tender:

Discrepancies can also be observed in responsive tenders between the original copy and other copies of the same tender set. In such a case, the text, and so on, of the original copy will prevail. The said issue is to be taken up with the tenderer and subsequent actions taken accordingly. In e-Procurement there could be discrepancies between the uploaded scanned copies and the Originals submitted by the bidder. However normally no submission of original documents in physical format (other than Cost of Bid Documents Cost, Bid Security and statutory certificates if any) should be asked for in e-Procurement

9.1.9

Minor Infirmity/Irregularity/Non-conformity

During the preliminary examination, some minor infirmity and/or irregularity and/or non-conformity may also be found in some tenders. Such minor issues could be a missing pages/ attachment or illegibility in a submitted document; non-submission of requisite number of copies of a document. There have been also cases where the bidder submitted the amendment Bank Guarantee, but omitted to submit the main portion of Bid Document. Such minor issues may be waived provided they do not



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constitute any material deviation and financial impact and, also, do not prejudice or affect the ranking order of the tenderers. Wherever necessary, observations on such 'minor' issues (as mentioned above) may be conveyed to the tenderer by registered letter/speed post, and so on, asking him to respond by a specified date also mentioning therein that, if the tenderer does not conform/respond by that specified date, his tender will be liable to be rejected. Depending on the outcome, such tenders are to be ignored or considered further.

9.1.10 Clarification of Bids/Shortfall Documents

During evaluation and comparison of bids, the clarifications on the bid may be sought. The request for clarification shall be given in writing by registered/speed post, asking the tenderer to respond by a specified date, and also mentioning therein that, if the tenderer does not comply or respond by the date, his tender will be liable to be rejected. Depending on the outcome, such tenders are to be ignored or considered further. No change in prices or substance of the bid shall be sought, offered or permitted. No post-bid clarification at the initiative of the bidder shall be entertained. The shortfall information/documents should be sought only in case of historical documents which pre-existed at the time of the tender opening and which have not undergone change since then.

So far as the submission of documents is concerned with regard to qualification criteria, after submission of the tender, only related shortfall documents should be asked for and considered. For example, if the bidder has submitted a supply order without its completion/performance certificate, the certificate can be asked for and considered. However, no new supply order should be asked for so as to qualify the bidder.

9.1.11 Considering Minor Deviations:

Minor deviations, which do not amount to material deviations is allowable to be accepted. A material deviation, reservation, or omission which should not be waived are those that:

- a) Affects, in any substantial way, the scope, quality or performance of the goods and related services specified in the contract;
- b) Limits, in any substantial way, inconsistent with the tendering documents, the procuring entity's rights or the tenderer's obligations under the contract; or
- c) If rectified, would unfairly affect the competitive position of other tenderers quoting substantially responsive tenders.

9.2 OPENING:

9.2.1 In order to give equal opportunity to all the bidders and to maintain sanctity of tendering system, it is *required* that any change in the tender terms and



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conditions, specifications and tender opening date etc be notified to all bidders, sufficiently in advance of the revised tender opening date.

- 9.2.2 All tenders received within the prescribed time will be opened by the officers appointed for this task at the time stated in the tender notice. In cases where date of opening becomes a declared holiday, due date of tender opening should be next working day.
- 9.2.3 Tender opening committee shall comprise of two officials- one each from finance department and purchase.
- 9.2.4 The tender box shall be opened only in the presence of all the nominated officers as mentioned above. A list comprising the details of all tenders found on the particular date and time of opening of the tender box including those tenders which are to be opened at a later date should be prepared by these officers. The tender box should be locked after keeping the tenders to be opened at a later date inside the tender box and only the tenders to be opened on that day should be taken out. The proceedings of tender box opening must be minuted in a register with pages duly numbered and certified by the Head of purchase department. The minutes must contain details of all tenders taken out and of those which were kept back again inside the tender box for opening at a later date.
- 9.2.5 Late tenders (tenders received after due date, time & place) shall not be considered under any circumstances.
- 9.2.6 All offers (other than email) shall have to be invariably signed by the bidder.
- 9.2.7 The notice inviting tender should invariably mention the date, time and place of opening of public tender. Even if no authorized representative of bidder is present during the time of opening of tender, the tender shall be opened as per the specified date and time following normal procedures.
- 9.2.8 The bids/offers shall be initialed and dated by all the officers of tender opening committee, in all pages of the original quotation, including in places where there are over writings/erases or alterations for the purpose of identification/authentication.
- 9.2.9 A register for the opening of tenders shall be maintained by the Purchase department. The names of the parties, short description of supply / work, remittance of EMD, tender cost, estimated cost and the total tender amount shall be recorded in it. In case the bidder has not given the total value, unit rate quoted by the bidder shall be considered and mentioned in the tender register. The register folio shall be signed by the members of the tender opening committee. This shall be ensured by the Head of purchase department.



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- 9.2.10 The basic contents of tenders, like total amount price, rate, description, taxes, and duties etc. of the bid will be read out to the representatives of the tenderer present at the time of opening of public tender.
- 9.2.11 Any relaxation on submission of samples/ analysis report for existing suppliers must be mentioned in tender itself.
- 9.2.12 Tender Committee/PC constituted by competent authority has to give an undertaking that none of them/ their close relatives has any personal interest in the companies/agencies participating in the tender so as to have transparency in tendering process.

9.3 CONSIDERATION

- 9.3.1 If a firm quotes overall bid with Nil consideration other than reimbursable amount if any, the same shall be considered as null and void. It requires to be mentioned in the tender. However, this clause is not applicable in case estimated value is considered as Nil.
- 9.3.2 A comparative statement (CS) of tenders is to be prepared by purchase department. CS should reflect the cost of material on FOR-Destination basis. In other words including all taxes, duties, levies, cess, packing & forwarding, insurance, transportation, etc. shall be considered for determination of net landed cost. The credits on tax, etc. if any, are to be considered in determining the landed cost. The evaluation of bid shall be on the basis of net cost to the company in total. CS should indicate the MSME status of the bidder with relevant provision as per applicable Act.
- 9.3.3 In case the schedule of payment is different from that in tender, suitable loading at appropriate interest rate should be done while preparing the CS. The rate of interest to be charged should be mentioned in the tender. The CS along with quotations received is to be sent to the Indenter for evaluation of the offers.
- 9.3.4 Purchase department should only make a comparative statement on the basis of landed cost without stating the L-1 status. Indenter after examining the technical capability of offers shall certify the L-1 status considering applicable MSME provisions.
- 9.3.5 Indenter shall recommend the technically acceptable offer and certify about the reasonableness of prices.

9.3.6 Negotiations:

- (i) Normally, there should be no negotiation. Negotiations should be a rare exception rather than the rule and may be resorted to only in exceptional circumstances. If it is decided to hold negotiations for reduction of prices, they should be held only with the lowest acceptable bidder (L1), who is techno-commercially responsive for the supply of a bulk quantity and on



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whom the contract would have been placed but for the decision to negotiate. In no case, including where a cartel/pool rates are suspected, should negotiations be extended to those who had either not tendered originally or whose tender was rejected because of unresponsiveness of bid, unsatisfactory credentials, inadequacy of capacity or unworkable rates.

- (ii) The circumstances where negotiations may be considered could be:
 - a) Where the procurement is done on nomination basis;
 - b) Procurement is from single or limited sources;
 - c) Procurements where there is suspicion of cartel formation which should be recorded; and
 - d) Where the requirements are urgent and the delay in re-tendering for the entire requirement due to the unreasonableness of the quoted rates would jeopardize essential operations, maintenance and safety, negotiations with L1 bidder(s) may be done for bare minimum quantum of requirements. The balance bulk requirement should, however, be procured through a re-tender, following the normal tendering process.
- (iii) The decision whether to invite fresh tenders or to negotiate and with whom, should be made by the tender accepting authority based on the recommendations. Convincing reasons must be recorded by the authority recommending negotiations. The competent Authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated.
- (iv) Normally all counter offers are considered negotiations by other means and the principles of negotiations should apply to such counter offers. For example, a counter offer to L1, in order to arrive at an acceptable rate, shall amount to a negotiation. However, any counter offer to L2, L3, and so on (at the rates accepted by L1) in case of splitting of quantities shall not be deemed to be a negotiation.
- (iii) After the CA has decided to call a specific bidder for negotiation, the following procedure should be adopted:
 - a) It must be understood that, if the period of validity of the original offer expires before the close of negotiations, the original offer will not be available for acceptance. The period of validity of the original offer must, therefore, be extended, wherever necessary, before negotiations;
 - b) The tenderer to be called in for negotiations should be addressed as per the format of letter laid down in Format 16.17, so that the rates originally quoted by him shall remain open for acceptance in the event of failure of the contemplated negotiation;



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- c) A negotiations meeting should be started only after obtaining a signed declaration from the negotiating supplier; and
 - d) Revised bids should be obtained in writing from the selected tenderers at the end of the negotiations. The revised bids so obtained should be read out to the tenderers or their representatives present, immediately after completing the negotiations. If necessary, the negotiating party may be given some time to submit its revised offer. In case, however, the selected bidder prefers to send a revised bid instead of being present at the negotiation, the offer should be taken into account. In case a bidder does not submit the revised bid, its original bid shall be considered.
- 9.3.7 In case L-1 backs out, there should be a re-tender.
- 9.3.8 Post tender negotiation may be held with the H1 party when sale of material is to be done.
- 9.3.9 All proposals exceeding Rs. 4,00,000/- (Excl. of taxes) in case of production items and proposals exceeding Rs. 2,00,000/- (Excl. of taxes) in case of non-production item shall be put up to PC for their recommendation. Units/HO should record the minutes of PC as per prescribed format. For operational convenience 2 PC's i.e., Jr. PC and Sr. PC may be constituted at Units/ HO with Jr. PC delegated for procurements below Rs 10 Lakhs.
- 9.3.10 Items related to production are those which has direct impact on production i.e., items like F.O, diesel, chemicals, product bags, spares/ equipment/ instruments/ AMCs, etc
- 9.3.11 Some of the items which are not related to production comprises of office equipment/ stationeries, toiletries, guest house related items, housekeeping materials, computer & peripherals, etc. The above list is only illustrative in nature and not exhaustive.
- 9.3.12 The PC will evaluate and recommend to competent authority for approval and placement of purchase order/ work order.
- 9.3.13 The Chairman of PC shall be nominated by the head of the unit and preferably an officer immediately below the rank of head of the unit.
- 9.3.14 The unit PC shall be constituted by Head of the unit (in case of unit) or Competent Authority (in case of HO) and it may consist of members from Purchase/ Technical department/ Finance with concerned indenter as an invitee. Member from Purchase department will act as convener of PC.
- 9.3.15 The PC shall recommend placement of PO/WO on selected vendor exercising due diligence based on all facts on record such as stock available in stores, disposal of defunct assets, overall economy of operation and maximum utilization of assets including technical/financial competency of the tenderer before final selection.



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- 9.3.16 The purchase department shall put up the file to competent authority for approval along with PC recommendations with a brief note on any specific deviation mentioned by PC requiring the attention & approval of the approving authority.

9.3.17 **Consideration of Lack of Competition in OTE/ GTE and LTE**

Sometimes, against advertised/limited tender cases, sufficient number of bids are not received and/or after analysing the bids, ends up with only one responsive bid – a situation referred to as ‘Single Offer’.

Even when only one Bid is submitted, the process may be considered valid provided following conditions are satisfied:

- i) The procurement was satisfactorily advertised and sufficient time was given for submission of bids.
- ii) The qualification criteria were not unduly restrictive; and
- iii) Prices are reasonable in comparison to market values

However restricted powers of Single tender mode of procurement would apply. In case of price not being reasonable, negotiations (being L1) or retender may be considered as justifiable.

Unsolicited offers against LTEs should be ignored, however a system should be evolved by which interested firms can register and bid in next round of tendering. However, under the following exceptional circumstances, these may be considered for acceptance at the next higher level of competency:

- a) Inadequate Competition
- b) Non-availability of suitable quotations from registered vendors
- c) Urgent demand and capacity/capability of the firm offering the unsolicited being known, etc.

9.3.18 Cancellation of Procurement Process/ Rejection of All Bids/Re-tender

- i) The process of procurement can be cancelled or all bids may be rejected at any time before intimating acceptance of successful bid under circumstances mentioned below. In case where responsive bids are available, the aim should be to finalise the tender by taking mitigating measures even in the conditions described below. If it is decided to rebid the tender, the justification should balance the perceived risks in finalisation of tender (marginally higher rates) against the certainty of resultant delays, cost escalations, loss of transparency in re-invited tender. After such decision, all participating bidders would be informed and bids if not opened would not be opened and in case of manual tenders be returned unopened:
 - a) If the quantity and quality of requirements have changed substantially or there is an un-rectifiable infirmity in the bidding process;



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- b) when none of the tenders is substantially responsive to the requirements of the Procurement Documents;
 - c) none of the technical Proposals meets the minimum technical qualifying score;
 - d) If effective competition is lacking. However, lack of competition shall not be determined solely on the basis of the number of Bidders. (Please refer to para above also regarding receipt of a single offer).
 - e) the Bids/Proposals' prices are substantially higher than the updated cost estimate or available budget;
 - f) If the bidder, whose bid has been found to be the lowest evaluated bid withdraws or whose bid has been accepted, fails to sign the procurement contract as may be required, or fails to provide the security as may be required for the performance of the contract or otherwise withdraws from the procurement process, re-tender the casefile is to be done.
- ii) Approval for re-tendering should be accorded by the CA after recording the reasons/proper justification in writing. The decision of the procuring entity to cancel the procurement and reasons for such a decision shall be immediately communicated to all bidders that participated in the procurement process. Before retendering, it is required to first check whether, while floating/issuing the enquiry, all necessary requirements and formalities such as standard conditions, industry friendly qualification criteria, and technical and commercial terms, wide publicity, sufficient time for bidding, and so on, were fulfilled. If not, a fresh enquiry is to be issued after rectifying the deficiencies.

9.3.19

Abnormally high/ low rates

On receipt of tenders, Abnormally High (AH) and Abnormally Low (AL) rates shall be identified. If the quoted rates are varying by more than 25% of the estimated rates, then such rates become AH or AL items. When AH / AL rates are accepted on the fact that the tender is workable as a whole, it should be ensured that the quantities in respect of such items during execution are not varied to the disadvantage of the Company. In case of abnormally high rates, the efforts shall be made to reduce the rates subject to negotiation during the award stage itself.

In case of bidder quoting AL prices, detailed price analysis of the bid price in relation to scope, schedule, allocation of risks and responsibilities and any other requirements of the bid document may be sought for ascertaining the capability of the bidder in execution at the offered price. If party is unable to satisfactorily demonstrate that



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they can execute the work/ supply as per the technical specifications, then AL offer may be considered unresponsive.

In case of abnormally low rates, the necessity of taking letter of guarantee from the contractor to execute such items may be reviewed by the Committee and the same may be obtained from the contractor if required at the award stage itself. In addition, efforts shall be made to take an undertaking from the lowest tenderer, wherever required before awarding the work, to ensure that the status of the tender remains un-altered due to quantity variations (if any) during execution of work.

9.3.20

Cartel Formation/ Pool Rates

It is possible that sometimes a group of bidders quote the same rate against a tender. Such pool/ cartel formation is against the basic principle of competitive bidding and defeats the very purpose of an open and competitive tendering system. Such practices should be severely discouraged with strong measures. In case of evidence of cartel formation, detailed cost analysis may be done by associating experts if necessary. Besides, suitable administrative actions can be resorted to, such as rejecting the offers, reporting the matter to trade associations, the Competition Commission etc., and requesting them, inter-alia, to take suitable strong actions against such firms. New firms may also be encouraged to get themselves enlisted for the subject goods to break the monopolistic attitude of the firms forming a cartel. Changes in the mode of procurement (post qualification instead of pre-qualification) and packaging/ slicing of the work may also be tried. A warning clause may also be included in the bid documents to discourage the bidders from indulging in such practices.

9.3.21

Evaluation of the financial offers in GTE Tenders:

Special aspects of evaluation of the financial offer in GTE tenders are:

i) **Currency of Tender**

In GTE tenders, the price in the quotation could be in US Dollar or Euro or Pound Sterling or Yen or in currencies under the RBI's notified basket of currencies, in addition to the Indian Rupees, except for expenditure incurred in India (including agency commission if any) which should be stated in Indian Rupees. All offers are to be converted to Indian Rupees based on the "Bill currency selling" exchange rate on the date of financial bid opening from a source to be specified in the tender document.

ii) **Currency of Payment**

The contract price will be normally paid in the currency/currencies in which the price is stated in the contract.



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iii) Evaluation of Offers

As per Government policy, it should be ensured that imports are done on FOB/FAS basis failing which a No Objection Certificate (NOC) should be obtained from the Ministry of Surface Transport (Chartering Wing).

The foreign bidders are normally to be asked, in the bid documents, to quote both on FAS/FOB basis and also on Cost and Freight (CFR)/CIF basis duly indicating the break-up of prices for freight, insurance, and so on, with purchasers reserving the right to order on either basis. They should also be asked to indicate the custom tariff number and custom duty applicable in India. In the case of FAS/FOB offers, the freight and insurance shall be (after ascertaining, if not quoted) added to make up the CIF cost. To arrive at the Free On Rail (FOR) cost, one per cent shall be added over and above CIF as port handling charges, custom duty, countervailing duty and surcharges, as applicable on the date of opening of the tender, as well as clearing agency charges, inland freight and Octroi/ entry tax, as assessed, may be added to make it a FOR/Free On Truck (FOT) destination. The FOR/FOT destination price for domestic offers may be calculated as in OTE tenders. For bids with Letter of Credit (LC) payment, the likely LC charges (as ascertained from Procuring Entity's bankers) should also be loaded.

In case both Indian and foreign bidders have quoted in the tender, the comparison of the offers would be done on the basis of FOR/FOT destination including all applicable taxes and duties (on the principle of the total outgo from Procuring Entity's pockets). In case there are no domestic bidders, a comparison of offers can be made on the basis of CIF/landed costs since the rest of costs would be same for all bidders.

9.3.21 Variation of Quantities at the Time of Award

At the time of awarding the contract, the quantity to be procured must be re-judged based on the current data, since the ground situation may have very well changed. The tendered quantity can be increased or decreased by 25 (twenty-five) per cent for ordering, if so warranted. This may be mentioned in the tender documents. Any larger variation may throw up issues about transparency

9.3.22 Options clause:

In case of long running, yearly procurements, to take care of any change in the requirement during the currency of the contract, a plus/minus option clause [normally 25 (twenty-five) per cent] may be incorporated in the tender document, reserving IREL's right to increase or decrease the quantity of the required goods up to that limit without any change in the terms and



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conditions and prices quoted by the tenderers. Higher the option limit more is the uncertainty for the tenderers in formulating their prices and more is the chance of loading on the prices quoted to take care of such uncertainties.

Approval should be taken from the CA (who originally approved the tender decision) to exercise the option clause based on the value of the contract with the increased quantity. In case the recalculated value of the contract goes beyond the delegation of powers of the original CA, approval of the CA for the enhanced value may be taken.

Normally, for raw materials/consumables of regular and year-on-year recurrent requirements, all tenders of value above Rs. 50 (Rupees fifty) lakh should invariably include this clause. However, the CA may approve the inclusion of such a clause in lower denomination tenders if such items have a history of frequent disruptions in continuity of supplies. The clause may be framed along following lines:

"The purchaser reserves the right to increase/decrease the ordered quantity by up to [25]per cent at any time, till final delivery date (or the extended delivery date of the contract), by giving reasonable notice even though the quantity ordered initially has been supplied in full before the last date of the delivery period (or the extended delivery period)."

- 9.3.22.1 Additional demands should be available for coverage and over-provisioning may be avoided by keeping the officers concerned with provisioning/tender evaluation for the next cycle of procurement informed. The following points must be kept in mind while operating the option clause:
- i) In case of decrease in the ordered quantity, it would be fair to allow the firm to supply work-in-progress or goods already put up for inspection;
 - ii) There should be no declining trend in the price of the stores as evidenced from the fact that no order has since been placed at lower rates and no tender has been opened since the time offers have been received at lower rates – even if not finalised;
 - iii) If the option clause exists, during provisioning of the next cycle and during tender evaluation in the next cycle of procurement, application of the option clause must be positively taken into account. The contract management authority must also keep a watch on delivery against contract, if other conditions are satisfied, the option clause must be exercised;
 - iv) The option clause is normally exercised after receipt of 50 (fifty) per cent quantity but if the delivery period is going to expire and other conditions are fulfilled, it can be exercised even earlier;
 - v) The option clause shall be exercised during the currency of the contract such that the contractor has reasonable time/notice for executing such an increase and can be exercised even if the original ordered quantity



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is completed before the original last date of delivery. If not already agreed upon, the delivery period shall be fixed for the additional quantity on the lines of the delivery period in the original order. This will satisfy the requirement of giving reasonable notice to the supplier to exercise the option clause;

- vi) The quantum of the option clause will be excluded from the value of tenders for the purpose of determining the level of CA in the original tender;
- vii) There should be no option clause in development orders;
- viii) This provision can also be exercised in case of PAC/single supplier OEM cases; and
- ix) However, where parallel contracts on multiple suppliers are available, care should be taken in exercising the option clause, so that the original tender decision of splitting quantities and differential pricing is not upset or vitiated. Other things being equal, the supplier with the lower rate should first be considered for the option quantity.

9.4 APPROVALS:

- 9.4.1 All purchase /works requirements are to be properly assessed in accordance with the requirement and are to be formally approved by the competent authority as per the delegation of power in force.
- 9.4.2 Approval shall be accorded for capital / revenue items based on the estimates and availability of budgetary provision by the competent authority according to the delegation of powers. The request for administrative approval for capital /revenue items shall be made in the appropriate format.
- 9.4.3 In case budget provision is not available, depending on the nature and exigencies of the work, EIC/ OIC should seek approval for re-appropriation of budget from the competent authority as per delegation of power before proceeding further on such proposals. Such revisions in budget shall be intimated to unit finance department for necessary incorporation in budget.

9.5 ESCALATION

- 9.5.1 Short-term contracts where the delivery period does not extend beyond 18 (eighteen) months should normally be concluded with a firm and price fixed by inviting tenders accordingly. However, even for shorter deliveries, the PVC (Price Variation Clause) may be stipulated for items with inputs (raw material, labour, etc.), prone to short-term price volatility - especially for critical or high value items – otherwise there is a possibility of the contract failing or IREL having to pay a higher price if prices fall. For high value (more than Rupees three crore) tenders with deliveries longer than 18 (eighteen) months, PVC may be provided to protect the IREL's interests.
- 9.5.2 In case of supply/works having delivery period less than 18 months contract should be concluded with firm and fixed price and is not subject to any



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escalation. However, only statutory variation limited to duties, taxes, revision of prices under Administrative Price Mechanism (APM) and minimum wages are considered for adjustment in contract price provided the tender has such provision clearly indicating the weightage given to each component. In other words, escalation formula needs to be mentioned in the tender document.

However, for calculating escalation, the price prevailing on the date of opening of price bid shall be taken as base price. Tender should also stipulate basis of determination of base price i.e. location and source of supply.

9.5.3 Escalation should be calculated, based on notified fair wages and in the absence of which consumer price index for labour would be applicable. Market rate for cement and steel, Government approved price of bitumen & POL, Wholesale price index for other materials should also be taken into consideration as & when required. It needs to be mentioned in the tender document:-

9.5.4 The Indentor while seeking approval of Competent Authority on the proposal may recommend consideration of suitable escalation and de-escalation clauses for the particular tender before inserting the said provision in Tender document. The escalation may be considered only for the stipulated contract period and not for extended contract period, if any attributable to the agency /contractor. The escalation clause shall not be made applicable to those extra / substituted items, where rates have been derived based on local market rates. Wherever escalation clause is not mentioned in Tender document, price is to be considered as firm & fixed.

9.5.5 Any increase/ decrease in Statutory Taxes i.e., GST is to be charged/ reimbursed at actual. In case of all-inclusive price contracts, impact of taxes needs to be calculated and Unit rate is to be adjusted accordingly.

9.5.6 Price Variation Clause (PVC):

- (i) As per the clause the price variations shall be reimbursed / deducted for selected materials/ services when there is increase/decrease over the stipulated base price indicated in the tender. Such Price variation clause to be inserted in Tender document, wherever applicable.
- (ii) The list of materials / services for which the basic price shall be reimbursed / deducted and basic rates for these items shall be indicated in the tender e.g., prevailing minimum wages as per Central Govt Notification for different skill level of workers/ mining job as on date of issue of Tender, fuel price hike, wholesale price index for metal/cement etc.



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- (iii) Appropriate clause shall be indicated in the tender document for arriving the formula for reimbursement / deduction amount for the basic price.

9.5.7 Important Elements of PVC:

- (i) The price agreed upon should specify the base date, that is, the month and year to which the price is linked to enable variations being calculated with reference to the price indices prevailing in that month and year. The raw materials used in manufacture are procured some weeks before the goods' submission for inspection. This period is called the time lag for price variation. It applies both for base date and date of supply. This time lag at both ends must be specified;
- (ii) The price variation formula must also stipulate a minimum percentage of variation of the contract price, only above which the price variation will be admissible (for example, where the resultant increase is lower than, say, two per cent of the contract price, no price adjustment will be made in favour of the supplier);
- (iii) The price variation clause should provide for a ceiling on price variations, particularly where escalations are involved. It could be a percentage per annum or an overall ceiling or both;
- (iv) Where advance or stage payments are made there should be a further stipulation that no price variations will be admissible on such portions of the price, after the dates of such payment;
- (v) Where deliveries are accepted beyond the scheduled delivery date subject to levy of liquidated damages as provided in the contract. The LD (if a percentage of the price) will be applicable on the price as varied by the operation of the PVC;
- (vi) No upward price variation will be admissible beyond the original scheduled delivery date for defaults on the part of the supplier. However, a downward price variation would be availed by the purchaser as per the denial clause in the letter of extension of the delivery period;
- (vii) Price variation may be allowed beyond the original scheduled delivery date, by specific alteration of that date through an amendment to the contract in cases of force majeure or defaults by Government;
- (viii) Where contracts are for supply of equipment, goods, and so on, imported (subject to customs duty and foreign exchange fluctuations) and/or locally manufactured (subject to excise duty and other duties and taxes), the percentage and element of duties and taxes included in the price should be specifically stated, along with the selling rate of foreign exchange element taken into account in the calculation of the price of the imported item;



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- ix) The clause should also contain the mode and terms of payment of the price variation admissible; and
- x) The buyer should ensure a provision in the contract for the benefit of any reduction in the price in terms of the PVC being passed on to him.
- xi) Care should be exercised in contracts providing for price variation to finalise the price before final payment is made, after obtaining data and documents in support of claims for escalation, if any. Where no such claims are submitted by the suppliers, an examination of whether there has been a downward trend in the cost, which the contractor may not bring out, is required. At any rate, an undertaking should be obtained from the contractor to the following effect in case it becomes necessary to make the final payment before he has submitted the required data/documents related to the PVC

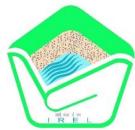
"It is certified that there has been no decrease in the price of price variation indices and, in the event of any decrease of such indices during the currency of this contract, we shall promptly notify this to the purchaser and offer the requisite reduction in the contract rate."
- xiii) Notwithstanding the above formalities, it should be appreciated that it is in the interest of the purchaser to be vigilant about downward variation and it is, therefore, the basic responsibility of the purchase officers to make sure that the benefits of downward variation, wherever it occurs, are fully availed of.

9.6 TENTATIVE TIME LIMIT FOR PROCESSING TENDERS BY UNITS /HO

It shall be as per the Service Charter of the Company as circulated.

9.7 Filing System :

The procurement files are very important and sensitive documents and thus there is a need to have a single file system with proper page numbering. In case of urgency, if opening of the part files is unavoidable, the same should thereafter be merged with the main file. The decisions and deliberations of the individuals or the Tender Committees also need to be properly recorded and well documented which needs to be ensured by Purchase Dept. The filing system must ensure accountability.

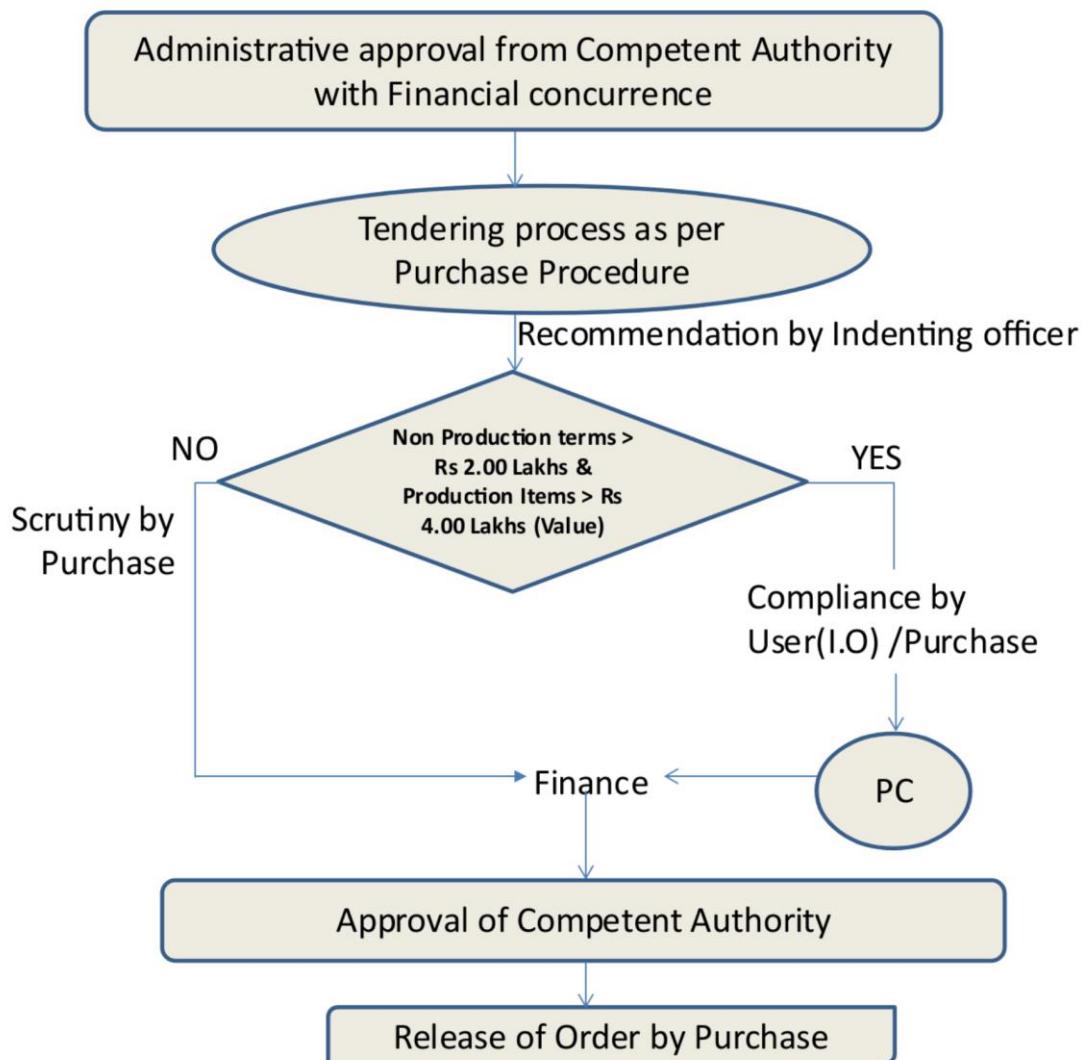


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FLOW OF INDENT



NPI : *Non Production Items*

PI : *Production Items*

CA : *Competent Authority*

IO : *Indenting Officer*

PC : *Purchase Committee*



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CHAPTER-10

10.0 SECURITY DEPOSIT, PERFORMANCE BANK GUARANTEE & RETENTION MONEY

10.1 SECURITY DEPOSIT (PERFORMANCE SECURITY) & PERFORMANCE BANK GUARANTEE

- 10.1.1 Security deposit (SD) shall be uniformly levied @ 5% of contract value (*excluding Taxes*) towards satisfactory completion of the order/works as under:
- a) For works contract valued more than Rs.2 lakhs.
 - b) For supply & service contract valued more than Rs.5 lakhs.

Performance Security is to be furnished by a specified date (generally 14 (fourteen) days after notification of the award) and it should remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the supplier/ contractor, including warranty obligations/ defect liability period(DLP).

- 10.1.2 In exceptional cases waiver of SD shall be approved by Competent Authority after recording the reasons for such waiver.

- 10.1.3 Submission of SD/PBG, if called for in the tender can also be paid through Insurance Surety Bonds' or 'account payee demand draft' or 'fixed deposit receipt from a Scheduled Commercial bank' or 'Bank Guarantee issued/ confirmed from any Scheduled Commercial Banks in India' or online payment to be confirmed sharing Unique Transaction Reference (UTR) to the tender inviting authority as called for in tender.

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

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

- 10.1.4 Bank Guarantees towards Bid Security/ Security Deposit/ PBG issued by Nationalised Banks/ Scheduled Commercial Banks (other than Co-operative Banks) only acceptable.

- 10.1.5 Purchase Department should immediately forward the SD to finance department for necessary action under intimation to EIC/ OIC.

- 10.1.6 In exceptional cases of work contracts, the approving authority may consider recovering balance SD (in addition to EMD if it is given not in BG



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form) amount from 1st running bill of the contractor which shall be specifically mentioned in the tender document itself.

- 10.1.7 EMD/ Bid Security may be adjusted towards SD. However, if EMD is submitted in the form of Bank Guarantee, fresh Bank Guarantee in the prescribed format or demand draft/ bankers cheque is to be submitted towards SD.
- 10.1.8 BG format for security deposit and performance guarantee is attached in Chapter-16.
- 10.1.9 The SD shall not bear any interest and is liable to be forfeited for unsatisfactory completion or on abandonment of the supply/ work order.
- 10.1.10 Additional amount of SD due to enhancement in scope of work is also to be obtained.
- 10.1.11 A register for the receipt, refund, forfeiture of these deposits shall be maintained by the Purchase/Finance department.

10.2 RETENTION MONEY

In contract, where payment is made on progressive billing of supply made/ work executed, 5% of the bill value is to be retained at the time of making payment towards rectification/defective work/supply made as retention money.

10.3 SECURITY DEPOSIT & RETENTION MONEY

The total SD and retention money together towards performance guarantee shall not exceed 10% of contract value.

The performance security should be refunded to the supplier/ contractor without interest, after he duly performs and completes the contract in all respects but not later than 60(sixty) days of completion of all such obligations including the warranty under the contract/ 365 days beyond DLP. Return of Bid/ Performance Securities should be monitored and delays should be avoided.

10.4 REFUND OF SD & RETENTION MONEY

- a) Before releasing SD or retention money in respect of supplies/works, a "No Dues Certificate" shall be issued by EIC/ OIC duly countersigned by Head of the department after ensuring that no amounts are recoverable from the supplier/ contractor.
- b) EIC/OIC shall recommend release of SD and retention money after compliance by the contractor towards guarantee/ warranty/



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performance guarantee & other related clauses as stipulated in the purchase/work order and on submission of formal claim by supplier/contractor.

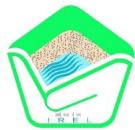
- c) On receipt of "no dues certificate" from EIC/OIC, SD or retention money may be refunded at the earliest, if the contractor is not liable to pay any money to IREL under any other contract.

10.5 FORFEITURE OF SD & RETENTION MONEY

10.5.1 The SD & retention money shall stand forfeited in favour of IREL, without any further notice to the contractor in the following circumstances:

- (i) In case of any failure whatsoever on the part of the Supplier/ Contractor at any time during performance of his part of the contract including the extended periods of contract, where notice is given and time for rectification allowed.
- (ii) If the Supplier/ contractor indulges at any time in any subletting/ sub-contracting of any portion of the work without approval of IREL.

10.5.2 Conditions, under which SD/Retention money will be forfeited, shall be clearly stipulated in the tender.



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CHAPTER-11

11 GENERAL CONDITIONS OF PURCHASE ORDERS & WORKS CONTRACT

11.1 PURCHASE ORDER/ WORK ORDER TO BE SPECIFIC ON THE FOLLOWING POINTS :-

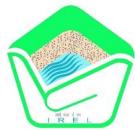
- 11.1.1 Description of items/ Service including HSN/ HSC
- 11.1.2 GST Registration of IREL & Vendor
- 11.1.3 Bank Details and PAN of Vendor
- 11.1.4 Rate, Value of order.
- 11.1.5 Delivery schedule/ Completion Schedule.
- 11.1.6 Insurance.
- 11.1.7 Security Deposit & retention money.
- 11.1.8 Performance guarantee.
- 11.1.9 Terms of Delivery / Incoterm
- 11.1.10 Payment terms.
- 11.1.11 Dispatch instructions.
- 11.1.12 Penalty/ Bonus clause.
- 11.1.13 Liquidated damages for delay in Supply/ service.
- 11.1.14 Other points related to statutory obligations, safety procedures, PF registration of workmen of the contractor.

11.2 PAYMENT TERMS:

- 11.2.1 Standard payment terms should be within 30 days from the date of receipt and acceptance of material in case of supply order and 30 days from the date of submission of bill by the contractor (subject to acceptance) in case of works contract/service contracts.
- 11.2.2 Satisfactory proof of inspection and acceptance either prior to dispatch and / or at IREL stores may be insisted upon before release of payment. In case of reputed parties and where the value of order is small or proprietary in nature proof of inspection may be dispensed with after taking proper approval, in case of request by supplier.
- 11.2.3 100% advance payment should not be agreed, except in case of proprietary items and single source items and or reputed firms, and with the specific approval of competent authority. to.
- 11.2.4 If 100% payment is accepted against dispatch documents, the reasons for the same must be recorded.

11.3 ADVANCE PAYMENT

- 11.3.1 Normally no advance payment shall be agreed. However, advance payments against B.G for equivalent amount and payment against dispatch



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documents quoted by firm may be accepted only in respect of reputed firms/parties having established track record with the Company.

- 11.3.2 Any advance payments to suppliers shall be made only after receipt of an unconditional irrevocable Bank Guarantee for equivalent amount from a Scheduled commercial Bank (in case of indigenous suppliers) or from an international Bank of repute (in case of foreign supplier). Copies of BG for advance payment is attached in Chapter-16.
- 11.3.3 In cases of purchases of Steel/FO/HSD/POL/coal/leco fines/other items, consultancy services & other services from State/Central Government organizations/PSUs, advance payment against proforma invoice is allowed subject to approval of competent authority.
- 11.3.4 Advance payment to foreign supplier shall only be considered against opening of confirmed and irrevocable LC in favour of IREL in lieu of BG. Confirmation charges should normally be at the suppliers' cost else, approval of Competent Authority is to be obtained.
- 11.3.5 Advance payment against corporate guarantee/ local bank LC may be considered in cases where party does not agree for advance payment against BG. This is to be done only under exceptional circumstances with approval of the competent authority.
- 11.3.6 However, in cases of offers received with condition of advance payment, the comparison of rates shall be carried out by appropriately loading interest on advance to arrive at L1 rate. Method of loading interest on advance payment to arrive L1 status is to be clearly stated in tender.

11.4 MOBILIZATION ADVANCE

Payment of mobilization advance should be made only in cases of selected supply/ works. Payment of interest free advance is in contravention of the guidelines.

11.4.1 INTEREST BEARING MOBILIZATION ADVANCE

- 11.4.1.1 Before recommending payment of mobilization advance adequate steps should be taken to ensure that supplier/contractor is not drawing undue benefit from release of such mobilization advance payment. Mobilization advance should be for selected supplies/works only. BG format for payment of mobilization advance is attached in Chapter-16.
- 11.4.1.2 Approval for interest bearing mobilization advance rests with the competent authority. Further it is governed by following conditions:



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- a) Mobilization advance should be need based and recovered in a time bound manner and independent of work progress/project milestone.
- b) Preferably, mobilization advance should be given in installments and subsequent installments should be released after getting satisfactory utilization certificate from the contractor for the earlier installments.
- c) Part 'Bank Guarantees' (BGs) against the mobilization advance should be taken in as many numbers as the proposed recovery installments and should be equivalent to the amount of each installment.
- d) The Bank Guarantee etc. taken towards security of 'Mobilization advance' should be at least 110% of the advance so as to enable recovery of not only principal amount but also the interest portion, if so required. Format of BG for advance payment is attached in Chapter-16.
- e) The mobilization advance should not be paid in less than two installments except in special circumstances for the reasons to be recorded.
- f) Interest for mobilization advance shall be charged @ 2% above SBI PLR per annum (simple interest).
- g) There should be a clear stipulation of interest to be charged on delayed recoveries either due to late submission of bill by the contractor or any other reason besides the reason giving rise to the encashment of BG.
- h) The amount of mobilization advance, interest to be charged, if any, its recovery schedule and any other relevant detail should be explicitly stipulated in the tender document.

11.4.2 MOBILIZATION ADVANCE WITHOUT INTEREST

Decision to stipulate interest free mobilization advance in the tender document rest at the level of Board (with concurrence of finance against submission of BG from nationalized bank in case of Indian party and bank of repute in case of a foreign party).

A clause in the tender enquiry and the contract of cases providing for interest free mobilization advances may be stipulated that if the contract is terminated due to default of contractor, the 'Mobilization advance' would be deemed as interest bearing advance at an interest rate @ 2% above SBI PLR per annum.

11.4.3 Secured Advance against Material brought to Site

Secured advance on the security of materials (which are not combustible, fragile or perishable in nature) brought to the site but not yet incorporated in the works may be made up to 75 (seventy-five) per cent of invoice value, or the 75 (seventy-five) per cent of the corresponding value of the materials



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determined on the basis of BOQ rates, whichever is less, subject to the condition that their quantities are not excessive and shall be used within a period of 90 (ninety) days and subject to other stipulations in the contract. The contractor will be required to sign an indenture bond, hypothecating the goods to the procuring entity, and also be responsible for their safe custody. Before the advance is released, inspection of the site is to be done to ensure that the Contractor has safeguarded the materials against pilferage and deterioration. It may be ensured that the contractor has not taken any loan/limit from banks against hypothecation of the materials against which the secured advance is claimed. An undertaking in this regard may also be taken from the contractor.

Generally, as per the provisions of the contracts, the contractors are required to submit proof of cost of materials and the delivery of material at site while claiming such advances. The stock register should be maintained from the commencement of the contract and, unless otherwise prescribed in the contracts, the stock, so considered for advance, should generally be only paid stock (and not brought on credit). Where the materials are supplied from a captive source of the contractor, the reasonableness of the valuation of such materials may be ensured.

The advance will be repaid from each succeeding running bill (periodic/interim payment) to the extent materials for which advance has been previously paid have been incorporated into the works. In all cases, the repayment of the advance will be affected after expiry of a period of 120 days since payment of advance, whether the material is consumed in the work or not.

11.5 PROCEDURE TO BE FOLLOWED REGARDING BGs

- 11.5.1 Copy of proper prescribed format on which BGs are accepted from the contractors should be enclosed with the tender document and it should be verified with original document. The changes in the BG formats, if warranted may be done with approval.
- 11.5.2 It should be insisted upon the contractors, suppliers etc. that BGs to be submitted by them should be sent to organization directly by issuing bank under Registered Post (A.D.).
- 11.5.3 In exceptional cases, where the BGs are received through the contractors, suppliers etc., the issuing branch should be requested to immediately confirm vide Email / By Post that the BG submitted is in order.
- 11.5.4 As an additional measure of abundant precaution, all BGs should be independently verified by the units.
- 11.5.5 In each unit, one officer should be specifically designated with responsibility for verification, timely renewal and encashment of BGs.



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Verification of Bank Guarantees

Bank guarantees submitted by the tenderers/suppliers as EMD/performance securities need to be immediately verified from the issuing bank before acceptance. Guidelines for verification of BGs submitted by the bidders/ contractors against EMD/ performance security/advance payments and for various other purposes are as follows:

- i) BG shall be as per the prescribed formats
- ii) The BG contains the name, designation and code number of the Bank officer(s) signing the guarantee(s);
- iii) The address and other details (including telephone no.) of the controlling officer of the bank are to be obtained from the branch of the bank issuing the BG (this should be included in all BGs);
- iv) The confirmation from the issuing branch of the bank is to be obtained in writing through registered post/speed post/courier. The bank should be advised to confirm the issuance of the BGs specifically quoting the letter to be issued by IREL on the printed official letterhead of the bank indicating address and other details (including telephone nos.) of the bank and the name, designation and code number of the officer(s) confirming the issuance of the BG;
- v) Pending receipt of confirmation as above, confirmation can also be obtained with the help of responsible officer at the field office, which is close to the issuing branch of the bank, who should personally obtain the confirmation from issuing branch of the bank and forward the confirmation report.

Bank guarantees, either received in physical form or electronic form, should be verified for its genuineness following prescribed method for the same and the due diligence on genuineness of the Bank Guarantees is to be ascertained before acceptance of the same.

11.6 DELIVERY / COMPLETION SCHEDULE

11.6.1 Time is the essence of order/ contract and this fact shall be mentioned clearly in the tender/purchase order/ contract. Any extension thereto shall always be with reservation of company's rights for levy of Liquidated damages in vendor's contract and shall be with a provision that no price increase shall be applicable beyond the original completion period.

11.6.2 Time At Large:

It is imperative that Order should explicitly express IREL reserving its rights and remedies under the contract for delays in execution, so as to safeguard IREL's interest.

In order to see that the Supplier/ Contractor is not freed from his obligation to complete within the specified time, it is required to extend the currency of



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the agreement before the expiry of originally stipulated date of completion. The new time limit for completion is to be set making the extended time as essence of the contract and further stipulating that this is being done without prejudice to IREL's right to recover damages and other remedies as per the contract.

- 11.6.3 The period of delivery of the ordered goods and completion of any allied service(s) thereof viz. installation and commissioning of the equipment, operators training etc. are to be properly specified in the contract with definite time schedules and the same shall be deemed to be essence of the contract. Expressions such as "immediate, ex-stock, as early as possible, off the shelf etc." must not be used to indicate the contractual delivery period.

11.7 Extension of Delivery time in case of Supply against Purchase Orders:

- 11.7.1 Suppliers shall be required to adhere to the delivery schedule specified in the purchase order and, if there is delay in supplies, LD shall be levied wherever there is failure by the party.

Extension of the delivery date amounts to amendment of the contract. Such an extension can be only done with the consent of both parties (that is, IREL and supplier). No extension of the delivery date is to be granted suo motu unless the supplier specifically asks for it. However, in a few cases, it may be necessary to grant an extension of the delivery period suo motu in the interest of IREL. In such cases, it is legally necessary to obtain clear acceptance of the extension letter from the supplier.

- 11.7.2 **No correspondence should be entered into with the supplier after expiry of the contract delivery period or towards the end of it, which has the legal effect of condoning the delay/breach of contract.**

When it is necessary to obtain certain information regarding past supplies, it should be made clear that calling for such information is not intended to keep the contract alive and that it does not waive the breach and that it is without prejudice to the rights and remedies available to the purchaser under the terms of the contract.

The last line of such a communication should therefore be: "***This letter is issued without any prejudice to IREL's rights and remedies under the terms and conditions of the subject contract and without any commitment or obligation.***"

- 11.7.3 If at any time during the currency of the contract, the supplier encounters conditions hindering timely delivery of goods, he shall promptly inform the **Materials Dept.** in writing. He should mention its likely duration and make a request for extension of the schedule accordingly. On receiving the supplier's



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communication, the proposal is to be examined and, on approval from the CA, it may be agreed to extend the delivery schedule, with or without LD and with or without the **denial clause**, for completion of the Suppliers contractual obligations, provided:

- i) That a higher rate in the original tender was not accepted against other lower quotations in consideration of the earlier delivery; and
 - ii) That there is no falling trend in prices for this item as evidenced from the fact that, in the intervening period, neither orders have been placed at rates lower than this contract nor any tender been opened where such rates have been received even though the tender is not yet decided. In cases of certain raw material supplies, where prices are linked to the PVC, extension may be granted even in case of a falling trend in price indices, since IREL's interests are protected by the price variation mechanism. However, in such cases it should be ensured that extensions are done with the denial clause.
- 11.7.4 When it is decided to extend the delivery period subject to recovery of LD for delay in supplies, Suppliers must be given a warning to this effect in writing at the time of granting extensions.

- 11.7.5 It is not correct to grant extensions without any mention of the LD if it is proposed to recover such charges eventually. **It is also not correct to grant an extension of the delivery period by merely stating that the extension is granted “without prejudice to the rights of the purchaser under the terms and conditions of the contract”** as this would mean that all the options given in the conditions of the contract would be available to the purchaser on expiry of the extended delivery period and would not amount to exercise of the option to recover LD. To take care of complex legalities brought out above, extension of the delivery period when granted should only be done in writing in the laid down format given in Format 16.14.

11.7.6 **Delay in Supplies for which Supplier is not Responsible.**

Normally, in the following circumstances, the contractual delivery period needs to be re-fixed to take care of the lost period, without imposing any penalty to the supplier:

- i) Cases where the manufacture of stores is dependent on the approval of the advance sample and delay occurs in approving the sample though submitted by the supplier in time;
- ii) Where extension in the delivery period is granted on account of some omission on the part of the purchaser which affects the due performance of the contract by the supplier; and
- iii) Cases where the purchaser controls the entire production.



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11.7.7 Performance Notice:

A situation may arise where the supply/services has not been completed within the stipulated period due to negligence/fault of the supplier; however, the supplier has not made any request for extension of the delivery period but the contracted goods/ services are still required by the purchaser and the purchaser does not want to cancel the contract at that stage. In such a case, a performance notice (also known as notice-cum-extension letter) may be issued to the supplier by suitably extending the delivery date and by imposing LD with denial clauses, and so on, along identical lines as in para **11.7.3 above**. The supplier's acceptance of the performance notice and further action thereof should also be processed in the same manner as mentioned above. The text of the performance notice will be on similar lines to the Format 16.14.

11.7.8 Liquidated Damages:

Compensation of loss on account of late delivery (actually incurred as well as notional) where loss is pre-estimated and mutually agreed to is termed as LD. Law allows recovery of pre-estimated loss provided such a term is included in the contract and there is no need to establish actual loss due to late supply.

11.7.9 Quantum of LD :

11.7.9.1 While granting extension of the delivery period, where the delivery of stores or any instalment thereof is accepted after expiry of the original delivery period, it may be recovered from the Supplier, as agreed, the LD a sum equivalent to **0.5 (Half) per cent** of the prices of any portion of stores delivered late, for each week or part thereof of delay. **The total damages shall not exceed 10 (Ten) per cent of the value of delayed goods.** The LD cannot exceed the amount stipulated in the contract. For the purpose of levy of LD, the contract value is to be considered excluding GST if GST amount is specially mentioned.

If it is equally applicable to import orders, then suitable provision to this effect has to be made in the order and L.C.

11.7.9.2 In contracts governed by any type of variation (PVC, ERV or statutory variations), LDs (if a percentage of the price) will be applicable on the price as varied by the operation of the PVC. LDs accrue only in case of delayed supplies.

11.7.9.3 In case of entire (non-severable) contracts, even where staggered deliveries have been indicated, it may happen that supplies are not received according to the delivery schedule. In such cases, keeping in mind the fact that the deliveries indicated under the contract are non-severable, no question of LDs or enforcement of risk purchase would arise so long as there has been



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no delay in the completion of supplies with reference to the total delivery period.

11.7.9.4 Waiver of LD:

There should normally be no system of waiver of LDs for delayed supplies in supply contracts and it may be strictly an exception rather than a rule. For an extension of the delivery date with waiver of LD, approval of the CA may be taken and justifications recorded.

All the proposals for waiver of LD shall be vetted by concerned PC for seeking approval of the Competent authority as per DOP.

11.7.10 Handling Deliveries after the Expiry of Delivery Period

11.7.10.1 As per law, if stores are accepted after expiry of the delivery date of a particular instalment without extension in delivery period having been given, duly reserving our rights to levy LD, it amounts to voluntary abrogation of our legal rights under the contract to claim LDs or other remedies.

If the contractor makes supplies locally after the expiry of delivery period, the supplies may be provisionally retained under a franking clause reserving rights and the contractor may be asked to obtain an extension of the delivery period with or without any LD/ denial clause.

Please note that materials have been supplied after the expiry of contracted delivery date and its provisional retention does not acquiesce or condone the late delivery and does not intend or amount to an extension of the delivery period or keeping the contract alive. You may apply for an extension of delivery date from IREL. The goods are being retained without prejudice to the rights of IREL under the terms and conditions of the contract.

11.7.10.2 As regards supplies coming from outside contractors, if the contractor dispatches the stores after expiry of the delivery period, the consignee should, after the receipt of the railway receipt or lorry receipt or goods consignment note or airway bill, send an intimation to the contractor stating that the action taken by him in dispatching the goods after expiry of delivery date is at his own risk and responsibility, and that the consignee is not liable for any demurrage, wharfage and deterioration of goods at the destination station and, in his own interest, the contractor should get an extension of the delivery period from the purchasers. A copy of the communication sent to the contractor should also be sent to the purchaser.

11.7.10.3 In case of imports, the contractor must not dispatch the consignment after expiry of the delivery period without taking prior extension of the delivery period. In any case, the terms of LC should be such that if there are



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dispatches beyond the delivery period, payment should be denied without levy of full LD and without formal extension of the delivery period by the purchaser.

11.7.11 Breach of Contract, Remedies and Termination

Breach of contract occurs in case Supplier is unable to honour important stipulations of the contract, or gives notice of his intention of not honouring or his inability to honour such a stipulation. It could also be due to breach of ethical standards or any other stipulation that affects IREL seriously.

IREL or its authorised representative should not enter into correspondence after expiry of the delivery date stipulated in the contract because such a correspondence will keep the contract alive and would amount to abrogation of IREL's right and remedies for delays by the Supplier. This situation will not allow IREL to cancel the contract straight away without first serving a performance notice to the supplier. However, even after expiry of the delivery period of the contract, IREL may obtain information regarding past supplies, and so on, from the supplier, simultaneously making it clear to the supplier that calling of such information is not intended to keep the contract valid and it does not amount to waiving the breach and that it is without prejudice to the rights and remedies available to IREL under the terms of the contract. A model communication which may be issued by IREL to ascertain the supply position after expiry of the delivery period is given at **Format 16.15**.

As soon as a breach of contract is noticed, a show cause notice should be issued to the Supplier reserving the right to implement contractual remedies. If there is an unsatisfactory resolution, remedial action may be taken immediately.

11.8 Delay in execution of works

11.8.1 The contractor may experience delay or disruption due to his own actions or inaction, those of his sub-contractor or other contractors, those of the Contractee or the engineer, or other causes. The various sanctions owing to default on the contractor includes extension of time, claim of damages or default termination of the contract.

While examining the request of the contractor for extension of time, the Engineer-in-Charge (EIC) / Officer-in-Charge (OIC) shall consider all circumstances and categorise the delays as follows:

- a) Excusable delays - Force Majeure (FM), that is, acts of God, abnormal weather, floods, and so on, applies.
- b) Compensable delays – or Compensation Events, which put full burden of responsibility on IREL ; and
- c) Inexcusable delay (contractor's own faults), which puts the full burden of responsibility on the contractor

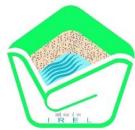


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- d) Concurrent delays- when two or more events responsible for delay overlap each other. The delays may be attributable to the IREL or the contractor or none and fall in above categories. The eligibility for extension of time (EOT) should be determined by plotting each contributing concurrent delay on the critical path. It is to be ensured that the concurrent delays do not result in unnecessary extra extension of time.
- 11.8.2 Once the delay is categorised, it should then be determined not only whether the contractor is eligible for time extension and/ or monetary relief but also whether sanctions, such as Liquidated Damage (LD) or default termination, can be imposed on the contractor.
- 11.9 Liquidated Damages and Incentives/ Bonus (for Works):**
- 11.9.1 Normally, tenders shall be invited with reference to a pre-determined period of completion of works. Provision of incentives for completion of work before schedule should be sparingly made after careful assessment of tangible benefits there from and disclosed in the tender documents in clear monetary terms.
- 11.9.2 Penalty/ bonus clause may be incorporated in cases deemed necessary and not as a matter of routine, so as to develop a feeling of urgency in the supplier/contractor for earlier completion of the supply/work. For incorporating bonus clause in the tender document approval of Competent Authority needs to be taken
- 11.9.3 Incentives/Bonus (e.g. one percent of the contract value per month subject to a maximum of five percent of contract value) for early completion and penalties for delay should, therefore, be built into the contract very judiciously. To avail of the incentive clause, it shall be mandatory on the part of the contractor to report the actual date of completion to the concerned Engineer-in-Charge. The Engineer-in-Charge shall report the actual date of completion of the works as soon as possible through fax or email so that the report is received within seven days of such completion by the concerned CA.
- 11.9.4 Quantum of LD for Works:**
- In case of delay in completion of the contract, liquidated damages are to be levied as below:
- (i) For repair works costing up to Rs. Ten lakhs (Rs 10,00,000/-) : One percent (1%) of the contract value per week subject to a maximum of ten percent (10%) of contract value
 - (ii) For all other works : Half percent (0.5%) of the contract value per week of delay subject to a maximum of ten percent (10%) of contract value.



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Quantum of LD for Services:

Half percent (0.5%) of the contract value per week of delay subject to a maximum of ten percent (10%) of contract value.

For the purpose of levy of LD, the contract value is to be considered excluding GST if GST amount is specially mentioned.

- 11.9.5 The penalties proposed for identified lapses of omission or commission must be disclosed in the tender documents in clear monetary terms.
- 11.9.6 Wherever the supply/work is on turnkey or having a bearing in commissioning and performance of the system in total, LD is to be imposed on total value, in such cases.
- 11.9.7 If separate period of completion is specified for certain item of work or group of items of work, at the time of issuing the order, the LD can be levied on the total value of item of work or group of items of work which are completed beyond the agreed contract period. This aspect should be brought out in the tender document.

11.10 Extension of Time (EOT) for works

Extension of Time (EOT) must not be left to the end; it should be dealt promptly during the progress of the contract and for ongoing critical delay interim EOT may be awarded.

The Engineer-in-charge shall, after due consultation with the contractor, determine the length of such extension and notify the contractor accordingly. After the final stage of completion is reached (final taking-over certificate issued), EOT and LD may be reviewed, if required.

11.11 Procedure regarding grant of extension of time

- 11.11.1 Provisional extension shall be granted as per Format 'A' by the EIC based for Work Orders and Service Contracts with intimation to I/C Purchase.
- 11.11.2 Provision should be kept for recovery of damages, where applicable.
- 11.11.3 The running bills can be paid after withholding applicable amount of Liquidated Damages (LD) that can be levied under the contract.
- 11.11.4 The payment shall not be withheld for the supply within the validity period of contract even if the bill is raised after the expiry of Validity period.
- 11.11.5 At the time of processing final bills having LD implications, the following guidelines should be followed:



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- a. Before the final bill is released, the case shall be placed before the Competent Authority (as per the delegation of powers) with all the facts and due recommendations regarding levy or waiver of the LD, if applicable.
 - b. The final bill shall be paid after the approval of EOT by the competent authority.
 - c. In case waiver of LD is approved by the Competent Authority, the same shall be conveyed as per Format 'B'.
 - d. In cases where the Competent Authority considers grant of EOT with levy of LD, before levy of LD a show cause notice to the agency seeking explanation of the agency shall be issued as per Format 'C'. The decision about LD be decided on the basis of explanation received.
 - e. The grant of EOT with levy of LD as approved by Competent Authority shall be conveyed to the agency in format 'D'.
- 11.11.6 Engineer-In-Charge to maintain Hindrance register showing the exact reasons for delay in execution of particular contract along with periodic revision of milestone with discussion of the contractor and their agreement of those hindrances. This should form the basis of extension.
- 11.11.7 Units/HO to ensure compliance on Security Deposit norms including extension of bank guarantees and other formalities related to EOT.
- 11.12 **PLACE OF DELIVERY, MODE OF DELIVERY ETC.**
- 11.12.1 These details shall be clearly indicated in order to avoid any ambiguity and subsequent delays.
- 11.12.2 The charges for freight, handling, packing & forwarding etc. shall be fixed before release of order. Wherever possible, documentary evidence shall be stipulated in the purchase order / work order.
- 11.13 **VARIATIONS/ DEVIATION/ AMENDMENTS:**
- 11.13.1 Every item of purchase/ works contracts may be planned and designed in detail before the purchase/work order is finalized so that deviation in orders during the progress of supply/work are avoided as far as possible.
- 11.13.2 In respect of supplies, the technical specifications and quantities shall be finalized before placement of order.
- 11.13.3 While sanctioning additional quantity, and /or deletion of any item, and/or reduction in any quantity, it shall be ensured that same does not contravene the decision regarding the selection of tenderer in the first instance and the selected bidder continues to be lowest.



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- 11.13.4 Instead of item wise deviation, over all deviation will be considered while working out amount.
Upto 10% variation in the execution of works contracts/projects/purchase order of the total works contract/project value for sanctioned contract/project/order value is allowed without issue of amendment/ revision in the work order.
All minus side overall deviations beyond 10% irrespective of the value of work, shall be approved by the unit head. In case of HO, it is to be approved by the competent authority as per delegation of power.
Approval of competent authority shall be required if the overall plus side deviation exceed the prescribed limit of 10% of the total work/order/project value. This clause should be a part of the NIT/ Contract.

11.14 INSPECTION & DISCREPANCIES

- 11.14.1 Normally, inspection of stores and equipment will be made after receipt of the material at site. Inspection shall be carried out by representative of the concerned department, who has been authorized to carry out the inspection.
- 11.14.2 However, in case of items of complex technical nature, high value items or items for which there is no third-party approval or item for which any kind of advance payment is being made or in any other case where it is felt necessary, pre-dispatch inspection may be stipulated in the order. Such pre-dispatch inspection may be carried out by an inspection officer nominated by company.
- 11.14.3 All store/spares/equipment shall be accepted after inspection in the central stores. Central stores will put up all cases pertaining to the respective department for inspection with comments obtained from supplier's challan, if any.
- 11.14.4 Discrepancies shall be carefully raised and avoid raising Discrepancy report where the value of such discrepancy is minimal. All discrepancies should be raised and followed by central stores till they are finally settled.
- 11.14.5 Supplier's bills will be paid after deducting the estimated cost of discrepancy as intimated by the central stores. No store once rejected will be accepted without written concurrence of the head of the unit based on the recommendation of Material Review Committee to be constituted by Head of the Unit.

11.15 PAYMENT OF BILLS:

- 11.15.1 Payment against Purchase/ Work/ Service/ Consultancy shall be released by the unit's finance department as per the mode and terms & conditions stipulated in the purchase orders/work orders/ Service contracts/ Consultancy contracts.

For supplies:



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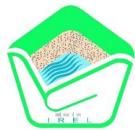
Stores Department shall forward the Bills / Invoices from the party along with Stores Receipt voucher (SRV) and all documents including certification of the user as called for in the Purchase Orders to Finance Dept. For Corporate office, Users should certify the Bills / Invoices enabling Finance Dept. to process payment.

For Work Orders/Service contracts/Consultancy contracts:

EIC/ OIC shall forward the Bills/ Invoices supported with all relevant documents as called for in the Contracts to Finance department for payment.

In case of work order/service contract, the contractor shall submit the invoice/bill in duplicate to EIC/OIC, who shall verify invoice/bills as per terms and conditions stipulated in the work order/service contract and recommend for payment after making necessary deductions according to order. Complete details of payments recommended shall be entered in the Measurement Book (MB). All the payments recommended should be forwarded through Head of the department to Finance Department for necessary action.

- 11.15.1 The officer concerned in finance department shall verify the bills/invoices with reference to orders, amendments, receipt vouchers, and other relevant records/ communications. The payment will be released after bill is duly certified and recommended by EIC/OIC.
- 11.15.2 Officer concerned of finance department is to ensure that prescribed certificates relating to Free Issue Materials supplied by the department, B.G. for advance payment, SD, performance bond, proof of remittance of GST derived from GSTIN portal and any other documents essential for releasing payment are available before payment is released.
- 11.15.3 Officer concerned of finance department to check the Letter of Credit for foreign suppliers are opened as per order terms. Documents are to be returned in time to avoid demurrage payment.
- 11.15.4 Contractor is to submit final bill within 40 days of issue of defects liability certificate. EIC/ OIC to check the bill within 20 days after its receipt and return the bill to contractor for corrections, if any.
- 11.15.5 The Contractor is to re-submit the bill, with corrections within 20 days of its return by the EIC/ OIC. The re-submitted bill is to be checked and payment shall be made within 30 days of its receipt.
- 11.15.6 All the bills of suppliers shall be entered in a Goods Receipt Register on receipt of material and shall be taken up for processing for payment chronologically in the order of their receipt. Any out of turn payment shall be avoided. However, in exceptional case(s), the head of the unit may sanction the out of turn payment with due justification to be recorded in writing.



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11.16 FORCE MAJEURE:

- 11.16.1 Force majeure is an event beyond the control of supplier/contractor and not involving the supplier's/contractor's fault or negligence and which is not foreseeable. Such events may include, but are not restricted to acts of the purchaser/contractor either in its sovereign or contractual capacity, wars or revolution, hostility, acts of public enemy, civil commotion, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts and freight embargoes or any other event which IREL may deem fit to consider so. The decision about force majeure shall rest with IREL which shall be final and binding. Force Majeure clause has to be compulsorily embedded in the order.
- 11.16.1 If there is delay in performance or other failures by the supplier/contractor to perform obligations under its contract due to event of a Force Majeure, the supplier/contractor shall not be held responsible for such delays/failures.
- 11.16.2 If a Force Majeure situation arises, the supplier/contractor shall promptly notify the purchaser in writing of such conditions and the cause thereof within fifteen days of occurrence of such event. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as reasonable/practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 11.16.3 If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period of exceeding 120 days, IREL may at its option terminate the contract without any financial repercussion on either side.

11.17 GENERAL CONDITIONS OF THE CONTRACT (GCOC)

GCOC shall accompany and be a part of the tender. Separate GCOC for Goods, GCOC for Works, GCOC for Services and GCOC for Consultancy are annexed herewith. Need based changes may be made and incorporated in the NITs.



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CHAPTER-12

12.0 ISSUE OF ORDERS

- 12.1 No supplies shall commence without a purchase order and no work/service/consultancy shall be entrusted for execution without a contract signed by the competent authority as per the delegation of powers.
- 12.2 The supply order / work order/service contract/consultancy contract/rate contract shall be issued within the validity period of the offer/ quotation as per tender. An order issued after the expiry of the validity period does not constitute the same as valid legal contract unless the period of validity had been got extended on the same price and terms and conditions.
- 12.3 Purchase order/ work order/service contract/consultancy contract/rate contract are important documents, which are legally binding on both the parties when accepted.
- 12.4 A register of supply orders/work orders/service contract/consultancy contract/rate contract may be opened to enable the issuing department to follow up the orders till their completion. The order acknowledgement / acceptance shall be ensured within a reasonable time stipulated in the PO/WO so that the supplier/ contractor shall not qualify his acceptance in any manner detrimental to the interest of the Company.
- 12.5 The terms of the purchase order/work order/service contract/consultancy contract/rate contract shall be precise and definite and there must be no room for ambiguity or misconception therein. Purchase order/ work order involving an uncertain liability, or with any condition of an unusual character should be avoided. The terms of the purchase order/ work order once entered into shall not be materially varied or waived without consent of the competent authority and issue of proper amendments.
- 12.6 In case of the value being beyond the delegated powers of head of the materials department, the purchase order/work order/service contract/consultancy contract/rate contract can be signed and issued by Head of the materials department after the same is approved by competent authority irrespective of the value.
- 12.7 All purchase order/work order/service contract/consultancy contract/ rate contract shall be serially numbered for revenue and capital items separately. The contract entered with MSME should have separate serial numbers for revenue and capital items.



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- 12.8 All purchase order/work order/service contract/consultancy contract/ rate contract must contain the name and designation of the Engineer In charge (EIC)/ Officer In charge (OIC).

12.9 **DISTRIBUTION OF ORDER COPIES:**

Purchase order/work order/service contract/consultancy contract/ rate contract copies need to be sent to Finance department, central stores, and indenter, apart from sending original and other copy to vendor and retaining a copy in the file.

The order copies in respect of capital items having value more than Rs 1 Crore and Revenue contract valuing more than Rs 5 Crores should be sent to FD concerned.

However, unit may further decide the requirement about number of copies and its distribution, depending upon the need.



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CHAPTER-13

13.1 **SELECTION OF CONSULTANTS**

DEFINITIONS:

13.1 **Services** defined by exception as any subject matter of procurement other than goods or works, except those incidental or consequential to the service, and includes physical, maintenance, professional, intellectual, training, consultancy and advisory services or any other service classified or declared but does not include appointment of an individual made under any law, rules, regulations or order issued in this behalf. It includes 'Consultancy Services' and 'Other (Non-consultancy) Services'.

13.2 "**Consultancy services**" means any subject matter of procurement (which as distinguished from 'Non- Consultancy Services' involves primarily non-physical project-specific, intellectual and procedural processes where outcomes/deliverables would vary from one consultant to another), other than goods or works, except those incidental or consequential to the service, and includes professional, intellectual, training and advisory services or any other service classified or declared but does not include direct engagement of a retired Government servant. These Services typically involve providing expert or strategic advice e.g., management consultants, policy consultants, communications consultants, Advisory and project related Consulting Services which include, feasibility studies, project management, engineering services, finance, accounting and taxation services, training and development etc.

Procurement of IT Projects should normally be carried out as Procurement of Consultancy services, as the outcomes/deliverables vary from one service provider to another. The IT Projects may include:

- i) bespoke software development;
- ii) cloud based services and
- iii) composite IT system integration services involving design, development, deployment, commissioning of IT system including supply of hardware, development of software, bandwidth and operation/maintenance of the system for a define period after go-live etc.

13.3 "**Other services**" (including the term 'Non-consultancy services' in certain contexts) are defined by exclusion as services that cannot be classified as Consultancy Services. Other services involve routine repetitive physical or procedural non-intellectual outcomes for which quantum and performance standards can be tangibly identified and consistently applied and are bid and contracted on such basis. It may include small works, supply of goods or consultancy service, which are incidental or consequential to such services. Other services may include transport services; logistics; clearing and Forwarding; courier services; upkeep and maintenance of office/ buildings/ Estates (other than Civil & Electrical Works etc.); drilling, aerial photography,



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satellite imagery, mapping and similar operations etc. If the other services involve construction, fabrication, repair, maintenance, overhaul, renovation, decoration, installation, erection, excavation, dredging, and so on, of Civil assets, then it should be handled as procurement of Works.

- 13.4 IREL may hire external professionals, consultancy firms or consultants (referred to as consultant hereinafter) for a specific job, which is well defined in terms of content and time frame for its completion.

13.5 Identification of Services required to be performed by consultants:

Engagement of consultants may be resorted to in situations requiring high quality services for which IREL does not have requisite expertise. Approval of the competent authority should be obtained before engaging consultant(s).

Need for Procurement of Consultancy Services is to be justified on consideration of:-

- (i) The inadequacy of Capability or Capacity of required expertise in-house;
- (ii) The need to have qualified consultant for providing a specialized high quality service;
- (iii) Need for impartial advice from a consultant (acting independently from any affiliation, economic or otherwise) to avoid conflicts of interest;
- (iv) The need in some cases for Transfer of Knowledge/ Training/ Capacity and capability building as a by-product of such engagement;
- (v) Need to acquire information about/ identifying and implementing new methods and systems;
- (vi) Need for planning and implementing organizational change
- (vii) There may be internal capacity/ capability to do the job but there are considerations of economy, speed and efficiency in relation to additional requirement/ commitment/ usage of;
 - a) Staff/ Management/ Organization;
 - b) Technological and Material Resources; c) Money, and
 - d) Time/ Speed of execution.

The term consultants/ service providers includes a wide variety of private and public entities, including Consultancy firms, engineering firms, Architectural Firms/ consultants, construction management firms, management firms, procurement agents, inspection agents, auditors, investment and merchant bankers, universities/ educational institutions, research institutions, government agencies, nongovernmental organizations (NGOs) and individuals/experts or their joint ventures.

13.6 Principles for Public Procurement of Services

- 13.6.1 To ensure value for money during procurement of consultancy and other services, the following additional principles shall be considered:



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- (i) Services to be procured should be justifiable in accordance with 13.5 above;
- (ii) In case of Consultancy Services - well-defined scope of work/ Terms of Reference (ToR – description of services) and the time frame, for which services are to be availed of, should be determined consistent with the overall objectives of Procuring Entity. In other (non-consultancy services) Activity Schedule (a document covering well-defined scope of work/ description of services and the time frame for which services are to be availed of) should be consistent with the overall objectives of Procuring Entity;
- (iii) Equal opportunity to all qualified service providers/ consultants to compete should be ensured;
- (iv) Engagements should be economical and efficient
- (v) Transparency and integrity in the selection process (that is, proposed, awarded, administered, and executed according to highest ethical standards) and;
- (vi) Additionally, in procurement of consultancy services, consultants should be of high quality, in line with justification as per para 13.5 above

13.6.2 In Procurement of Consultancy, these considerations can be best addressed through unrestricted competition among qualified shortlisted firms or individuals in which selection is based on the quality of the proposal and, where appropriate, on the cost of services to be provided. Hence Procurement of Consultancy needs to be done in a two-stage process. *However, procurement of other services is done by a simpler process akin to those of procurement of Goods and Works.*

13.7 Public Procurement Cycle :

The entire process of procurement and implementation of Consultancy and other services shall include the following steps:

- (i) Preparation of Concept Paper/ Procurement Proposal and obtaining in principle approvals;
- (ii) Preparation of the ToR (in case of consultancy services)/ Activity Schedule(in case of other/ non-consultancy services), cost estimate and seeking administrative and budgetary approval;
- (iii) In case of Procurement of Consultancy Services - Short list of consultants – EoI formulation, publication, receipt of proposals and evaluation;
- (iv) Preparation and issuance of the RfP; Receipt of proposals; Evaluation of technical proposals: consideration of quality; Evaluation of financial proposals; Selection of winning proposal; Negotiations and award of the contract to the selected firm; and
- (v) Monitoring of Assignments.



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13.8 Conflict of Interest in case of consultants

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



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13.9 Types of Contracts and Systems of Selection of consultants/ service providers

There are different basis for linking payments to the performance of services (called types of contracts) – each having different risks and mitigation measures. Bids are called and evaluated based on the type of contract. The choice of the type of contract should be based on Value-for-Money (VfM) with due regard to the nature of assignment. Adoption of an inappropriate type of contract could lead to a situation of lack of competition, contractual disputes and non-performance/failure of the contract.

Mostly used types of contracts are:

- i) Lump sum (Firm Fixed Price) contract;
- ii) Time based (Retainer-ship) contracts;
- iii) Percentage (Success Fee) contract;
- iv) Retainer-ship cum Success fee based contract
- v) Indefinite delivery contract.

However, in case of Procurement/ Outsourcing of other (non-consulting) Services depending on the nature of services, can be either Lump-sum contracts, Time-based (Retainer-ship) contracts, or unit (item/ service) rate (say Taxi Service on per Km basis) based contract (as in case of Goods and Works) – or a mix of these. In certain uncertain but regularly needed services, indefinite delivery contracts, based on time or unit (item/ service) rates may be appropriate. Other types of contracts are not usual in procurement of other services.

13.9.1 Lump Sum (Firm Fixed Price) Contract

The lump sum (firm fixed price) contract is the preferred form of contract and under normal circumstances; this form of contract is to be used. Consultant's proposal is deemed to include all prices - no arithmetical correction or price adjustments are allowed during evaluation. Lump sum consultancy contracts are easy to administer because there is fixed price for a fixed scope and payments are linked to clearly specified outputs/ milestones/ deliverables such as reports, documents, drawings, bills of quantities, software programs and so on. In view of Risks mentioned below this type of contracts are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth.

13.9.2 Time-Based (Retainer-ship) Contract

In Time-based (Retainer-ship) contracts payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who in consultancy contracts are normally named, but not so in other services) and on reimbursable items



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using actual expenses and/or agreed unit prices. These are also called as retainership contracts, since the consultant/ service provider are retained for a pre-decided period. The rates for staff include salary, social costs, overhead, fee (or profit), and, where appropriate, special allowances. This type of contract is appropriate when Lump sum contract is not feasible due to difficulties in defining the scope and the length of services, either because the inputs required for attaining the objectives of the assignment is difficult to assess or because the services are tied up to activities by others for which the completion period may vary. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments etc.

13.9.3 Percentage (Success/ contingency Fee) Contract

Percentage (Success/ Contingency Fee) contracts directly relate the fees paid to the consultant/ service provider to the estimated or actual project cost, or the cost of the goods procured or inspected. Since the payment is made after the successful realisation of objectives, it is also called success (or contingency) fee contract. The final selection is made among the technically qualified consultants/ service providers who have quoted the lowest percentage while the notional value of assets is fixed. These contracts are commonly used for appropriate architectural services; procurement and inspection agents.

13.9.4 Retainer and Success (Contingency) Fee Contract

In Retainer and Success (Contingency) fee contracts the remuneration of the consultant includes a retainer (time based, monthly payment) and a success fee (Percentage based), the latter being normally expressed as a percentage of the estimated or actual Project cost. Thus, this type of contract is a combination of Time Based and Percentage Contracts. Retainer and contingency fee contracts are widely used when consultants (banks or financial firms) are preparing companies for sales or mergers of firms, notably in privatization operations. It can also be used for assignments related to organisational restructuring/ change.

13.9.5 Indefinite Delivery Contract (Price Agreement)

These contracts are used when there is need to have “on call” specialized services, the extent and timing of which cannot be defined in advance. This is akin to the system of 'Rate Contracts' or framework contracts in the procurement of Goods. There is no commitment from Procuring Entity for the quantum of work that may be assigned to the consultant/ service provider. The Procuring Entity and the firm agree on the unit rates to be paid, and payments are made on the basis of the time/ quantum of service actually used. The consultant/ service provider shall be selected based on the unit rate quoted by them for providing the services. These are commonly used to retain “advisers” or avail services 'on-call' - for example; expert



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adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, Document Management, Taxi Services, Temporary Manpower Deployment and so forth – normally over a period of a year or more.

13.10 Systems of Selection of service providers

13.10.1 Since the quality and scope of a consultancy assignment are not tangibly identifiable and consistently measurable, the technical and financial capability of consultants becomes an important though indirect determinant for quality and scope of performance. In such a situation value for money is achieved by encouraging wide and open competition among equally competent consultant. Thus, selection of consultants is therefore, normally to be done in a two stage process. In the first stage, likely capable sources are to be shortlisted, if needed be through an 'Expression of Interest' (EoI) through advertisement. On the basis of responses received, consultants meeting the relevant qualification and experience requirements for the given assignment are to be shortlisted for further consideration. The shortlist should include a sufficient number, not fewer than three (3) and not more than eight (8) eligible firms. In the second stage, the shortlisted consultants are to be invited to submit their technical and financial (RfP) proposals generally in separate sealed envelopes/ through e-tenders. Evaluation of the technical proposal is to be carried out by evaluators without access to the financial part of the proposal. Financial proposals are to be opened after evaluation of quality.

13.10.2 Various Selection methods:

- i) Price based System - Least Cost Selection (LCS);
- ii) Quality and Cost Based Selection (QCBS);
- iii) Direct Selection: Single Source Selection (SSS)
- iv) Fixed Budget Based Selection (FBS)

Unlike Procurement of Consultancy Services, procurement of other services is done by a simpler process akin to those of procurement of Goods and Works. In procurement of other (non-consultancy) services normally system of selection used is lowest price (L-1) basis as in procurement of Goods/ works for technically responsive offers. Under very special circumstances Single Source Selection may also be used. However, in highly technical and complex services, where quality is important (say in studies like seismic surveys, airborne data acquisition etc) where use of QCBS system appears to be called for, it may be better handled as a consultancy contract.



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13.10.2.1 Least Cost Selection (LCS):

In this method of selection, consultants/ service providers submit both a technical proposal and a financial proposal at the same time. Minimum qualifying marks for quality of the technical proposal are prescribed as benchmark (normally 75 (seventy five) out of maximum 100 (hundred)) and indicated in the RfP along with a scheme for allotting marks for various technical criteria/ attributes. *Alternatively, since in LCS selection, technical offers do not require be ranked (or adding of weighted technical score to financial score – as in QCBS selection), it would suffice in appropriately simple cases , if the evaluation criteria is only a fail/ pass criteria prescribing only the minimum qualifying benchmark. Thus, in LCS, a simplified evaluation criteria may also be used where instead of a marking scheme a minimum fail/pass benchmark of technical evaluation may be prescribed (i.e. must have completed at least two similar assignments; must have a turnover of at least Rs 10 (Rupees Ten) Crore etc). Any bidder that passes these benchmarks is declared as technically qualified for opening of their financial bids.* The technical proposals are opened first and evaluated and the offers who are qualifying as per these technical evaluation criteria will only be considered as technically responsive, and the rest would be considered technically nonresponsive and would be dropped from the list. Financial proposals are then opened for only eligible and responsive offers (Financial bids of other unresponsive bidders are returned unopened) and ranked. L-1 offer out of the responsive offers is selected on price criteria alone without giving any additional weightage to marks/ ranking of Technical proposal. LCS is considered suitable for recruiting consultants/ service providers from firms in most assignments that are of a standard or routine nature (such as engineering design of non-complex works) where well established practices and standards exist. Auditors typically carry out auditing tasks under well defined ToR and professional standards. They shall be selected according to LCS system, with cost as a selection factor. It is the simplest and the quickest system of selection and under normal circumstances, this method of evaluation shall be used as default since it allows for minimum satisfactory technical efficiency with economy. Justification must be provided if a selection method other than LCS is to be used.

13.10.2.2 Quality and Cost Based Selection (QCBS):

In QCBS selection, minimum qualifying marks (normally 70-80 (seventy – eighty) out of maximum 100 (hundred) marks) as benchmark for quality of the technical proposal will be prescribed and indicated in the RfP along with a scheme for allotting marks for various technical criteria/ attributes. During evaluation of technical proposal, quality score is assigned out of the maximum 100 (hundred) marks, to each of the responsive bids, as per the scheme laid down in the RfP. The consultants/ service providers who are qualifying as per the technical evaluation criteria are considered



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as technically responsive, and the rest would be considered technically nonresponsive and would be dropped from the list. Financial proposals are then opened for only eligible and responsive offers and other financial offers are returned unopened to bidders. The Financial Proposals are also given cost-score based on relative ranking of prices, with 100 (hundred) marks for the lowest and pro-rated lower marks for higher priced offers. The total score shall be obtained by weighting the quality and cost scores and adding them. The weight given to the technical score may not be confused with the minimum qualifying technical score (though they may in some case be equal). For example, the weightage given to cost score may be 30% (thirty percent) and technical score may be given weightage of 70% (seventy percent, but should never be more than 80%). The ratio of weightages for cost and Technical score could also be 40:60 (forty: sixty) or 50:50 (fifty: fifty) etc. However, the weight for the "cost" shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. The proposed weightings for quality and cost shall be specified in the RfP. The firm obtaining the highest total score shall be selected. *It may be noted that theoretically QCBS system with weight of 100% (hundred percent) for the 'cost' approximates the price based LCS system.* This method of selection shall be used for highly technically complex and critical assignments where it is justifiable to pay appropriately higher price for higher quality of proposal.

13.10.2.3 Direct Selection: Single Source Selection (SSS)

Under some special circumstances, it may become necessary to select a particular consultant/ service provider where adequate justification is available for such single-source selection in the context of the overall interest of Procuring Entity. The selection by SSS/ nomination is permissible under exceptional circumstance such as:

- i) tasks that represent a natural continuation of previous work carried out by the firm;
- ii) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance;
- iii) situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise;
- iv) At times, other PSUs or Government Organizations are used to provide technical expertise. It is possible to use the expertise of such institutions on a SSS basis;
- v) Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Ministry or Department. Full justification for single source selection should be recorded in the file and



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approval of the competent authority obtained before resorting to such single-source selection.

Fairness and equity is needed to be ensured, and procedure should be in place to ensure that:

- a) the prices are reasonable and consistent with market rates for tasks of a similar nature; and
- b) the required consultancy services are not split into smaller sized procurement.

13.10.2.4 Fixed Budget Based Selection (FBS)

Under this method, cost of the consulting services shall be specified as a fixed budget in the tender document itself. FBS may be used when :

- (i) the type of consulting services required is simple and/or repetitive and can be precisely defined; and
- (ii) the budget can be reasonably estimated and set based on credible cost estimates and/ or previous selections which have been successfully executed; and (iii) the budget is sufficient for the consultant to perform the assignment.

Under FBS, the selection of the consultant shall be made by one of the following two methods:

- (i) By a competitive selection process, based only on quality, using specific marking criteria for quality. The proposal with the highest technical score that meets the fixed budget requirement shall be considered for placement of contract.
- (ii) In cases of repetitive or multiple assignments, by empaneling suitable quality criteria. Thereafter, selection of a specific consultant for a specific assignment from such panel shall be based on overall considerations of public interest including timeliness, practicability, number of other assignments already given to that consultant in the past, etc. In such cases the budget for each assignment shall also be fixed by the procuring entity.

13.11 Preparing for Procurement of Consultancy Services

13.11.1 Preparation of Terms of Reference (ToR)

13.11.1.1 A ToR explains the purpose/ objectives of the assignment, scope of work, activities, tasks to be performed, respective responsibilities of the Procuring Entity and consultant, expected results, and deliverables of the assignment. ToR is important for an understanding of the assignment and its correct execution to ensure that the objectives of assignment are achieved. It reduces the risk for the Procuring Entity of unnecessary extra work, delays, and additional expenses of the Procuring Entity. In addition, it helps reduce for the bidders the risk of ambiguities during the preparation of bidder's



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proposals, contract negotiation, and execution of Consultancy.

- 13.11.1.2 ToR should be comprehensive and unambiguous. However, it should not be too detailed and inflexible, so that competing consultants may be in a position to propose their own methodology and staffing. Bidders shall be encouraged to comment on the ToR in their proposals.

The ToR shall include:

- i) Procuring Entity's organisation background and Project background;
- ii) Purpose and Service Outcomes Statement of the assignment;
- iii) Detailed scope of work Statement including schedule for completing the assignment;
- iv) Expected requirement of key professionals and kind of expertise;
- v) Capacity-building programme and transfer of knowledge, if any;
- vi) Deliverables - List of reports (or documents, data, maps, surveys, designs, drawings), schedule of deliveries, and period of performance;
- vii) Background material, Data, reports, records of previous surveys, and so on, available and to be provided to the consultant;
- viii) Facilities such as local conveyance, office space, office machines, secretarial assistance, utilities, local services, etc., which would be provided to the consultant by the Procuring Entity;
- ix) Institutional and organisational arrangement; and
- x) Procedure for review of the work of consultant after award of contract

- 13.11.1.3 ToR should cover following aspects:

- i) Detailed Scope of Work
- ii) Expected requirement of key professionals and kind of expertise
- iii) Deliverables and Reports Requirements
 - a) Inception Report
 - b) Progress Reports
 - c) Interim Reports
 - d) Final Report
- iv) Background material, records of previous surveys etc. available and to be provided to the consultant. This would vary from project to project, but transparency demands that such information should be transparently and equitably shared with all prospective bidders.
- v) Facilities such as local conveyance, office space, secretarial assistance etc., which can be provided to the consultant.
- vi) Procedure for review of the consultancy after award of contract



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13.12 Estimating Costs:

- 13.12.1 Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked.
- i) **Categories:** Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used); and (b) reimbursable costs. Depending on the nature of the assignment, cost estimates may be prepared either in local currency or with a combination of local plus foreign currencies. Cost estimate should provide for forecast of inflation during the period of assignment.
- ii) **Estimated Resources:** The cost estimate shall be based on the Procuring Entity's assessment of the resources needed to carry out the assignment:
a) Staff time
b) logistical support (City, National and International Travels/ Trips and durations), and
c) physical inputs (for example, vehicles, laboratory equipment)
d) Miscellaneous (Support services, contingencies and Profit element, taxes and duties)
- iii) **Rates:** Costs are normally estimated using unit rates (staff remuneration rates, reimbursable expenses) and quantities (exceptionally some items may be estimated on the lump-sum basis or percentage basis – Contingencies and support services). Rates of payment should be identified (including applicable taxes if any) in local and foreign currency for Staff Time, Logistics Costs and Costs of various physical inputs/ support services.
- iv) **Staff Costs:** The estimate of staff cost is based on an estimate of the personnel time (staff-months or staff-hours) required for carrying out the assignment taking into account the time required by each expert, his or her billing rate, and the related direct cost component. In general, staff remuneration rates include basic salary, social charges, overheads, fees or profit and allowances. It is useful to prepare a bar chart indicating the duration of each main activity (work schedule) and time to be spent by different members of the consultancy team (staffing schedule) distinguishing tasks to be carried out by foreign and local consultants. Due consideration should be given to the expected breakdown of a consultant's time in the home office and client's countries and away from home office allowance.
- v) **Logistic Costs:** Number of trips required should be estimated as required to carry out various activities. Travel costs may be included for city travel, National and International travel and stay.
- vi) **Physical Inputs Costs:** Assessment of such costs would depend on



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the technical requirements of equipment.

- vii) **Miscellaneous costs:** Support services may be taken as a percentage of staff costs. Contingencies and Profit elements are usually taken as a percentage of the total cost of the Consultancy. To this would be added the taxes and duties likely to be incurred by the consultants.

13.12.2 Although assignments vary in size, length and nature, it is possible to make a cost estimate by breaking down the assignment's activities into the following cost categories:

- i) Professional and support staff;
- ii) Travel, Hotel, and transport;
- iii) Mobilisation and demobilisation;
- iv) Office rent, Furniture/ Equipment, supplies, Utilities, IT equipment and communication;
- v) Assignment related surveys, training programmes;
- vi) Translation, report printing;
- vii) Contingencies: miscellaneous, insurance, shipping; and
- viii) Indirect local taxes and duties in connection with carrying out the services.

A mismatch between the cost estimate and the ToR is likely to mislead consultants on the desired scope, depth, and details of service required, and this could lead to serious problems during contract negotiations or during implementation of the assignment.

13.13 Shortlisting stage in Procurement of Consultancy services:

13.13.1 Procurement of Consultancy needs to be done in a two stage process. In the first stage of procurement, the qualified firms are to be shortlisted transparently. In the second stage Request for Proposals (RfP) containing Technical and Financial Bids is to be invited from such shortlisted bidders to select the winning bidder. Care should be taken to avoid formation of unreasonable qualification criteria prior to shortlisting of consultants that may lead to restricted participation.

13.13.2 *Unlike Procurement of Consultancy Services, procurement of other (non-consultancy) Services is done by a simpler process akin to those of procurement of Goods and Works. It is normally done in a Single Stage (RfP) Process. In procurements above Rs 10 (Rupees Ten) Lakhs, it should normally be an OTE. For procurement below Rs 10 (Rupees Ten) Lakhs, RfP can be issued to a selected shortlist of likely service providers.*

13.13.3 **For procurement above Rs 25 (Rupees Twenty-five) Lakhs** shortlisting is to be done in an openly advertised competitive shortlisting process called Expression of Interest (EoI), giving equal opportunity to



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all interested bidders to be considered for shortlisting.

Under EoI the "Request for Expression of Interest" (REoI) is advertised on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in, Government E-Market (GeM). And organisation's own website. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded. A complete ToR should be ready before requesting EoI. Attention of known reputed consultants may also be separately drawn wherever possible. The advertisement must include, among other things, the last date of submission of EoI, how to get/ download copy of the EoI document including ToR, contact information of the Procuring Entity with the name of contact person, and so on. In case it is felt that likely consultants may not be available in India, the EoI process may be done on Global Tender Enquiry (GTE) process, by sending REoI notice to foreign embassies in India and Indian embassies in relevant countries.

The EoI document shall contain following sections:

i) **Letter of Invitation:**

It shall include a copy of the advertisement whereby consultants are invited to submit their EoI.

ii) **Instructions to the consultants**

It may include instructions regarding nature of job; submission requirement; requirement of bid processing fees; if any; last date of submission; place of submission; and any related instruction;

iii) **Description of Services - Brief Purpose and Scope of Work**

This may include brief purpose/objective statement; Service Outcomes Statement; broad scope of work including Time-frames; inputs to be provided by the Procuring Entity; and expected deliverables of the assignment. This may also include the place of execution of the assignment. The request for EoI shall not include the assignment ToR. The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry.

iv) **Qualification Criteria**

This may clearly lay down the qualification criteria which shall be applied by the Procuring Entity for short listing the consultants. The REoI should ask for sufficient information so that the Procuring Entity may evaluate the consultant's capabilities and eligibility to undertake the assignment. Information should include: (a) core business and years in business; (b) qualifications in the field of the assignment; (c) technical and managerial organisation of the firm; and (d) general qualifications and number of key staff. In addition, the consultants should indicate information relating to their eligibility and any conflict of interest that they know may impact



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objective performance and impartial advice for their services. Consultants should not be asked about their approach to the services or to submit any curricula vitae of key personnel, because these documents will be dealt with in the RfP. No legal documents such as certificates of incorporation of the firm, powers of attorney, financial statements, or translations of standard brochures should be requested. Given the often-large number of submissions, the advertisement should stress the importance of brevity of the information to be sent.

13.14 Shortlisting of consultants based on EOI proposals:

- 13.14.1 The EOI proposals are to be evaluated for shortlisting, inter-alia, based on their past experience of handing similar types of projects, strength of their man power and financial strength of the firm. For example, it is important to find out if the firm: (i) is a small specialised firm or a large firm with access to a pool of expertise; (ii) has been in business for an extended period and has a track record in the field of assignment and in the region; and (iii) has appropriate certification in in-house quality control [firm adheres to the requirement of International Organization for Standardization (ISO)] as relevant to the task and has an ethics code in place.
- 13.14.2 It is important to hire consultants who have a reputation for integrity and impartiality rooted in independence from third parties. The process of shortlisting could be eased by writing a clear Description of Service (objectives and Scope) and shortlisting criteria.
- 13.14.3 Finally, if the same firm is considered for concurrent assignments the firm's overall capacity to perform multiple contracts is to be assessed before including it in more than one short list. However, this needs to be pre-declared in the EoI documents.
- 13.14.4 The short list of firms is required for the selection of consultancy services in a competitive process with a minimum of three and generally not more than eight.
- 13.14.5 The scores to the response of each consultant is to be assigned based on weightages assigned to each of the criteria in the EoI. Each criterion may be sub-divided into sub-criteria, if called for. Normally, the weightages shown in Table 1 may be used for such an evaluation
- 13.14.6 Shortlisting of all the consultants who secure the minimum required marks [normally 75% (seventy five percent)] is to be done. The minimum qualifying requirement shall be specified in the EoI document.



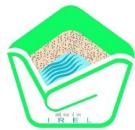
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In EoI, simplified evaluation criteria can also be used, instead of marking schemes as mentioned above. A fail-pass, minimum benchmark in each criteria/ sub-criteria can be specified e.g. Must have past experience of at least two similar projects; key professionals must have at least seven years' experience and must have Master's Qualification in relevant field; Firm must have a turnover of at least Rs 10 (Rupees Ten) Crores and so on. Any firm which passes these benchmarks is declared as qualified.

- 13.14.7 However this exercise of scoring is not merely for disqualification of firms below a threshold, but to establish the relative strengths and weaknesses of the applicants, in order to arrive at a robust short list of qualified consultants who have the required experience and qualifications to deliver the required services at the desired level of quality.
- 13.14.8 The short lists shall normally comprise at least three firms but not more than eight (to avoid inordinate delays in evaluation of subsequent RfP). The short list may comprise only national consultants (firms registered or incorporated in the country), for small assignments and indicated in the EoI. This situation is applicable where qualified national firms are available at a competitive cost or if the nature of the assignment is such that a foreign consultant's inclusion is not justified (for example, a training or outreach to be carried out in local language) or if foreign consultants have not expressed any interest. RfP documents would be issued only to the shortlisted consultants.
- 13.14.9 The evaluation committee should submit its EoI Evaluation report to CA for approval.
- 13.14.10 The eligibility criteria should be fixed on a reasonable basis while drafting tender documents and such higher minimum qualifying turnover should be kept only, if adequately justified.



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Qualification criteria and their weightages

SI No.	Criteria	Weightage	
	Sub-criteria	Criteria Total	Sub-criteria
1.	Past experience of the consultant (track record)	60%	
	<ul style="list-style-type: none">• Number of years' relevant experience• Past experience of studies of similar nature• Past experience in carrying out<ul style="list-style-type: none">• Studies in the related sector• Studies carried out in the region		20% 50% 20% 10%
2.	General profile of qualification, experience and number of key staff (not individual CVs) <ul style="list-style-type: none">• Qualifications• Relevant experience	25%	
			30% 70%
3.	Overall financial strength of the consultant in terms of turnover, profitability and cash flow (liquid assets) situation	15%	
	Turnover figure for Last three Years.		50%
	Net Profit Figure for Last three years		50%
	Totals	100%	



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13.15 Selection of consultants by Competitive Process

13.15.1 The evaluation process

The selection process for consultants generally includes the following steps:

- i) Preparation and issuance of the Request for Proposals (RfP);
- ii) Pre-proposal meeting;
- iii) Receipt of proposals;
- iv) Evaluation of technical proposals: consideration of quality;
- v) Public opening of financial proposals;
- vi) Evaluation of financial proposals;
- vii) Selection of the winning proposal;
- viii) Negotiations with the selected bidder, if required; and
- ix) Award of the contract to the selected firm.

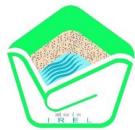
13.15.2 Preparation and Issuance of the Request for Proposals (RfP)

The Request for Proposals (RfP) is the bidding document in which the technical and financial proposals from the consultants are obtained. For procurement of Consultancy Services, the RfP is sent only to the shortlisted consultants. *In procurement of other (non-consultancy) Services, since the procurement is done without EoI, RfP is advertised, except in case when value of procurement is less than Rs 10 (Rupees Ten) Lakhs.* It contains the following sections:

- i) A letter of invitation (LoI);
- ii) Information to consultants (ITC) and data sheet (which contains assignment specific information);
- iii) Terms of Reference (ToR);
- iv) List of key experts required for the assignment;
- v) Requirement of qualifications and experience of the firm and key experts;
- vi) Criteria of proposal evaluation and selection procedure;
- vii) Standard formats for the technical proposal;
- viii) Standard formats for the financial proposal; and
- ix) Proposed form of the contract, including General Conditions of Contract and Special Conditions of Contract;
- x) Proposed procedure to be followed pertaining to mid-term review of the progress of the work and review of the final draft report.

13.16 Price Adjustment provision in Consultancy Contracts:

In case the duration of the contract is expected to exceed 18 (eighteen) months for a time-based contract or an Indefinite delivery contract, a price adjustment provision for the remuneration rate should be included in the contract based on the Consumer Price Index in the country. Lump-sum contracts shall not generally be subject to price adjustment except for small value multi-year contracts (for example, for auditors). Short-term contracts where the delivery period does not extend beyond 18 (eighteen)



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months should normally be concluded with a firm and price fixed by inviting tenders accordingly. However, even for shorter deliveries, the price adjustment [or Price Variation Clause (PVC)] may be stipulated for items with inputs (raw material, man power, etc.), prone to short-term price volatility - especially for critical or high value services – otherwise there is a possibility of the contract failing or the purchaser having to pay a higher price if prices fall.

13.17 **Consultancy Evaluation Committee:**

13.17.1 For all cases having financial implications of more than **Rs. 10 (Rupees Ten) lakh**, a Consultancy Evaluation Committee (CEC), comprising of normally three members including representative from Finance Department and a representative of the user, is to be constituted, in order to carry out the consultant selection procedure.

However, suitable domain /technical experts may be included in the committee to render assistance in evaluation of the bids. No member of CEC should be reporting directly to any other member of the CEC.

The CEC shall be responsible for all aspects and stages of the consultant selection, that is, evaluation of EoI, shortlisting of consultants, deciding TORs, issuance of RFP, evaluation of technical and financial proposals, negotiations and final selection of the consultant.

There is no need to constitute any other committee for technical evaluation, preliminary evaluation, etc. Even in case of selection of a consultant by direct negotiations having financial implications more than Rs. 10 (Rupees Ten) lakh, the CEC shall negotiate with the consultant on technical and financial aspects. (separate committees may be constituted for separate assignments).

13.17.2 The representative of the user Department will work as a convenor of the CEC. He shall distribute the RFP to the CEC members and request them to familiarize themselves with the characteristics and requirements of the assignment, the selection procedures, and the evaluation criteria and sub-criteria. The convener of the CEC should also call meeting of the CEC members to review any questions they may have on the evaluation principles, procedures, and objectives etc.

13.17.3 Technical proposals for consultancy services are an intellectual product. Their evaluation must be based on individual professional judgement of competent evaluators and should not be reduced to a purely arithmetical exercise. The difficulty is to ensure that this judgement is not exercised in an unreasonable or arbitrary manner. It is important that subjectivity, implicit to any individual professional judgement, be



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complemented by transparency, consistency, and fairness. The individual evaluator entrusted with the evaluation, when required, should be able to explain to the satisfaction of a qualified reviewer from the higher authority or to enforcement agencies the reason for his/her scoring and recommendation. One way to achieve this objective is by adopting a rating/ grading system for evaluation of the criteria and sub-criteria (if so specified in the RfP) in the technical proposals.

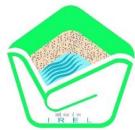
13.17.4 After the review meeting, the CEC meets again to define the grades of the rating system to be adopted for scoring the technical proposals (if not detailed in the RfP), according to the criteria and sub criteria set out in the Data Sheet. To discourage subjectivity and avoid the use of points and fractions of points, the rating system provides a few grades (from three to four) for each criterion and sub-criterion. Minimum qualifying marks or relative qualifying method for quality of the technical proposal will be prescribed and indicated in the RfP. The grading system must be defined before the technical proposals are opened to prevent bias (or perceived bias) occurring because of the CEC's knowledge of the opened proposal contents. It is recommended that the evaluation and scoring of technical proposals be carried out only after defining the grading system. Otherwise, CEC members would have to assign a level of responsiveness of the proposals to each of the different criteria and sub criteria without guidance and support from predefined grades. This could easily distort the evaluation for the following main reasons:

- i) Evaluators may differ, even widely, in their definition, understanding, or interpretation of the same criterion and also because of their subjective experience and understanding of the ToR;
- ii) Disparities in evaluators' relative generosity or severity in judgment and ratings can easily be magnified by the lack of common definitions of the requirements to be considered for each criterion and sub-criterion;
- iii) Large differences in scores caused by inadequate understanding of the ToR or improper use of the evaluation criteria and sub-criteria are difficult to reconcile and explain.

13.17.5 Before starting the evaluation, the CEC members should ensure that they

- i) have no conflict of interest;
- ii) understand the rating and scoring system;
- iii) have been provided with evaluation worksheets; and iv) Agree on how to evaluate the proposals.

13.17.6 After the rating system has been defined and proposals have been



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opened, the evaluation process can begin. Members of the CEC should not engage in any communication with short-listed firms from the date of their appointment to the date on which the contract is awarded.

- 13.17.7 Precise and exact markings of criteria and sub-criteria specified in technical evaluation (especially of unquantifiable criteria e.g. evaluation of Methodology) may neither be feasible nor warranted, especially when there is bound to be variation among marks by different members of CEC. Instead of assigning marks over the full range of attributes, it is more appropriate to divide the range into 4-5 slabs of ratings. A possible example of rating could be:

Rating	Assessment	Detailed Evaluation, in case of unquantifiable Criteria	Marks
A	Very Good	The service providers have outstanding, advanced expertise in specific problem areas of the assignment that can promise an excellent execution of the assignment. The service providers' staff includes top experts in the field of the assignment. The service providers are considered world-class specialists in the approaches and methodologies dealing with specific issues in the assignment. The service providers operate according to well-established Quality Management (ISO 9002 etc.) Procedures.	Full Marks
B	Good	The service providers have extensive experience in the field of the assignment and have worked in Regions and Sectors with similar physical and institutional conditions, including similar critical issues. Permanent staff are adequate and highly qualified to cover the requirements of the assignment. The service providers have experience with advanced approaches and methodologies for dealing with the specific requirements of the assignment.	80% of full Marks



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C	Satisfactory	The service providers have experience in the field of assignments similar to the one being considered, but have not dealt with critical issues specific to it (such as, for instance, delicate social or environmental issues). The service providers are experienced in the use of standard approaches and methodologies required for the assignment. The service providers' permanent staff are adequate.	60% of full Marks
D	Unsatisfactory	The service provider has experience which is not considered adequate for the quality needed by the Project.	30% of full Marks
E	Not Relevant	The service provider's experience has no or little relevance to the Project under consideration.	10% of full Marks

13.17.8 The evaluation of the proposals shall be carried out in two stages: at the first stage evaluation of responsiveness and technical proposals is taken up. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation is concluded as the envelope containing the financial proposal is not opened till the technical evaluation is complete. The financial proposal of only such bidders will be opened which obtain minimum qualifying marks/standards prescribed for the technical proposal. The evaluation shall be carried out in full conformity with the provisions of the RfP.

13.17.9 CEC duties are to be discharged personally by the nominated officers. They may take help of their subordinate officers by way of reports/evaluations, but they would still be answerable for such decisions. CEC members cannot co-opt or nominate others to attend deliberations on their behalf. CEC deliberations are best held across the table and not through circulation of notes.

All members of the CEC should resolve their differences through personal discussions instead of making to and fro references in writing. In cases where it is not possible to come to a consensus and differences persist amongst CEC members, the reasons for dissent of a member should be recorded in a balanced manner along with the majority's views on the dissent note. The final recommendations should be that of the majority view. However, such situations should be rare. The



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Competent Authority (CA) can overrule such dissent notes after recording reasons for doing so clearly. His decision would be final.

In cases where the CA does not agree with the majority or unanimous recommendations of the CEC, he should record his views and, if possible, firstly send it back to CEC to reconsider along the lines of the tender accepting authority's views. However, if the CEC, after considering the views of the CA, sticks to its own earlier recommendations, the CA can finally decide as deemed fit, duly recording detailed reasons. He will be responsible for such decisions. However, such situations should be rare.

13.18 Evaluation of the Quality – Technical Proposals

13.18.1

Each technical proposal is to be evaluated taking into account criteria as prescribed in the RfP: (a) the consultant's relevant experience for the assignment; (b) the quality of the methodology proposed; (c) the qualifications of the key staff proposed; and (d) capability for transfer of knowledge (if relevant). Each of the technical proposals are to be evaluated for the criteria prescribed in the RfP by awarding marks so as to make the total maximum technical score of 100 (one hundred). The criteria and weightage to each criteria or sub-criteria would depend on the requirements of each case and may be fixed objectively. A model scheme of maximum/minimum marks in terms of percentage is, however, proposed in Table below.

A model scheme of maximum/minimum marks in terms of percentage

Rated Criteria	Range of Percentage for Score
1.Consultancy firm's Specific Experience	5-10%
2. Methodology	20-50%
3. Qualification and relevant experience of Key	30-60%
4.Transfer of Knowledge*	0-10%
Overall	100 %

Note: * If this criterion is not required, the marks can be adjusted against some other criteria. The weight given to the firm's experience can be relatively modest, since this criterion has already been taken into account when short listing the consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies). Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The qualifications are to be reviewed and experience of



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proposed key personnel in their curricula vitae, which must be accurate, complete, and signed by an authorized official of the consultant and the individual proposed. The experience criteria mentioned in point 1 in the table above holds true for Consultancy Firm and not for an individual consultant.

- 13.18.2 The criteria's mentioned in Table in 13.18.1 may be sub-divided into sub-criteria's. However, the number of sub criterias should be kept to the minimum that is considered essential. For example, methodology Criteria can be sub-divided into sub-criteria as:
- i) understanding of ToR (30% weightage);
 - ii) acceptability and detailing of methodology and work plan(50% weight);
 - iii) innovation, if it is important (20% weightage);

The criteria for suitability of the key professionals for the assignment can also be divided into:

- a) Educational qualifications (20% weightage),
- b) Professional experience in the required area of assignment (80% weight).

In LCS, a simplified evaluation criteria laying down minimum qualifying fail-pass benchmarks for each criteria/ sub criteria (instead of marking schemes) may also be used in appropriate cases. All offers that pass the qualifying benchmarks are to be declared as technically qualified and their financial bids are to be opened.

- 13.18.3 The evaluation needs to be independently and proposal may be scored based on the rating criteria.
- 13.18.4 The evaluation should be based on the proposal as submitted. Under no circumstances, information may be sought or clarifications that may change the proposals. Issues to be clarified with the selected consultant will have to be discussed during negotiations. Individual evaluators' results are recorded on pre-established worksheets. After each member has independently rated all criteria and sub-criteria, it is good practice to read each proposal again to ensure that scores reliably reflect the quality of the proposal.
- 13.18.5 A joint review is to be done and the merits of individual evaluations and scores may be discussed. Finally the scores given by different members may be averaged out. During the meeting, the strengths and weaknesses of all proposals that have met the minimum technical score indicated in the RfP is to be commented upon. This will help identify any elements in the winning proposal that should be clarified during negotiations.



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- 13.18.6 Eventually, for each of the technical proposals, the average of the scores allocated to each criterion by all members to be calculated, the technical ranking of the proposals is to be established, the best to be identified, and proposed for award. The evaluation also establishes whether a proposal passes the minimum qualifying mark (or technical score, normally 75 (seventy five) provided for in the RfP. If one or more proposals fail to meet the minimum qualifying mark, both individual and joint assessments must be carefully reviewed and justified. Short-listed consultants are usually discouraged when their proposals are rejected, particularly when they are only a few points below the minimum mark; therefore, preparation to debrief consultants to explain the evaluation of their proposals to be done.
- 13.18.7 At the end of the technical evaluation process, a technical evaluation report of the "quality" of the proposals is to be prepared recording the scores given to each criterion and sub-criterion, as well as explaining the decisions due seeking the competent authority's (CA) approval. For each proposal, the report also should substantiate the results of the evaluation and indicate technical weaknesses or deviations from the terms set out in the RfP and comment on their acceptability. This committee shall record in details the reasons for acceptance or rejection of the bids analysed and evaluated by it.
- 13.18.8 Only consultants qualifying as per the technical evaluation criteria will be considered as eligible for the consultancy assignment. All the firms which meet the minimum qualifying standards/criteria so prescribed will stand technically qualified for consideration of their financial bids.

13.19 Evaluation of Cost

13.19.1

After evaluation of quality has been completed, those consultants whose proposals did not meet the minimum qualifying standard or were considered non-responsive to the RfP and/or ToR are to be notified, indicating that their financial proposals will be returned unopened after completing the selection process.

In case of QCBS, the consultants that have successfully satisfied the qualifying standard or where marks have been awarded are to be notified, the minimum qualifying marks along with the date and time set for opening the financial proposals. In such a case, the opening date shall not be later than three weeks after the notification date. The financial proposals are to be opened publicly in the presence of representatives of the technically qualified consultants who choose to attend. The name of the consultant, quality scores, and proposed prices shall be read aloud and recorded when the financial proposals are opened. No modification to financial proposals is permitted. The minutes of the public opening is to be prepared. When electronic submission of



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proposals is used, this information is to be posted online.

- 13.19.2 For a time-based contract, any arithmetical errors shall be corrected and prices shall be adjusted if they fail to reflect all inputs that are included in the respective technical proposals. For a lump-sum contract, the consultant is deemed to have included all prices in its/his financial proposal so neither arithmetical correction nor any other price adjustment shall be made. For QCBS, the proposal with the lowest offered total price shall be given a financial score of 100 % (one hundred per cent) and other financial proposals given scores that are inversely proportional to their prices. This methodology shall be specified in the RfP document
- 13.19.3 For the purpose of comparing proposals, the costs shall be converted to Indian Rupees as stated in the RfP. The conversion is to be made by using the BC selling exchange rates for those currencies as per the exchange rate quoted by an official source, for example, the State Bank of India. The RfP shall specify the source of the exchange rate to be used and date of the exchange rate to be taken for comparison of costs. This date shall be the date of opening of technical bids.
- 13.19.4 For the purpose of evaluation, the total cost shall include all taxes and duties for which the Procuring Entity makes payments to the consultant and other reimbursable expenses, such as travel, translation, report printing, or secretarial expenses as indicated in the RfP document
- 13.19.5 When using QCBS, the scores of quality and cost scores shall be weighted appropriately and added to determine the most advantageous proposal.
- 13.19.6 An Abnormally Low Bid is one in which the Bid price, in combination with other elements of the Bid, appears so low that it raises material concerns as to the capability of the Bidder to perform the contract at the offered price. In such cases written clarifications may be sought from the Bidder, including detailed price analyses of its Bid price in relation to scope, schedule, allocation of risks and responsibilities, and any other requirements of the bids document. If, after evaluating the price analyses, it is determined that the Bidder has *substantially failed* to demonstrate its capability to deliver the contract at the offered price, the Bid/Proposal may be rejected. However, it would not be advisable to fix a normative percentage below the estimated cost, which would be automatically be considered as an abnormally low bid. Due care should be taken while formulating the specifications at the time of preparation of bid document so as to have a safeguard against the submission of abnormally low bid from the bidder.



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13.20

Substitution of Named Key Personnel

13.20.1

One common type of variation involves a substitution of key personnel identified by name in the contract. Sometimes a change of personnel is unavoidable because of resignation, illness, accident, inadequate performance, or personality conflict. The contract must specifically make provision for terms and conditions under which the staff can be replaced, about the remuneration to be paid etc. When personnel are to be replaced, certain factors need to be considered:

- i) Any replacement should be as well qualified or better qualified than the person being replaced;
- ii) The remuneration should not be more than that was agreed upon for the person being replaced;
- iii) The consultant/ service provider should bear all costs arising out of or incidental to the replacement (such as airfares for the substitute expert).

13.20.2

Substitution of key personnel during execution of consultancy contract:

- i) Quality in consultancy contracts is largely dependent upon deployment and performance of key personnel, during execution of the contract.
- ii) The following conditions should be incorporated in tender documents for procurement of consultancy services:
 - a) Substitution of key personnel can be allowed in compelling or unavoidable situations only and the substitute shall be of equivalent or higher credentials. Such substitution may ordinarily be limited to not more than 30% of total key personnel, subject to equally, or better, qualified and experienced personnel being provided to the satisfaction of the procuring entity.
 - b) Replacement of first 10% of key personnel will be subject to reduction of remuneration. The remuneration is to be reduced, say, by 5% of the remuneration which would have been paid to the original personal, from the date of the replacement till completion of contract.
 - c) In case of the next 10% replacement, the reduction in remuneration may be equal to (say) 10% (ten percent) and for the third 10% replacement such reduction may be equal to (say) 15% (fifteen percentage). In case such percentages are not relevant, or for some other practical considerations, for a particular contract, the procuring entity may formulate a suitable mechanism following the above logic, which should be specified in the tender documents.
- iii) IT enabled systems at the designated place of deployment may



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be placed to ensure presence of key personnel as for the schedule of deployment.

13.21

Payment Provisions:

Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be indicated in RfP and also in the draft contract. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts).

Ordinarily, payments for services rendered or supplies made should be released only after the services have been rendered or supplies made. However, it may become necessary to make advance payments for example in the following types of cases :-

- a) Advance payment demanded by firms holding maintenance contracts for servicing of Air-conditioners, computers, other costly equipment, etc.
- b) Advance payment demanded by firms against fabrication contracts, turn-key contracts etc.

Approval of Competent Authority for advance payment needs to be taken. While making any advance payment as above, adequate safeguards in the form of bank guarantees etc. should be obtained from the firm.

13.22

Monitoring Consultancy Services Contract

13.22.1

Monitoring of the Contract

Monitoring the progress of the assignment is to be done throughout so that the output of the assignment is in line with the IREL's objectives laid down in the Contract. Suitable provision for this should be made in the contracts which should also take care of the need to terminate/ penalize the contractor or to suspend payments till satisfactory progress has not been achieved.

A Contract Monitoring Committee (CMC) is to be formed to monitor the progress of Consultancy Services Contract only valuing more than Rs. 10 (Rupees Ten) lakh.

13.22.2

Contract Monitoring Committee – (CMC)

CMC shall comprise at least three members at the appropriate level, including the user's representative, after the selection procedure is over for monitoring the progress of the assignment. If approved, all the members of CEC can also act as members of CMC. Individual experts from the government/private sector/ educational/research institute or individual consultant/ service providers can also be members in the CMC in which case the cost of such members, if any, shall be borne by IREL.



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The CMC shall be responsible for monitoring the progress of the assignment, to oversee that the assignment is carried out as per the contract, to assess the quality of the deliverables, to accept/reject any part of assignment, to levy appropriate liquidated damages or penalty if the assignment is not carried out as per the contract and if the quality of services is found inferior and for any such deficiency related to the completion of the assignment.

For the assignments which are very complex and/or are of a highly technical nature, another qualified consultant/ service provider can also be appointed to assist the CMC in carrying out its functions.

Monitoring the progress of Assignment entails following activities:

- (i) Issuing the notice to proceed.
- (ii) Review of the inception phase;
- (iii) Deciding on possible modifications to scope of work and issuing contract variations;
- (iv) Monitoring progress of assignment, Monitoring that key experts are actually employed; reports and their review including review of draft final report and the final report to ensure that assignment (whether time-based or lump-sum) is completed in accordance with the contract;
- vi) Billing, payment and monitoring the expenditure vis-à-vis progress.
- vii) Resolving problems faced by consultants/ service providers and dealing with disputes and arbitration;
- viii) Terminating services prior to the end of the contract; and
- ix) Release of final payment and guarantees (if any) and closing the contract;
- x) Post contract evaluation.



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CHAPTER-14

14.0 WRITE OFF & DISPOSAL OF STORES AND FIXED ASSETS

14.1 STORES

- 14.1.1 Shortage may arise due to fire, pilferage, breakage, theft, drying, evaporation, handling loss etc. and also wrong accounting of receipts/issues. After due verification, the shortage will be proposed for write off. Shortage due to wrong accounting should be corrected in the books and not considered for write off. Similarly excess due to wrong accounting should be rectified in the books.
- 14.1.2 Obsolescent/surplus/ non-moving stores held for over three years should be reviewed by the user department and items not required in the immediate future should be considered for write off according to the company policy. An item not moved for three years shall be declared as non-moving stores.
- 14.1.3 Salvage Committee constituted for each unit will recommend the proposal for write off periodically (at least once in three months). The Salvage Committee will fix the reserve price for each of the item. The proposal of the unit should give a brief basis of fixing the reserve price.
- 14.1.4 In case of obsolescent/surplus/non-moving stores, a list of such items recommended by Salvage Committee for sale will be circulated to other units of the company to ascertain their requirements. In case reply is not received from the other units within 30 days, the proposal recommended by Salvage Committee shall be approved by the competent authority.
- 14.1.5 Inventory, which has been approved for write off, will be given separate code number, segregated physically and kept separately in the central stores. The items will be entered in the relevant stock card to be maintained separately.
- 14.1.6 Necessary steps should be taken to dispose off the inventories approved for write off immediately.
- 14.1.7 One of the following methods should be adopted for disposal stores depending upon the circumstances in each case:
- a) Auction through a reputed firm of auctioneers, preferably MSTC
 - b) Advertisement in newspaper for obtaining quotations and selection of the most advantageous offer.
 - c) In case where the cost of advertisement in newspaper for obtaining quotation is not economical considering expected revenue, sealed quotations may be brought from interested parties apart from displaying tenders in company's notice board & web site with the approval of Competent Authority. However, reasons for such deviation should be recorded.



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- d) After getting the offers, the indenter shall put up to competent authority for approval through PC & Finance.

14.1.8

Disposal at scrap value or by other modes.

If IREL is unable to sell any surplus or obsolete or unserviceable item in spite of its attempts through advertised tender or auction, it may dispose of the same at its scrap value with the approval of the competent authority. In case IREL is unable to sell the item even at its scrap value, it may adopt any other mode of disposal including destruction of the item in an eco-friendly manner in line with IREL/Govt. guidelines, if any.

14.2

FIXED ASSETS:

14.2.1

Fixed Assets can be declared as obsolete, surplus, or unserviceable by Head of the user Department with the approval of Competent Authority.

14.2.2

In case, redeployment of machinery/equipment(s) is possible, the head of the unit will send a list of those assets to other units of the company to ascertain whether the machinery/equipment(s) is required by them. If the item is required by any other unit of the company, the transfer may be arranged at the book value. The transport and other incidental expenses will be borne by the unit to which the machinery/ equipment(s) is transferred.

14.2.3

The Salvage Committee for each unit will recommend the proposal for write off periodically (*at least once in a year*). The Salvage Committee will also fix the reserve price for each of the item. The recommendation of salvage committee shall be approved by the competent authority.

14.2.4

Unit will prepare the consolidated statement of all such write offs at the year end. Action will be taken by the unit to dismantle/segregate the items declared and approved as obsolete/unserviceable/surplus and keep them separately. Entries regarding write off will be made in the fixed assets register and books of accounts. The items will also be entered in the 'register for assets written off pending disposal' to be maintained by central stores for watching the final disposal/destruction of fixed assets which have been approved by the competent authority for disposal as the case may be.

14.2.5

Central stores shall inform finance department list of assets received in central stores for disposal immediately on receipt. Further central stores is also responsible to furnish list of fixed assets written off and pending for disposal to finance department at the close of every financial year in order to have proper control on the assets pending for disposal.

14.2.6

One of the following methods should be adopted for disposal of fixed assets depending upon the circumstances in each case:

- a) Auction through a reputed firm of auctioneers, preferably MSTC.
- b) Advertisement in newspaper for obtaining quotations and selection of the most advantageous offer.



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- c) In case where the cost of advertisement in newspaper for obtaining quotation is not economical considering expected revenue, sealed quotations may be brought from interested parties apart from displaying tenders in company's notice board & web site with the approval of Competent Authority. However, reasons for such deviation should be recorded.
 - d) After getting the quotations, the offers duly verified will be put up to PC for consideration and for making necessary recommendation.
- 14.2.7 If the fixed asset written off could not be sold despite best efforts, same will be dealt with as per clause 14.1.8



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CHAPTER-15

15.0 FUNCTIONS & RESPONSIBILITIES:

15.1 INDENTER/ EIC/ OIC

- 15.1.1 Indenters' prime responsibility is to record justification of proposed procurement in case of purchases.
- 15.1.2 Raise request for indent in the prescribed format and furnish all the required details as per the format.
- 15.1.3 Finalize the quantity to be procured after taking into consideration stock in hand, stock in pipeline, stock levels, consumption pattern etc.
- (i) Prepare detailed estimate of the item to be procured/ work to be undertaken.
 - (ii) May indicate the list of suppliers and contractors to be contracted for the proposed procurement/works contract as the case may be.
 - (iii) Evaluate CS of tenders prepared by purchase department on landed cost basis.
- 15.1.4 Ensure technical acceptability of bids received as per tender specifications for which CS is prepared after considering all factors, price reasonableness and recommend the party on the most competitive and technically acceptable bid basis.
- 15.1.5 Provide necessary clarifications to Finance / Purchase Committee (PC) as and when referred by purchase department.
- i. To participate in PC meeting as invitee.
 - ii. Assist the Purchase department in preparation of contract documents for works, AMC, Consultancy services etc. and provide the eligibility criteria, scope of work & special condition of contract for the tender document.
 - iii. Inspection of the supplied items after receipt intimation of central stores.
 - iv. Check the bills submitted by the contractor and recommend for payment after recording the details in MB.
 - v. Initiate note for approval of competent authority in case of variation beyond the prescribed limits.
 - vi. Issue no dues certificate when request for the same is received from supplier/ contractor after necessary checking.
 - vii. Recommend recovery of liquidated damages (LD) as per order. In case of waiver the reasons and justification for the same to be recorded and forwarded through Head of the department to Materials department for consideration.
 - viii. Ensure that contractor has cleared the site before recommending the final bill.

15.2 MATERIALS/PURCHASE DEPARTMENT

- 15.2.1 Time bound processing of procurement to fix a reasonable time for the bids to remain valid while issuing tender enquiries and to ensure the finalization of tender within the stipulated original validity.
- 15.2.2 To provide sufficient time for inviting bids depending on the situations.



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- 15.2.3 To ensure following undertaking from tender opening committee/PC:
“None of them has any personal interest in the companies/ Agencies participating in the tender process.”
- 15.2.4 To continuously update vendor list.
- 15.2.5 Inform all the registered vendors about their rating on yearly basis
- 15.2.6 Blacklisting default vendors according to the laid down procedure.
- 15.2.7 Maintain vendor details (registration, evaluation and rating) as stipulated in the purchase procedure.
- 15.2.8 To scrutinize the purchase requisition/works indents to ensure that indenter has given complete details as required.
- 15.2.9 To determine the likely source for executing the work contract /consultancy contract.
- 15.2.10 To issue of enquiries or tenders.
- 15.2.11 To receive quotations.
- 15.2.12 Correspondence with suppliers, contractors and vendors.
- 15.2.13 To forward EMD of the participating bidders to finance department immediately after opening of the techno commercial bid/price bid.
- 15.2.14 Prepare comparative statement taking into account all taxes, duties, levies, cess, packing & forwarding, transportation, etc. necessary in determining landed cost.
- 15.2.15 To prepare CS of quotations and forward it to indenter and receive back with his recommendations
- 15.2.16 Resolving Finance queries in consultation with indenter.
- 15.2.17 To convene PC meeting and finalize minutes of meeting.
- 15.2.18 Arranging negotiation with vendor by PC members when necessary.
- 15.2.19 Prepare detailed note covering all aspects namely Finance observations, PC decision, any other major issues/ deviations requiring specific attention of the approving authority.
- 15.2.20 Where there is a deviation from the prescribed procedure or disagreement with Finance, the case shall be placed before competent authority for placing the order with justification for the proposed decision on the deviation.
- 15.2.21 To issue purchase/ work orders in time. Original purchase order/ work order should be sent to the successful bidder and copy to finance department and indenter.
- 15.2.22 To ensure prompt acceptance of purchase/ work order without *delay*.
- 15.2.23 Ensuring receipt of acceptance of order by bidder without any conditions.
- 15.2.24 To inform all unsuccessful bidders to collect their EMD immediately after finalization of purchase/ work order. Copy of the communication shall be endorsed to finance department to facilitate release of EMD. Copy of the communication is also to be forwarded to indenter to post him updated with the status of the tender.
- 15.2.25 Ensure that security deposit is made by supplier/contractor according to the order terms.
- 15.2.26 To keep informed the Department concerned about lead time and on all usual supply situation.



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- 15.2.27 Ensure that details of tenders/ contracts awarded are hosted on website/bulletin every month.
- 15.2.28 Purchase order Register/Database:
The purchase department shall maintain data base containing the following details, i.e., Sl. no., indent no. & date, purchase order no.& date, supplier's name, item description, quantity, unit rate, value, delivery date, supplier/contractor code, amendment no. & date, amended value of the purchase / work order and remarks (if any).
- 15.2.29 Posting of details on award of tenders/ contracts on websites so as to cover 75% value of the transactions.
- 15.2.30 Write-off and disposal of obsolete stock.

15.3 STORES :

- 15.3.1 Proper codification of all stores items.
- 15.3.2 Stock level maintenance of all store items with identification of minimum, maximum and reordering level
- 15.3.3 Collection of material from transporters godown as applicable and proper storing of all store items.
- 15.3.4 Raise inspection request and facilitate inspection by indenter.
- 15.3.5 Arrangements for return of rejected material / replacement of defective material.
- 15.3.6 Claim for insurance as and when required.
- 15.3.7 Raise proposal for write off and disposal of unserviceable / non moving stores after suitable classification for consideration of Stores Disposal Committee (SDC).
- 15.3.8 Convey meeting of Salvage disposal committee as and when required.
- 15.3.9 Claim for tax benefits in consultation with and guidance of finance.
- 15.3.10 Issue of material against Stores Issue voucher (SIV) / Issue voucher (IV) duly authorised by appropriate authority.

15.4 FINANCE DEPARTMENT

- 15.4.1 To clear the capital indent after verifying the budget provision.
- 15.4.2 To maintain scheme wise actual expenditure against the budget.
- 15.4.3 Recording of re-appropriation of funds from one budget head to another after receipt of approval from competent authority.
- 15.4.4 To ensure receipt of purchase/ work order copies.
- 15.4.5 Assigning an officer for follow up of bank guarantees including confirmation & correspondence in this regard.
- 15.4.6 Release of payment as per PO/ WO terms. Information on release of payment to be sent to indenter and materials department to update status to both indenter and purchase department.
- 15.4.7 Release of final bill after receipt of all documents including "no claim certificate" from the EIC/ OIC.



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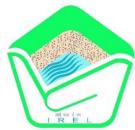
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- 15.4.8 Obtaining clearance from HRM department regarding payment of all statutory dues by contractor for the labour working under the contractor before releasing the payment.
- 15.4.9 To ensure that all statutory dues have been deducted before releasing the payment.
- 15.4.10 Release of SD and retention money on the recommendation of EIC/ OIC and ensure that such recommendations are in accordance with PO/ WO terms.
- 15.4.11 Release of EMD to the unsuccessful bidders based on the communication received from the materials department.
- 15.4.12 To maintain supplier wise/ contractor wise register for EMD, SD and retention money.
- 15.4.13 Maintaining register for EMD, SD & retention money forfeited by the company.
- 15.4.14 Ensure compliance and availing of tax/ any other credit/ rebate as may be available to the company (IREL).

15.5 PC MEMBERS

- 15.5.1 To ensure that proposals put up to PC are according to the laid down purchase procedures.
- 15.5.2 To submit the recommendations of PC on each of the purchase / work order files placed before them for their consideration. The recommendation of PC should consider recommendations of the indenter.
- 15.5.3 To negotiate with bidder under special circumstances after recording need for the same subject to approval of competent authority.
- 15.5.4 To recommend waiver of Liquidated damages due to delayed deliveries/ completion and after examining the merit of the case for approval of competent authority.
- 15.5.5 PC to record the following undertaking in the respective minutes:
“None of them has any personal interest in the companies/ Agencies participating in the tender process.”
- 15.5.6 Records of proceeding of PC meetings should be signed by all PC members. Records of proceedings minutes of PC decision are prepared by purchase department and signed by all members of PC. Indenter should be present in PC and sign attendance.
- 15.7 In addition to the above functions and responsibilities, officials involved in procurement function need to have a thorough knowledge on all relevant laws/ other Govt. Guidelines issued from time to time pertaining to purchase procedure, awarding of works contract and consultancy contract etc.

Note: *Functions and responsibilities stated in this chapter are indicative in nature, not complete and exhaustive responsibilities of the executives.*



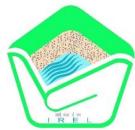
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Abbreviations used:

AMC:	Annual Maintenance Contract	SSI:	Small Scale Industries
BG:	Bank Guarantee	TDC:	Tender Document Cost
CPWD:	Central Public Works Department	WO:	Work Order
CMD:	Chairman & Managing Director	SDC:	Stores Disposal Committee
CS:	Comparative Statement	MSE:	Micro, Small and Medium Enterprises
CVC:	Central Vigilance Commission	EOT:	Extension of Time
CVO:	Chief Vigilance Officer		
DAVP:	Directorate of Advertising and Visual Publicity		
D(F):	Director (Finance)		
D(T):	Director (Technical)		
DOP:	Delegation of Power		
EIC:	Engineer In-charge		
EMD:	Earnest Money Deposit		
FO:	Furnace Oil		
FOB:	Free on Board		
FOR:	Free on Road/ Rail		
GCOC:	General Conditions of Contract		
G/H:	Guest House		
H-1:	Highest bidder		
HO:	Head Office		
HSD:	High Speed Diesel		
IREL:	IREL (India) Limited		
IV:	Issue Voucher		
L-1:	Lowest bidder		
LC:	Letter of Credit		
LD:	Liquidated damages		
MB:	Measurement book		
OEM:	Original Equipment Manufacturers		
OES:	Original Equipment Suppliers		
OIC:	Officer In-charge		
PO:	Purchase Order		
POL:	Petroleum oil & lubricants		
PQ:	Pre-qualification criteria		
PWD:	Public Works Department		
SCOC:	Special Conditions of Contract		
SD:	Security Deposit		
SIV:	Stores Issue Voucher		
PC:	Purchase Committee		



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CHAPTER-16

FORMS

List of forms :

- 16.1 Material purchase requisition (Indent)
- 16.2 PC proforma
- 16.3 Proposal for work order/service contract
- 16.4 Purchase order
- 16.5 Standard draft for service / works contract
- 16.6 Stores receipt voucher
- 16.7 Stores credit voucher
- 16.8 Cash purchase requisition
- 16.9 Bank guarantee format (EMD, SD, Advance Payment, Performance)
- 16.10 Pre contract Integrity Pact
- 16.11 CORRESPONDENCE WITH BIDDERS ON "Ethics in tendering & other business dealings" and Undertaking to be submitted by Bidders
- 16.12 Secrecy agreement
- 16.13 Format-A, Format-B, Format-C & Format-D (For extension of completion period)
- 16.14 Extension of Delivery Period/Performance Notice
- 16.15 Correspondence with Supplier after expiry of Delivery Date
- 16.16 Invitation and Declaration for Negotiations
- 16.17 Revised Offer in Negotiations

Annexure-I : Guidelines for procurement from MSEs



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Format No. 16.1

MATERIAL PURCHASE REQUISITION (INDENT)

Capital/Revenue (tick)

Date:
Indenting
Dept.

Cost Centre: Total indent value in Rs. Name of Indenter:

Dept. Indent No.

Budget Code: Purchase Dept. Registration Ref:

To be filled in by indenter:

Sl.No.	Item Code	Item Description	Qty. Required		App. Total value in Rs. (Item-wise)	Quantity revised if any, after stores verification
			Unit	Quantity		

To be filled in by Stores:

Details of Pending P.O. if any						Indent received by stores on date ----- Indent cleared by stores on date -----				
Sl. No.	Item Code	No.	Date	Qty	Delivery Schedule	Details of quantity available in Stores		Consumption of items based on stores record during last 2 financial years excluding year of Indent	Date of last issue of item prior to date of Indent	Date of last receipt of items in stores prior to date of Indent
						Qty.	Against Dept.			

Note: 1. Purpose of this procurement:

2. Likely date when item will be utilized:
3. Single source/proprietary purchase (tick if applicable):
(Attach separate justification note duly approved by Competent authority)
4. Method of acceptance/Inspection:
5. Administrative approval if any:

Sign. of Indenter

Sign. Of Sec. In-charge

Sec. In-charge of stores

Recommended by Head of Dept.

Approving
Authority



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Format No. 16.2

PC PROFORMA

Indent No:

Cost Centre:

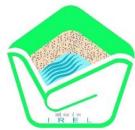
PC Case File No:

Date of meeting:

1(i)	Description of item being procured	
(ii)	Name of the Indenting Officer with designation	
2(i)	Estimated cost indicated in the indent	
(ii)	Budget provision & budget head	
3	Nature of Tender	
(i)	Whether LT was floated in web (for value>Rs.50,000)	
(ii)	Whether PT was floated in news paper& web (for value>Rs.10lakhs)	
(iii)	If not, whether prior approval of competent authority was obtained	
(iv)	If the item is proprietary in nature, adequate justification with appropriate approval is furnished	
4	Technical specification guiding the selection	
(i)	Description	
(ii)	Actual area of usage	
(iii)	Quantity	
(iv)	Critical specifaiaon guiding the selection	
(v)	Whether new requirement? If yes, please specify reason	
(vi) a.	Spares for existing equipment/component	
b.	Cost of basic equipment	
c.	Date of installation	
5	In the case of imported items, the following information to be furnished	
(i)	Full justification of import	
(ii)	Whether indigenous products were adequately considered	
(iii)	Whether established firms in international field have been contacted	
6	Unit IA's observationandIndenter's clarification (if any)	
7	Previous purchase reference (if any)	
(i)	Purchase Order No. with date	
(ii)	Name of Vendor	
(iii)	Unit item cost	
(iv)	Performance Report	
8	Recommendations	
(i)	Name and address of the firm on whom the offer is proposed for acceptance	
(ii)	Whether recommendation is technically L1? If not, specify reason	
(iii)	If foreign item, name of the original manufacturer	
(iv)	Total FOB/CIF/FOR value inclusive of accessories & spares	
(v)	Mode of dispatch	
(vi)	Date of validity of offer	

9 Summary of Recommendations:

10 Signature:



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Department Head

Indenting Officer

Format No. 16.3

PROPOSAL FOR WORK ORDER / SERVICE CONTRACT

Dept. Indent No. :

Indenting Department:

Cost Centre Code:

Budget Code:

Type of job: Revenue/Capital (Tick whichever is applicable)

I. Job description:

Name of work	Estimated period of completion	Qty. estimated	Rate estimated in Rs.	Total estimated value in Rs.

II. Officer/Engineer In-charge to look after execution & certification of the work/job:

Name: Designat

III. Other details:

1	Whether Bill of quantities with break-up of items furnished (Please furnish minimum 8 copies of tender document, BOQ, drawing etc. or the same may be furnished in floppy / CD)	Yes	No
2	Please specify free-issue items to be given to the contractor by IREL (Please enclose separate sheet if space provided is insufficient)		
Sl. No.		Description of free issue items to be issued by IREL	Estimated quantity
1			
2			
3			
3	Please specify the items/ equipments which are to be issued to the contractor on chargeable basis: (Please enclose separate sheet if space provided is insufficient)		
Sl. No.		Description of the items to be issued on chargeable basis	Estimated quantity
1			



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	2		
	3		
4	The work will be carried out at:	IREL site	Party's works
	Monetary value of item so that Indemnity bond and or Bank guarantee towards security money shall be insisted for out-going material		Value in Rs.

5	The site facilities which is needed to be provided to the contractor as a part of IREL's obligation and under what terms and conditions:			
6	For composite jobs, where both supply of material and labour are included, please specify clearly what the supply items are and which will be used in the work? (Please use separate sheet if space provided is insufficient)			
	Sl. No.	Description of items to be supplied by the contractor	Estimated quantity	Estimated value
	1			
	2			
	3			
7	Please specify the estimated man power required for the said job			
8	Liquidated damages/PBG, if any, to be imposed and for what lapses by the contractor?			
9	Suggested prospective contractors with address (if any):			
	1			
	2			
	3			
10	Please specify special conditions, if any, to be stipulated in the work order:			

IV. List of enclosures:

1. Scope of works & terms
2. Bill of quantities (BOQ)
3. Copy of administrative approval
4. Drawing

Name:

Designation:

Sectional Head:



IREL (India) Limited, Corporate Office, Mumbai

Purchase Procedure

(for Private circulation within the company only)

Head of the Department:

Signature of competent authority:

Format No. 16.4

PURCHASE ORDER (Registered post with A/D)

Regd. Office IREL (India) Ltd. Plot No.1207, Opposite Siddhivinayak Temple Veer Savarkar Marg, Prabhadevi Mumbai- 400028 Fax: Tel: e-Mail	IRE EMBLEM ISO 9001:2000	QUALITY/ ENVIRONMENT/ OHSAS EMBLEM	IRE Unit Address Grams: Fax: Tel: e-Mail: CST No.- GA- TIN- Visit us at: www.irel.gov.in
ORDER NO. M/s.		Date: Ref: Our Tender Enquiry No.- Your Quotation No.-	
Please supply the following materials according to the terms and conditions specified below and general terms and conditions printed overleaf unless and otherwise specified.			

Sl. No.	Item code	Item Description	Qty.	unit	Rate (Rs.)	Total Price (Rs.)

Total value of the order: Rs.

In Words: (Rupees	only)
-------------------	-------

Note: The price mentioned in this order is firm during the contract period (Pl. see clause 2 of the general terms and conditions)

1. Terms of Price :	5. Mode of Dispatch: By Rail/Road/Post (through our authorized transporters Ref. Clause 5 &11 overleaf) i) ii)
2. Date of delivery :	6. Payment Terms :
3. Taxes applicability : a) : b) : c) : d) :	7. Inspection : Pre dispatch at Supplier's Site/ Post supply at IRE central store. 8. Insurance: 9. Guarantee/ Test Certificate : 10. Enclosures : (Drawings/Specification Sheet/ Sample)
4. Packing & Forwarding :	

Please return the acknowledgement copy of this order duly signed and sealed as a token of receipt & acceptance	For IREL (India) Ltd.
--	-----------------------

Budget Code : Indent No. : Indenter	Indent dt. : Department. :
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IREL (India) Limited, Corporate Office, Mumbai

Purchase Procedure

(for Private circulation within the company only)

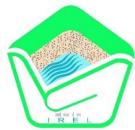
Designation :

Format No. 16.5

STANDARD DRAFT FOR SERVICE / WORKS CONTRACT

The contract must include the followings:

1. Name of work
2. Scope of work
3. Bill of quantities
4. General conditions of the contract
5. Special conditions of the contract
6. Payment terms
7. Deliveries / completion of contract
8. Mobilization advance
9. Earnest Money Deposit (EMD)
10. Security deposit (SD)
11. Risk purchase clause
12. Performance bank Guarantee / Retention money
13. Indemnity / Penalty / Liquidated damage (LD)
14. Arbitration



IREL (India) Limited, Corporate Office, Mumbai

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Format No. 16.6

STORES RECEIPT VOUCHER

P.O. No.

Date:

DC/LR No.

Date:

SRV:

Amendment No. (if any):

Date:

Freight Payable/Paid
amount in Rs.

Date:

Sl. No	Code	Material Description	Unit		Qty. as per Challan	Quantity Received	Quantity Rejected	Quantity Accepted	Reason for rejection	Value in Rs.	Updated Bin Card Balance
			Des.	Code							

Supplier's name & address:

Received by:

Sign. Of the
Inspector/
Indenter

Checked by:

Posted by:

Vendor code:

Stores-in-charge:

Date:



IREL (India) Limited, Corporate Office, Mumbai

Purchase Procedure

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Format No. 16.7

STORES CREDIT VOUCHER

FINANCE
COPY

Sl. No. :
SCV No. :
Date:

Cost Centre:

Department:

Purpose

Work Order Ref.(If any) :

Date:

Equipment No. (If any) :

Capital Scheme Ref. :

In case of capital return :

Material Code	Material Description	Unit	Returned Quantity	Received Quantity	Stores Ledger Folio	Value in Rs.	Remarks (usable/unusable)

Ref. SIV & Date

In case of return by the contractor, pl. specify:

SIV:

Date:

Name of the contractor:

Contract No:

Types of Issues:

- 1 Capital
- 2 Revenue

Free issue/Chargeable basis/Loan basis:
(Strike out which is not applicable)

Return by:

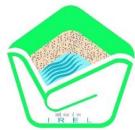
Inspected by:

Received by:
Evaluated by:

Authorised by:

Inspected approved by:

Checked by:
Posted by:



IREL (India) Limited, Corporate Office, Mumbai

Purchase Procedure

(for Private circulation within the company only)

Instruction for use: Separate documents are to be used for each item.

Format No. 16.8

CASH PURCHASE REQUISITION

Cost Centre: Total estimated value in Rs. Name of Officer: Purchasing Dept.
Budget Code: Date:
Purchase Dept. Registration Ref: ----- dt. ----- Cash Purchase No.
To be filled in by Purchasing
Dept.: -----

Sl. No.	Item Code	Item Description	Qty. Required			App. Total value in Rs. (Item- wise)
				Unit	Quantity	

To be filled in by Stores:

Details of Pending P.O. if any

Sl. No.	Item Code	Item Description	Date	Qty	Delivery Schedule	Details of quantity available in Stores		Remarks
						Qty.	Against Dept.	

Note: 1. Purpose of cash purchase:

2. Likely date when item will be utilized:

Sign. of Purchasing Officer

Sign. of Sec. In-charge

Sec. In-charge of
stores

Recommended by Head of Dept.

Approving
Authority



IREL (India) Limited, Corporate Office, Mumbai

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Format No. 16.9

PROFORMA FOR BANK GUARANTEE FOR EARNEST MONEY DEPOSIT

In accordance with Notice Inviting Tender (NIT) No. _____ Dated _____ for the work of _____ (herein after referred to as "the said Works") for Rs._____ (Rupees _____ only), under _____ (MK unit/Chavara unit/OSCOM unit/RED unit/Corporate Office) of M/s IREL (India) Limited, a company incorporated under Indian Companies Act, having its registered office at Plot No.1207, ECIL building, Opp. to Siddhivinayak Temple, Veer Savarkar Marg, Prabhadevi, Mumbai – 400028, India (herein after referred to as IREL), M/s _____ Address _____ [Herein after referred to as Contractor (s)] wish /wishes to participate in the said tender and a Bank Guarantee for the sum of Rs._____ (in words) valid for a period of _____ days (in words) is required to be submitted by the Bidder towards the Bid Security.

We the _____ Bank (hereinafter called the said Bank) do hereby undertake to pay to IREL, the sum of Rs. _____ (Rupees _____ only) by reason of the said tenderer's failure to enter into an agreement of contract on intimation of acceptance of his tender and/or to commence the contract works and/or failure to deposit the security deposit within the stipulated period as per the terms and conditions relating to and/or governing the contract and/or specified in the Notice Inviting Tender (NIT). We also agree that any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. We also agree that notwithstanding any dispute or difference or any litigation in respect of or arising from the said contract and/or the acceptance of the tender of the tenderer afore stated by IREL including the question as to the tenability of the claim of the IREL for forfeiting the Earnest Money being the Bank Guarantee herein, we shall forthwith pay the said amount to IREL on demand being made as aforesaid.

We _____ Bank further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for entering into an Agreement of contract and that it shall continue to be enforceable till all the dues of the IREL under the terms and conditions of the NIT for the work have been fully paid and its claims satisfied or discharged or till IREL certifies, that the terms and conditions of the NIT have been fully and properly carried out by the said tenderer and accordingly discharges the guarantee.

We _____ Bank further agree with the IREL that the IREL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the NIT and/or terms and conditions governing the contract or to extend the time of validity of the offer from the said tenderer from time to time or to postpone for any time or from time to time



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any of the powers exercisable by the IREL against the said tenderer and to forbear or enforce any of the terms and conditions of the NIT and we shall not be relieved from our liability hereunder by reason of any such variation, or extension being granted to the said tenderer or for any forbearance, act or omission on the part of the IREL or any indulgence by the IREL to the said tenderer or by any such matter or thing whatsoever which under the law relating to surety/guarantee would but for this provision have effect of so relieving us.

We _____ Bank do hereby further agree that any change in the Constitution of the said tenderer or the Bank will not affect the validity of this guarantee.

We _____ Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the IREL in writing.

Notwithstanding anything to the contrary contained herein before :

- (i) Our Liability under this Bank Guarantee shall not exceed and restricted to Rs (in words)
- (ii) This Bank Guarantee shall be valid upto, unless extended on demand.
- (iii) The bank is liable to pay the guaranteed amount or any part thereof under this bank Guarantee only if IREL serve a written claim or demand on or before (Three months from the expiry of Guarantee period)

Dated the _____ day of _____ 20--

Bank

(Signature with name in Block letters with designation,
Attorney as per power of Attorney No._____ dt. _____)

Bank's Common seal



IREL (India) Limited, Corporate Office, Mumbai

Purchase Procedure

(for Private circulation within the company only)

PROFORMA FOR BANK GUARANTEE FOR SECURITY DEPOSIT

WHEREAS on or about the _____ day of _____ M/s _____ (Tenderer's name & address), having its registered office situated at _____ (Postal address) (herein after referred to as 'The Tenderer') entered into a contract bearing reference no. _____ dtd. _____ with _____ (MK unit/Chavara unit/OSCOM unit/ RED unit/Corporate Office) of M/s IREL (India) Limited, a company incorporated under Indian Companies Act having its registered office at Plot No.1207, ECIL building, Opp. to Siddhivinayak Temple, Veer Savarkar Marg, Prabhadevi, Mumbai – 400 028, India (herein after referred to as IREL), for _____ (details of order) (herein after referred to as 'The Contract').

AND WHEREAS under the terms and conditions of the contract the tenderer is required to keep with IREL a security deposit of Rs. _____ (Rupees _____ only) or submit a Bank Guarantee in lieu of cash deposit for the fulfillment of the terms and conditions of the contract, and whereas the supplier has chosen to submit a Bank Guarantee.

We _____ Bank do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from IREL stating that the amount claimed is due by way of loss or damage caused to or that would be caused to or suffered by IREL by reason of breach of any of the terms and conditions of the said contract. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. The payment will be released within three working days from the date of demand for payment.

We undertake to pay to IREL any money so demanded notwithstanding any dispute or disputes raised by the tenderer in any suit or proceeding pending before any court or tribunal relating thereto, our liability under these present being absolute and unequivocal.

The payment so made by us under these guarantees shall be valid discharge of our liability for payment thereunder and the tenderer shall have no claim against us for making such payment.

We _____ Bank further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of IREL under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till IREL certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said tenderer and accordingly discharges this Guarantee. Our Guarantee shall remain in force until _____ and unless a demand or claim under this guarantee is made on us in



IREL (India) Limited, Corporate Office, Mumbai

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writing within three months from the expiry of the Guarantee period, we shall be discharged from all liability under this Guarantee thereafter.

We _____ Bank, further agree that IREL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extent time of performance by the said tenderer from time to time or to postpone for any time or from time to time any of the powers exercisable by IREL against the said tenderer and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said contract or for any forbearance, act or omission on the part of IREL or any indulgence by IREL to the said tenderer or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision, have effect of so relieving us.

This guarantee will not be discharged due to the change in the constitution of the Bank or the Consultant.

We _____ Bank lastly undertakes not to revoke this guarantee during its currency except with the previous consent of IREL in writing.

Notwithstanding anything to the contrary contained herein before :

- (i) Our Liability under this Bank Guarantee shall not exceed and restricted to Rs (in words)
- (ii) This Bank Guarantee shall be valid upto, unless extended on demand.
- (iii) The bank is liable to pay the guaranteed amount or any part thereof under this bank Guarantee only if IREL serve a written claim or demand on or before (Three months from the expiry of Guarantee period)

Dated the _____ day of _____ 20--

Bank

(Signature with name in Block letters with designation,
Attorney as per power of Attorney No. ____ dt. ____)

Bank's Common seal



IREL (India) Limited, Corporate Office, Mumbai

Purchase Procedure

(for Private circulation within the company only)

PROFORMA FOR BANK GUARANTEE AGAINST ADVANCE PAYMENT

WHEREAS on or about the _____ day of _____ M/s _____ (Tenderer's name & address), having its registered office situated at _____ (Postal address) (herein after referred to as 'The Tenderer') entered into a contract bearing reference no. _____ dtd. _____ with _____ (MK unit/Chavara unit/OSCOM unit/RED unit/Corporate Office) of M/s IREL (India) Limited, a company incorporated under Indian Companies Act having its registered office at Plot No.1207, ECIL building, Opp. to Siddhivinayak Temple, Veer Savarkar Marg, Prabhadevi, Mumbai – 400 028, India (herein after referred to as IREL), for _____ (details of order) (herein after referred to as 'The Contract').

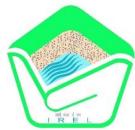
AND WHEREAS under the terms & conditions of the contract advance payment of Rs. _____ (Rupees _____) is to be made by IREL to the tenderer, which the tenderer is to repay to 'IREL', and whereas 'IREL' has agreed in pursuance of the said terms and conditions of the contract to make advance payment of Rs. _____ (Rupees _____) to the tenderer furnishing a bank guarantee in the manner herein contained.

We _____ Bank, in consideration of the IREL having agreed to pay to the tenderer an advance payment of Rs. _____ (Rupees _____ only) hereby agree and undertake to indemnify the IREL and to keep the IREL indemnified to the extent of a sum not exceeding the said sum of Rs. _____ (Rupees _____ only) against any damage or loss caused to or suffered by or that would be caused to or suffered by the IREL by reason of any breach or non-fulfillment by the tenderer of any of the terms and conditions contained in the said Work order/Contract. *The payment will be released within three working days from the date of demand for payment.*

AND WE _____ Bank, do hereby undertake to pay on demand and without any demur to the IREL any sum not exceeding the said sum of Rs. _____ (Rupees _____ only) as may be ascertained by the IREL as the damage or loss that the IREL may have suffered by reason of breach or non-fulfillment of any of the terms and conditions of the said Work Order/Contract by the tenderer.

AND WE _____ Bank hereby further agree that the decision of the IREL as to whether the tenderer has committed breach of any such terms and conditions of the said Work Order/Contract or not and as to the amount of damage or loss assessed by the IREL on account of such breach, would be final and binding on us.

This guarantee shall come into force simultaneously with your making the said advance payment to the tenderer and shall not be revoked by us whether before its



IREL (India) Limited, Corporate Office, Mumbai

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coming into force or any time during its currency without your previous consent in writing.

The payment so made by us under this Guarantee shall be valid discharge of our liability for payment thereunder and the tenderer shall have no claim against us for making such payment.

Our guarantee shall remain in force until _____ (date) or such further date up to which this bank guarantee is renewed or extended and unless a claim under the guarantee is lodged with us within 3 (three) months from such date, all rights of IREL under the guarantee shall be forfeited and we shall be relieved and discharge from all liabilities thereunder.

WE _____ Bank undertake not to revoke this guarantee during its currency except with the previous consent of the IREL in writing.

Notwithstanding anything to the contrary contained herein before :

- a. Our Liability under this Bank Guarantee shall not exceed and restricted to Rs (in words)
- b. This Bank Guarantee shall be valid upto, unless extended on demand.
- c. The bank is liable to pay the guaranteed amount or any part thereof under this bank Guarantee only if IREL serve a written claim or demand on or before (Three months from the expiry of Guarantee period)

Dated the _____ day of _____ 20--

Bank

(Signature with name in Block letters with designation,
Attorney as per power of Attorney No.____ dt. ____)

Bank's Common seal



IREL (India) Limited, Corporate Office, Mumbai

Purchase Procedure

(for Private circulation within the company only)

PROFORMA FOR BANK GUARANTEE AGAINST PERFORMANCE

WHEREAS on or about the _____ day of _____ M/s _____ (Tenderer's name & address), having its registered office situated at _____ (Postal address) (herein after referred to as 'The Tenderer') entered into a contract bearing reference no. _____ dtd. _____ with _____ (MK unit/Chavara unit/OSCOM unit/RED unit/Corporate Office) of M/s IREL (India) Limited, a company incorporated under Indian Companies Act having its registered office at Plot No.1207, ECIL building, Opp. to Siddhivinayak Temple, Veer Savarkar Marg, Prabhadevi, Mumbai – 400 028, India (herein after referred to as IREL), for _____ (details of order) (herein after referred to as 'The Contract').

AND WHEREAS the Agreement provides that the tenderer shall furnish a Bank Guarantee for Rs._____ (Rupees _____ only) being _____% (_____ percent) of the total agreement value as Guarantee for the due fulfillment by the tenderer of the terms and conditions contained in the Agreement, the guarantee remaining valid till the completion of the guarantee period.

We _____ Bank do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from IREL stating that the amount claimed is due by way of loss or damage caused to or that would be caused to or suffered by IREL by reason of breach by the said tenderer of any of the terms or conditions contained in the said Agreement or by reason of the Bidder's failure to perform the said agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. _____ (Rupees _____ only).

We undertake to pay to IREL any money so demanded notwithstanding any dispute or disputes raised by the tenderer in any suit or proceeding pending before any court or tribunal relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this guarantees shall be valid discharge of our liability for payment thereunder and the tenderer shall have no claim against us for making such payment.

We _____ Bank further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of IREL under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till IREL certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said bidder and accordingly discharges this Guarantee.



IREL (India) Limited, Corporate Office, Mumbai

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We also agree that the amount will be paid by us to the IREL within three working days from the date of demand for payment till the actual date of payment made by us. Our Guarantee shall remain in force until and unless a demand or claim under this guarantee is made on us in writing within six months from the expiry of the Guarantee period, we shall be discharged from all liability under this Guarantee thereafter.

We _____ Bank, further agree that IREL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extent time of performance by the said tenderer from time to time or to postpone for any time or from time to time any of the distributions exercisable by IREL against the said tenderer and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said tenderer or for any forbearance, act or omission on the part of IREL or any indulgence by IREL to the said tenderer or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision, have effect of so relieving us.

This guarantee will not be discharged due to the change in the constitution of the Bank or the bidder.

We _____ Bank lastly undertakes not to revoke this guarantee during its currency except with the previous consent of IREL in writing.

Notwithstanding anything to the contrary contained herein before :

- (a) Our Liability under this Bank Guarantee shall not exceed and restricted to Rs (in words)
- (b) This Bank Guarantee shall be valid upto, unless extended on demand.
- (c) The bank is liable to pay the guaranteed amount or any part thereof under this bank Guarantee only if IREL serve a written claim or demand on or before (Three months from the expiry of Guarantee period)

Dated the _____ day of _____ 201_____
Bank

(Signature with name in Block letters with designation,
Attorney as per distribution of Attorney No.____ dt. ____)

Bank's Common seal



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Note:

1. Unit need to impress upon the bank/ tenderer, for a claim period of three months and the same should be stipulated in the tender. However, unit may also accept claim period of one month in exigencies where request for the same has been submitted by a party before bidding and issuing a corrigendum to the above effect.
2. In case of global tenders or public tenders involving foreign parties, no bank guarantee formats will be incorporated in the tender. However, an enabling clause will be incorporated indicating that the bank guarantee will be mutually agreed between the successful bidder and IREL.

After finalization of the successful bidder, Unit will take attempt to enforce the bank guarantee format as mentioned in the Purchase Procedure. However, in case the banker/ bidder does not accept the same, then unit may accept a mutually agreed bank guarantee format indicated by the bank/ successful bidder after due legal vetting (so as to ensure that interest of IREL is in no way affected) and with the approval of the Head of the Unit.



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Format No. 16.10

PRE-CONTRACT INTEGRITY PACT

General

This pre-bid pre-contract Agreement (hereinafter the Integrity Pact) is made on day of the month of year between IREL (India) Limited (hereinafter called the "BUYER" 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 "BIDDER / Seller" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

WHEREAS the BUYER proposes to procure (Name of the Stores / Equipment / Item) and the BIDDER/Seller is will to offer / has offered the stores and

WHEREAS the BIDDER is a private company / public company / Government undertaking / partnership / registered export agency, constituted in accordance with the relevant law in the matter and the BUYER is a PSU.

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence / prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the BUYER to obtain the desired said stores/equipment at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary Impact of corruption on public procurement, and

Enabling BIDDERS to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the BUYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

Commitments of the BUYER

- 1.1 The BUYER undertakes that no official of the BUYER, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immediate benefit or any other advantage from the BIDDER, either for themselves or for any person, organization or third party to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.



IREL (India) Limited, Corporate Office, Mumbai

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- 1.2 The BUYER will, during the pre-contract stage, treat all BIDDERS alike, and will provide to all BIDDERS the same information and will not provide any such information to any particular BIDDER which could afford an advantage to that particular BIDDER in comparison to other BIDDERS
- 1.3 All the officials of the BUYER will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 2 In case any such preceding misconduct on the part of such official(s) is reported by the BIDDER to the BUYER will full and verifiable facts and the same is prima facie found to be correct by the BUYER, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the BUYER and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the BUYER the proceedings under the contract would not be stalled.

Commitments of BIDDERS

- 3 The BIDDER commit itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the followings:-
 - 3.1 The BIDDER will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BUYER, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
 - 3.2 The BIDDER further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BUYER or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract for showing or forbearing to show favour or disfavor to any person in relation to the contract or any other contract.
 - 3.3 The BIDDER further confirms and declares to the BUYER that the BIDDER has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the BUYER or any of its functionaries, whether officially or unofficially to the award of the contract to the BIDDER, nor has any amount been paid, promised or intended to be



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paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.

- 3.4 The BIDDER, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the BUYER or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 3.5 The BIDDER will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
- 3.6 The BIDDER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 3.7 The BIDDER shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the BUYER as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The BIDDER also undertakes to exercise due and adequate care lest any such information is divulged.
- 3.8 The BIDDER commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.9 The BIDDER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.10 If the BIDDER or any employee of the BIDDER or any person acting on behalf of the BIDDER, either directly or indirectly, is a relative of any of the officers of the BUYER, or alternatively, if any relative of an officer of the BUYER has financial interest/stake in the BIDDER's firm, the same shall be disclosed by the BIDDER at the time of fill of tender.
The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956
- 3.11 The BIDDER shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the BUYER.

4 Previous Transgression:

- 4.1 The BIDDER declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify BIDDER's exclusion from the tender process.



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4.2 The BIDDER agrees that if it makes incorrect statement on this subject, BIDDER can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

5 Earnest Money (Security Deposit)

5.1 While submitting commercial bid, the BIDDER shall deposit an amount _____ (to be specified in RFP) as Earnest Money / Security Deposit, with the BUYER through any of the following instruments:

- (i) Bank Draft or a Pay order in favour of _____
- (ii) A confirmed guarantee by an Indian Nationalized Bank, promising payment of the guaranteed sum to the BUYER on demand within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the BUYER shall be treated as conclusive proof of payment.
- (iii) Any other mode or through any other instrument (to be specified by the RFP).

5.2 The Earnest Money / Security Deposit shall be valid upto complete conclusion of the contractual obligations to the complete satisfaction of both the BIDDER and the BUYER.

5.3 In case of the successful BIDDER a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Bond in case of a decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

5.4 No interest shall be payable by the BUYER to the BIDDER on Earnest Money / Security Deposit for the period of its currency.

6 Sanctions for Violations

6.1 Any breach of the aforesaid provisions by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER) shall entitle the BUYER to take all or any one of the followings actions, wherever required:-

- (i) To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the BIDDER. However, the proceedings with the other BIDDER(s) would continue.
- (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit / Performance Bond (after the contract is signed) shall stand forfeited either fully or partially, as decided by the BUYER and the BUYER shall not be required to assign any reason therefore.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the BIDDER.



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- (iv) To recover all sums already paid by the BUYER, and in case of an Indian BIDDER with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while in case of BIDDER from a country other than India with interest thereon at 2% higher the LIBOR. If any outstanding payment is due to the BIDDER from the BUYER in connection with any other contract for any other stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
 - (v) To encash the advance bank guarantee and performance bond / warranty bond, if furnished by the BIDDER, in order to recover the payments, already made by the BUYER, along with interest.
 - (vi) To cancel all or any other Contracts with BIDDER. The BIDDER shall be liable to pay compensation for any loss or damage to the BUYER resulting from such cancellation / rescission and the BUYER shall be entitled to deduct the amount so payable from the money(s) due to the BIDDER.
 - (vii) To debar the BIDDER from participating in future bidding processes of IREL (India) Limited for a minimum period of five years, which may be further extended at the discretion of the IREL.
 - (viii) To recover all sums paid in violation of this Pact by BIDDER(s) to any middleman or agent or broker with a view to securing the contract.
 - (ix) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the BUYER with the BIDDER, the same shall not be opened.
 - (x) Forfeiture of Performance Bond in case of a decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
- 6.2 The BUYER will be entitled to take all or any of the actions mentioned at Para 6.1 (i) to (x) of this Pact also on the Commission by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER), of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.
- 6.3 The decision of the BUYER to the effect that a breach of the provisions of this Pact has been committed by the BIDDER shall be final and conclusive on the BIDDER. However, the BIDDER can approach the Independent Monitor(s) appointed for the purposes of this Pact.

7

Independent External Monitors

7.1

The BUYER has appointed Independent Monitors (hereinafter referred to as Monitors) for this Pact in consultation with the Central Vigilance Commission (Names and Addresses of the Monitors to be given).



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- 7.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.
- 7.3 The Monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 7.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings.
- 7.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Authority designated by the BUYER.
- 7.6 The BIDDER(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the BUYER including that provided by the BIDDER. The BIDDER will also grant the Monitor upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor shall be under contractual obligation to treat the information and documents of the BIDDER/Subcontractor(s) with confidentiality.
- 7.7 The BUYER will 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 parties. The parties will offer to the Monitor the option to participate in such meetings.
- 7.8 The Monitor will submit a written report to the designated Authority of BUYER with 8 to 10 weeks from the date of reference or intimation to him by the BUYER/BIDDER and, should the occasion arise, submit proposals for correcting problematic situations.

8 Facilitation of Investigation

In case of any allegation of violation of any provision of this Pact or payment of commission, the BUYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER and the BIDDER shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

9 Law and Place of Jurisdiction

This pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the BUYER.

10 Other Legal Actions

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.



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11 Validity

11.1 The validity of this Integrity Pact shall be from date of its signing and upto the complete execution of the contract to the satisfaction of both the BUYER and the BIDDER/Seller, including warranty period, whichever is later. In case BIDDER is unsuccessful, this Integrity Pact shall expire after six months from the date of signing of the contract.

11.2 Should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intensions.

12 The Parties hereby sign this Integrity Pact at _____
on_____.

BUYER

Signature
Name of the Officer
Designation

BIDDER

Witness

1

Witness

1

2

2



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(for Private circulation within the company only)

FORMAT NO. 16.11

FORMAT FOR CORRESPONDENCE WITH BIDDERS ON “ Ethics in tendering & other business dealings”

Dear Sir,

Indian Rare Earths Limited, a Government of India undertaking under the administrative control of Department of Atomic Energy is doing its business as per the rules and regulation of the Public Sector Undertaking and other statutory agencies. The business is done in an ethical, rational & impartial manner with good corporate governance.

In our endeavour to be more transparent in our dealings and to support our ideology all **Vendors, Customers and Business Partners** are requested not to provide any gift and / or inducement to any of our employees for securing / being granted favour in dealings with our Company. In assurance of your commitment to the aforesaid, it will be highly appreciated if you fill up, sign and abide by the attached undertakings.

Report of any gifts and / or inducements sought by any employee of the company should be immediately reported to any one of the following:

Chairman & Managing Director Indian Rare Earths Ltd., 1207, V.S. Marg, Prabhadevi Mumbai 400 028. Ph: 022-24225778 Email:cmd@irel.co.in	Chief Vigilance Officer Indian Rare Earths Ltd., 1207, V.S. Marg, Prabhadevi Mumbai 400 028 Ph:022-24221068 Email:cvo@co.gov.in
--	--

We assure you that complaints if any made by you on the subject will be kept confidential and fair investigation will be conducted and appropriate action will be taken. Similarly, we expect your commitment to the undertaking and its violation will have consequences as per prevailing rule of the Company.

Thanking you,

For IREL (India) Limited

Name -----
Designation -----

Date



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FORMAT FOR UNDERTAKING TO BE SUBMITTED BY BIDDERS FOR ADOPTING ETHICAL PRACTICES

Date:

To,

M/s IREL (India) Ltd.,
1207, V.S. Marg, Prabhadevi
Mumbai 400 028.

I / We am / are a Vendor / Customer of Indian Rare Earths Limited (now onwards to be referred as Company).

I / We agree and undertake:

Not to provide any gift and / or inducement to any employee of the Company in connection with securing / being granted favour (s) in my / our dealings with the Corporate office of the company and / or its any field units namely MK, Chavara, OSCOM, RED & IRERC.

To immediately report any gift and / or inducement sought by any employee of the Company granting favour(s) to me / us in my / our dealings with the Company and / or its field units.

Signature.....

Name.....

Title.....

Name of the Company and Address (with Seal).....



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(for Private circulation within the company only)

Format No. 16.12

SECRECY AGREEMENT

THIS AGREEMENT, made and entered into this _____th day of _____, 20- - by and between IREL (India) Limited, a company incorporated under Indian Companies Act having its registered office at Plot No.1207, , Opp. to Siddhivinayak Temple, Veer Savarkar Marg, Prabhadevi, Mumbai – 400 028, India (hereinafter called "IREL") on one part and _____, a company duly incorporated under with its registered office (hereinafter called _____) includes its successors and permitted assigns, on the other part.

WITNESSETH :

WHEREAS:

- A. IREL intends to purchase _____ from _____ (Name of the company).
- B. _____ (Name of the company) intends to produce _____ at their project in _____ (Name of the place) and intend to sell the same to IREL.
- C. The parties, therefore, intend to enter into an MoU and subsequently an agreement for the sale and purchase of _____.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

1. The term "Confidential Information" means:
 - (1) All details supplied by IREL/ (Name of the company) on technical, commercial and other information and data on the Process.
 - (2) All details supplied by IREL/ (Name of the company) on technical, commercial and other information and data relating to the products.
2. Each party hereto shall keep secret and confidential any and all Confidential information it receives from any other party or parties hereto under this Agreement and shall not use such Confidential Information for any purposes except for the said tender purpose hereunder. The obligations under this Article shall not apply to any information or data that:
 - (i) at the time of its disclosure hereunder is in the public domain,
 - (ii) after disclosure hereunder becomes part of the public domain by publication or otherwise through no fault of the party to whom such information or data is disclosed hereunder ("Receiving party") (but only after it is published or otherwise becomes part of the public domain),
 - (iii) the Receiving Party can show in its possession at the time of disclosure hereunder and which the Receiving party, without breach or any obligation is free to disclose to others, or
 - (iv) was received by the Receiving Party after the time of disclosure by a party hereto ("Disclosing Party") hereunder from a third party who did not acquire it, directly or indirectly, from the Disclosing Party under an obligation of confidence and which the Receiving party, without breach of any obligation, is free to disclose to others.

For the purpose of this Article 2, information or data which is specific, e.g., those on operating conditions or equipment, shall not be deemed to be within the



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foregoing exceptions merely because it is embraced by general information or data in the public domain or in the possession of Receiving Party. In addition, any combination of features shall not be deemed to be within the foregoing exceptions merely because individual features are in the public domain or in the possession of the Receiving Party, but only if the combination itself and its principle of operation are in the public domain or in the possession of the Receiving Party.

3. The Receiving Party shall limit the access to the Confidential Information received hereunder to its directors, officers and employees, who (i) need to have access with such Confidential Information, (ii) have been informed of the confidential nature thereof and (iii) have agreed to undertake the obligations of non-disclosure and non-use of such Confidential Information.
4. Upon request of IREL,(name of the party) shall, free of charge, promptly return to IREL all the Confidential information received from IREL hereunder.
5. Each party hereto shall not, without the other party's prior express written consents, disclose or allow the disclosure of the existence of this Agreement.
6. It is mutually understood and agreed that no license or other rights are granted to any party hereto under this Agreement, by implication or otherwise, for any of the patents or patents applications of any other party hereto or as to any information and data disclosed by any other party or parties hereto under this Agreement.
7. None of the parties may assign its rights or obligations hereunder without the prior written consent of the other parties.
8. The obligation of non-disclosure and non-use of the Confidential information under this Agreement shall remain in effect for five (5) years after the date hereof and shall terminate upon lapse of said five (5) years.
9. This Agreement shall be governed by and construed in accordance with Indian laws.
10. Each party hereto acknowledges and agrees that monetary damages for any breach or threat of breach of this Agreement are inadequate. Each party hereto shall, therefore, be entitled to seek and obtain temporary and injunctive relief for any breach or threat of breach of this Agreement relating to its Confidential Information, in addition to any other remedy.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized representatives on the day and year first above written. The original shall remain with IREL and the duplicate with(name of the party).

1. For _____ Witness:

(Name) 1.
Designation

2.

2. For IREL (India) Ltd. Witness:

(Name) 1.
Designation

2.



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Format No. 16.13

Format 'A'

PROFORMA FOR EXTENSION OF CONTRACT

To

(Name & Address of the Contractor)

Sub: Description as mentioned in the WO/SC Agreement - **Extension of Contract**

WO/SC Agreement No: ----- dated -----

Stipulated/Extended date of completion:

Dear Sir(s),

Reference is drawn to your letter no:_____ dated_____ in connection with the grant of extension of time for completion of the above said supply/ work.

After due consideration of your request, under the provisions of the WO/SC Agreement, the date of completion for the above-mentioned work as stipulated in the above said WO/SC Agreement is extended up to _____ without prejudice to the right of the IREL to recover compensation in accordance with the provision of clause(s) of the said WO/SC Agreement.

Provided that notwithstanding the extension hereby granted, time is and shall still continue to be the essence of the said WO/SC Agreement.

Yours faithfully,

EIC/ OIC



IREL (India) Limited, Corporate Office, Mumbai

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Format 'B'

PROFORMA FOR EXTENSION OF TIME WITHOUT LD

To

(Name & Address of the Contractor)

Sub: Description as mentioned in the WO/SC Agreement - **Extension of Contract**

WO/SC Agreement No:----- dated -----

Stipulated/Extended date of completion:

Dear Sir(s),

Reference is drawn to your letter No:_____ dated _____ in connection with the grant of extension of time for completion of the supply/ work as per the said WO/SC Agreement.

The date of completion for the above mentioned work/ service is/was _____ as stipulated in the WO/SC Agreement dated _____.

After due consideration of your request, the Extension of time for the above mentioned WO/SC Agreement is granted up to and including without levy of Compensation.

Yours faithfully,

I/C(Purchase)



IREL (India) Limited, Corporate Office, Mumbai

Purchase Procedure

(for Private circulation within the company only)

Format 'C'

PROFORMA FOR SHOW CAUSE TO THE AGENCY FOR LD

To

(Name & Address of the Contractor)

Sub: Description as mentioned in the WO/SC Agreement - **Show cause notice for the work**

WO/SC Agreement No.:-----dated -----

Stipulated/Extended date of completion:

Dear Sir(s),

The date of completion as stipulated in the above mentioned WO/SC Agreement was Time for completion of the above mentioned supply/ work was extended vide letter no. dated up to without prejudice to the right of the IREL to recover LD in accordance with the provisions of the said WO/SC Agreement.

The work entrusted to you under the WO/SC Agreement referred above could not be completed within stipulated/extended date of completion due to your wrongful delay or suspension of supply/ work or slow progress of supply/ work or because of reasons within your control. The supply/ work has finally been completed on.....

Therefore, under the provisions of the above WO/SC Agreement you have rendered yourself liable to pay compensation. You are hereby required to show cause within 15 days as to why compensation should not be imposed upon you under the provision of said WO/SC Agreement for delayed completion of the supply/ work.

Please note that in case no cause is shown by you within the stipulated period or the cause shown is not satisfactory, actions shall be taken against you as contemplated under relevant clauses of the said WO/SC Agreement without further notice.

Yours faithfully,

I/C(Purchase)



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Purchase Procedure

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Format 'D'

PROFORMA FOR EXTENSION OF TIME WITH LD

To _____

(Name & Address of the Contractor)

Subject: Description as mentioned in the WO/SC Agreement - **Intimation regarding levy of compensation.**

PO/ WO/ Agreement No.: ----- dated -----

Stipulated/Extended date of completion:

Dear Sir(s),

The date of completion for the above mentioned supply/ work was _____ as stipulated in the above mentioned WO/SC Agreement.

Extension of time for completion of the above mentioned supply/ work was extended vide letter no____ dated ____ without prejudice to the right of the IREL to recover compensation in accordance with the provisions of the said WO/SC Agreement.

The work has finally been completed/determined (strike out whichever not applicable) on You were issued show cause vide this office letter no_____ to explain why compensation should not be imposed upon you under the provisions of the said WO/SC Agreement for delayed completion of the work.

Your reply vide letter no: _____ received in response to show cause has been considered carefully. (Reason for not agreeing with hindrances as claimed by the contractor and total delay on part of contractor to be indicated in brief).

After taking into consideration all the facts & circumstances it is concluded that you are solely responsible for delay of _____ months _____ days.

As per the stipulations of the WO/SC Agreement, you are liable to pay Rs._____ as and by way of compensation. The said amount of compensation is hereby levied on you for the period of _____ and at the rates of _____ as determined on the tendered amount of the supply/ work shown in the PO/ WO/ Agreement and you are hereby called upon to pay the same to the IREL within 15 days of receipt of this letter failing which the said amount shall be adjusted or set-off against any sum payable to you under this or any other contract with the IREL.

Yours faithfully,

I/C(Purchase)



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Format No. 16.14

Format for Extension of Delivery Period/Performance Notice

(Refer Para 11.7.3, 11.7.5 and 11.7.7)

Registered A/D

IREL (India) Limited

Extension of Delivery Period/ Performance Notice for Supplies

To

M/s (name and address of firm)

Sub: Contract No ----- dated ----- for the supply of -----

Ref: Your letter no. ----- dated: -----

Dear Sir,

1. You have failed to deliver {the (fill in qty.) of Stores/ the entire quantity of Stores} within the contract delivery period [as last extended up to] (fill in date). In your letter under reply you have asked for [further] extension of time for delivery. In view of the circumstances stated in your said letter, the time for delivery is extended from (fill in date) to (fill in date)
2. Please note that notwithstanding the grant of this extension in terms of Clause (fill in clause number) of the subject contract an amount equivalent to.....% (.....per cent) of the delivered price of the delayed goods for each week of delay or part thereof (subject to the ceiling as provided in the aforesaid clause) beyond the original contract delivery date/the last unconditionally re-fixed delivery date (as & if applicable), viz., (fill in date) will be recovered from you as liquidated damages. You may now tender the Stores for inspection [balance of the Stores] in terms of this letter. Stores if any already tendered by you for inspection but not inspected will be now inspected accordingly.
3. You are also required to extend the validity period of the performance guarantee for the subject contract from (fill in present validity date) to (fill in required extended date) within 15 (fifteen) days of issue of this amendment letter.
4. The above extension of delivery date will also be subject to the following Denial Clause.
 - 1) That no increases in price on account of any statutory increase in or fresh Imposition of customs duty, GST or on account of any other taxes/duty, including custom duty), leviable in respect of the Stores specified in the said contract which takes place after (insert the original delivery date) shall be admissible on



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such of the said Stores, as are delivered after the said date; and.

- 2) That notwithstanding any stipulation in the contract for increase in price on any other ground including foreign exchange rate variation, no such increase which takes place after (insert the original delivery date) shall be admissible on such of the said Stores as are delivered after the said date.
- 3) But nevertheless, the purchaser shall be entitled to the benefit of any decrease in price on account of reduction in or remission of customs duty, GST or on account of any other Tax or duty or on any other ground as stipulated in the price variation clause or foreign exchange rate variation which takes place after the expiry of the above mentioned date namely (insert the original delivery date).
5. All other terms and conditions of the contract remain unaltered. This is without any prejudice to purchasers' rights under the terms and conditions of the subject contract.
6. Please intimate your unconditional acceptance of this amendment letter within 10 (ten) days of the issue of this letter failing which the contract will be cancelled at your risk and expense without any further reference to you.

Yours faithfully,
(Authorised Officer)

Note: Select one option within { } brackets; delete portion within [] brackets, if not applicable; fill in () brackets. Brackets and this note are not to be typed.

Substitute following first para instead of first para in format above, for issuing a performance notice.

1. You have failed to deliver {the (fill in qty.) of Stores/ the entire quantity of Stores} within the contract delivery period [as last extended up to] (fill in date). In spite of the fact that the time of delivery of the goods stipulated in the contract is deemed to be of the essence of the contract, it appears that (fill in the outstanding quantity) are still outstanding even though the date of delivery has expired. Although not bound to do so, the time for delivery is extended from (fill in date) to (fill in date) and you are requested to note that in the event of your failure to deliver the goods within the delivery period as hereby extended, the contract shall be cancelled for the outstanding goods at your risk and cost.



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Format No. 16.15

Format for Correspondence with Supplier after expiry of Delivery Date

(Ref Para 9.8)

Registered Acknowledgement Due

To _____

M/s _____

Sub : Contract No..... dated
for supply of

Dear Sirs,

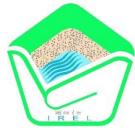
The date of delivery of the subject contract expired on _____. As supplies against the same have not yet been completed, there is a breach of the contract on your part. As information is required regarding past supplies against this contract, you are requested to send the particulars regarding the quantity supplied so far and, also, the quantity inspected so far, but not yet dispatched and the quantity ready but so far not tendered for inspection before the expiry of the date of delivery.

The above information is required for the purpose of verification of our records and is not intended to keep the contract alive and does not waive the breach. This is without prejudice to the rights and remedies available to the purchaser in terms of the contract and law applicable in this behalf.

Yours faithfully,

(-----)

for.....



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Format No. 16.16

Invitation and Declaration for Negotiations

(Refer Para 9.3.6)

Invitation for Negotiations

(On letterhead of the procuring entity)

Registered A/D

No: _____

Dt: _____

To

M/s _____

Sub: **Tender No ----- opened on ----- for the supply of -----**

Dear Sir,

The rates quoted in your tender are considered high. You are, therefore, requested to come for negotiations of rates, on..... (date) at..... (time) at..... (venue).

You should, however, come for negotiations only in case you are prepared to furnish before such date the declaration appended herewith.

A copy of the form in which you may submit your revised offer after negotiations is enclosed.

Yours faithfully,

(Authorised Officer)

Enclosure:

- i) Form of Declaration
 - ii) Form of Revised Offer
- *****

FORM OF DECLARATION

(To be signed and submitted before start of negotiations)

(On company letterhead)

No: _____

Dt: _____

To _____

Sub: **Tender No ----- Opened on ----- for the supply of -----**

Ref: Your invitation for negotiations No: dated:

Dear Sir,

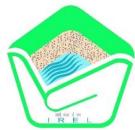
I _____ duly authorised on behalf of M/s. _____ do declare that in the event of failure of the contemplated negotiations relating to Tender No. _____ opened on _____ my original tender shall remain open for acceptance on its original terms and conditions.

Yours faithfully,

Date: _____

Place: _____

Signatures of bidder, or officer
authorised to sign the bid documents
on behalf of the bidder



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(for Private circulation within the company only)

Format No. 16.17

Format of Revised Offer in Negotiations

Revised Offer in Negotiations

(On company letterhead)

From.....

Full address.....

To

Sir,

Sub: **Tender No ----- opened on ----- for the supply of -----**

Ref: Your invitation for negotiations no: dated:

- 1.0 On further discussions with your representatives onin response to your letter no dated We are not prepared to reduce the rates already quoted in the original tender, which will remain valid up to.....
Or
1.0 I / we reduce my/our rates as shown in the enclosed schedule of items.
2.0 I / we am/are aware that the provisions of the original bidding document remain valid and binding on me.
3.0 I/we undertake to execute the contract as per following Schedule.....
4.0 I/we agree to abide by this tender on the revised rate quoted by me/us, it is open for acceptance for a period of 120/180 (one hundred twenty to one hundred eighty) days from this date, i. e., up to and in default of my/our doing so, I/we will forfeit the earnest money deposited with the original tender/ attached herewith. Eligibility as valid tenderers shall be deemed to be the consideration for the said forfeiture.

Yours faithfully,

Signatures of bidder or officer authorised to sign the bid documents on behalf of the bidder



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Annexure-I

GUIDELINES FOR PROCUREMENT FROM MSEs

- 1.0 Procurement from Micro, Small and Medium Enterprises (MSEs):**
The Procurement Policy for Micro and Small Enterprises, 2012 [as amended time to time] has been notified by the Government in exercise of the powers conferred in Section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006.
- In line with Government Policy, the prevailing guidelines in this regard as issued from time to time is to be strictly adhered to.
- 2.0** As per the Government notified Public Procurement Policy for Micro & Small Enterprises (MSE), it is mandated that 25% of procurement of annual requirement of goods and services will be sourced from the Micro and Small Enterprises.
- 3.0** In tender, participating Micro and Small Enterprises (MSE) quoting price within price band of L1+15 (fifteen) per cent shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSE shall be allowed to supply up to 25(twenty-five) per cent of total tendered value. The 25(twenty-five) per cent quantity is to be distributed proportionately among these bidders, in case there are more than one MSEs within such price band.
- 4.0** Within this 25% (Twenty Five Percent) quantity, a purchase preference of four (4) per cent is reserved for MSEs owned by Scheduled Caste (SC)/ Scheduled Tribe (ST) entrepreneurs and three (3) percent is reserved for MSEs owned by women entrepreneur (if they participate in the tender process and match the L1 price). However, in event of failure of such MSEs to participate in tender process or meet tender requirements and L1 price, four percent sub-target for procurement earmarked for MSEs owned by SC/ST entrepreneurs and three (3) percent earmarked to women entrepreneur will be met from other MSEs.
- 5.0** MSEs would be treated as owned by SC/ ST entrepreneurs:
a) In case of proprietary MSE, proprietor(s) shall be SC /ST;
b) In case of partnership MSE, the SC/ ST partners shall be holding at least 51% (fifty-one percent) shares in the unit;
c) In case of Private Limited Companies, at least 51% (fifty-one percent) share shall be held by SC/ ST promoters.
- 6.0** If subcontract is given to MSEs, it will be considered as procurement from MSEs.



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Purchase Procedure

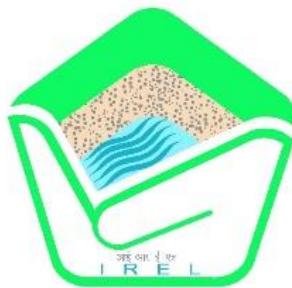
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- 7.0 In case of tender item cannot be split or divided, etc. the MSE quoting a price within the band L1+15% may be awarded for full/ complete supply of total tendered value to MSE, considering the spirit of the Policy for enhancing Govt. Procurement from MSEs.
- 8.0 Where any Aggregator has been appointed by the Ministry of MSME, themselves quote on behalf of some MSE units, such offers will be considered as offers from MSE units and all such facilities would be extended to these also.
- 9.0 Traders/ distributors/ sole agent/ Works Contract are excluded from the purview of the policy.
- 10.0 Each of the Units shall set an annual goal for procurement from the MSE sector at the beginning of the year, with the objective of achieving an overall procurement goal of minimum 25 percent of the total annual purchases of the products or services produced or rendered by MSEs. Central Govt has prescribed list of items reserved for procurement from MSE which may be referred.
- 11.0 To reduce transaction cost of doing business, Micro and Small Enterprises is to be facilitated by providing them tender sets free of cost, exempting Micro and Small Enterprises from payment of Earnest Money (EMD), adopting e-procurement to bring in transparency in tendering process. However, exemption from paying Performance Security / Performance Bank Guarantee is not covered under the Public Procurement policy.
- 12.0 MSEs may also be given relaxation in prior turnover and prior experience criteria during the tender process, subject to meeting of quality and technical specifications. However, there may be circumstances (like procurement of items related to public safety, health, critical security operations and equipment, etc.) where the vendor having prior experience may be preferred rather than giving orders to new entities:
- 13.0 Payment to the MSME vendors is to be made within 30 days from the date of receipt and acceptance of goods/ services.
- 14.0 In case Bidder is a Micro or Small Enterprise under the Micro, Small and Medium Enterprises Development Act, 2006, the Bidder is to be asked for submitting the following along with tender:
- 15.0 Ministry of MSME has notified criteria for classifying the enterprises as Micro, Small and Medium Enterprises as combination of investment in Plant & machinery or Equipment and Turnover. Mandatory registration in Udyam Registration Portal for all new and existing MSME has been prescribed. Accordingly, Micro and Small Enterprises (MSEs) shall be required to submit Udyam Registration Certificate for availing benefit.



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**GENERAL CONDITIONS OF
CONTRACT
FOR PROCUREMENT OF GOODS
IREL (India) Limited**





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1. **Definitions** In this document, General Conditions of Contract (GCC-Goods), the following terms shall have the following respective meanings:
 - 1.0 **BIDDER** : Designates the individual or legal entity which has made a proposal, a tender or a bid with the aim of concluding a Contract with the PURCHASER.
 - 1.1 **CONSULTANT** *[if engaged]* shall mean M/s.having its registered office at..... The term consultant includes successors, assigns of M/s.
 - 1.2 **CONTRACT** shall mean Purchase Order/ Service Contracts and all attached exhibits and documents referred to therein and all terms and conditions thereof together with any subsequent modifications thereto.
 - 1.3 **CONTRACT PRICE** shall mean the price payable to the Seller under the Contract for the full and proper performance of his contractual obligations.
 - 1.4 **COMPLETION DATE** shall mean the date on which the goods are successfully supplied/commissioned by the Seller and handed over to the PURCHASER.
 - 1.5 **COMMERCIAL OPERATION** shall mean the condition of the operation in which the complete equipment covered under the Contract is officially declared by the PURCHASER to be available for continuous operation at different loads up to and including rated capacity.
 - 1.6 **DELIVERY** terms shall be interpreted as per INCO TERMS 2000 in case of Contract with a foreign Bidder and as the Goods-in-ward date in the case of a contract with an Indian Bidder.
 - 1.7 **DRAWINGS** shall mean and include Engineering drawings, sketches showing plans, sections and elevations in relation to the Contract together with modifications and/or revisions thereto.
 - 1.8 **OFFICER-IN-CHARGE(OIC)/ENGINEER-IN-CHARGE(EIC):**
OFFICER-IN-CHARGE(OIC)/ Engineer-in-Charge of the Project SITE shall mean the person designated from time to time by PURCHASER/CONSULTANT at SITE and shall include those who are expressly authorized by him/her to act for and on his/her behalf for operation of this CONTRACT.

The Officer/ Engineer-in-charge shall have authority for
 - General supervision, Follow up of supply and direction of the work
 - direction to stop the work whenever such stoppage may be necessary to ensure the proper execution of the Contract
 - to reject all works and materials which do not conform to the contractThe OIC/EIC shall have neither any authority to relieve the contractor of any of his duties / obligations under the contract nor ordering any work involving delay or any extra payment by IREL or making any variation of or in the work except otherwise expressly provided here-in-under or elsewhere in the contract.
 - 1.9 **FINAL ACCEPTANCE** shall mean the PURCHASER's written acceptance of the Works performed under the Contract after successful completion of performance and guarantee test.



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- 1.10 GOODS shall mean articles, materials, equipment, design and drawings, data and other property to be supplied by Seller to complete the contract.
- 1.11 INSPECTOR shall mean any person or outside Agency nominated by PURCHASER/CONSULTANT through CONSULTANT to inspect equipment, stagewise as well as final, before dispatch, at SELLER's works and on receipt at SITE as per terms of the CONTRACT.
- 1.12 INITIAL OPERATION shall mean the first integral operation of the complete equipment covered under the Contract with sub-systems and supporting equipment in service or available for service.
- 1.13 PURCHASER shall mean IREL (India) Limited (IREL) having its registered office at Plot No. 1207, Veer Savarkar Marg, Near Siddhi Vinayak Temple, Prabhadevi, Mumbai -400028. The term PURCHASER includes successors, assigns of IREL.
- 1.14 PERFORMANCE AND GUARANTEE TESTS shall mean all operational checks and tests required to determine and demonstrate capacity, efficiency and operating characteristics as specified in the Contract documents.
- 1.15 PROJECT designates the aggregate of the Goods and/or Services to be provided by one or more Contractors.
- 1.16 Quantities – Bills of quantities designate the quantity calculations to be taken into account when these calculations are made from detailed or construction drawings, or from work actually performed, and presented according to a jointly agreed breakdown of the Goods and/or Services.
- 1.17 SELLER shall mean the person, firm or company with whom PURCHASE ORDER/ SERVICE CONTRACT is placed/ entered into by PURCHASER for supply of equipment, materials and services. The term Seller includes its successors and assigns.
- 1.18 SERVICE shall mean erection, installation, testing, commissioning, provision of technical assistance, training and other such obligations of the Seller covered under the Contract.
- 1.19 SITE designates the land and/or any other premises on, under, in or across which the Goods and/or Services have to be supplied, erected, assembled, adjusted, arranged and/or commissioned.
- 1.20 SPECIFICATIONS shall mean and include schedules, details, description, statement of technical data, performance characteristics, standards (Indian as well as International) as applicable and specified in the Contract.
- 1.21 SUB-CONTRACT shall mean order placed by the Seller, for any portion of the contracted work, after necessary consent and approval of PURCHASER.
- 1.22 SUB-CONTRACTOR shall mean the person named in the CONTRACT for any part of the work or any person to whom any part of the CONTRACT has been sub-let by the SELLER with the consent in writing of the CONSULTANT/PURCHASER and will include the legal representatives, successors, and permitted assigns of such person.
- 1.23 START-UP shall mean the time period required to bring the equipments covered under the Contract from an inactive condition, when construction is essentially complete to the state of readiness for trial operation. The start-up period shall include preliminary



inspection and check out of equipment and supporting subsystems, initial operation of the complete equipments covered under the Contract to obtain necessary pre-trial operation data, perform calibration and corrective action, shutdown inspection and adjustment prior to the trial operation period.

1.24 TESTS shall mean such process or processes to be carried out by the Seller as are prescribed in the Contract or considered necessary by PURCHASER or his representative in order to ascertain quality, workmanship, performance and efficiency of equipment or part thereof.

1.25 TESTS ON COMPLETION shall mean such tests as prescribed in the Contract to be performed by the Seller before the Works are taken over by the PURCHASER.

2.0 SELLER TO INFORM:

The Seller shall be deemed to have carefully examined all contract documents to his entire satisfaction. Any lack of information shall not in any way relieve the Seller of his responsibility to fulfil his obligation under the Contract.

3.0 CONFLICT AND INTERPRETATION OF DOCUMENTS:

3.1 Words imparting the singular only also include the plural and vice versa where the context requires so; words imparting persons include firms or corporations and vice versa where the context requires.

3.2 Word imparting masculine gender includes the feminine gender and vice versa where the context requires so.

3.3 The several documents forming the contract are to be taken as mutually explanatory of one another.

3.4 In case conflicting statements or directives occur among the contract documents, it shall be the responsibility of the successful bidder to notify IREL, with a copy sent concurrently to the OIC/EIC, immediately in writing and obtain instructions from IREL to eliminate the conflict.

3.5 The successful bidder shall notify IREL, with a copy sent concurrently to the EIC/OIC, promptly of any discrepancies, omissions or doubts it may have, regarding drawings, specifications or other documents. Noted or calculated dimensions shall always be followed

3.6 In the event of conflict between various documents forming the contract, the relevant terms and conditions of the purchase order shall prevail over those of all such other documents forming the contract and binding on the contractor and IREL.

3.7 In case of any conflict between the General Conditions of contract and the Special Conditions of the contract, the Special Conditions of contract shall prevail.

4.0 Country of Origin:

For purposes of this Clause "Origin" means the place where the Goods were produced, or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

**5.0 SCOPE OF CONTRACT:**

- 5.1 Scope of the CONTRACT shall be as defined in the PURCHASE ORDER/CONTRACT specifications, drawings and Annexure thereto.
- 5.2 Completeness of the EQUIPMENT shall be the responsibility of the SELLER. Any equipment, fittings and accessories which may not be specifically mentioned in the specifications or drawings, but which are usual or necessary for the satisfactory functioning of the equipment (successful operation and functioning of the EQUIPMENT being SELLER's responsibility) shall be provided by SELLER without any extra cost.
- 5.3 The SELLER shall follow the best modern practices in the manufacture of high grade EQUIPMENT notwithstanding any omission in the specifications. The true intent and meaning of these documents is that SELLER shall in all respects, design, engineer, manufacture and supply the equipment in a thorough workmanlike manner and supply the same in prescribed time to the entire satisfaction of PURCHASER.
- 5.4 The SELLER shall furnish minimum three (03) copies in English language of Technical documents, final drawings, preservation instructions, operation and maintenance manuals, test certificates, spare parts catalogues for all equipment to the PURCHASER.
- 5.5 The documents once submitted by the SELLER shall be firm and final and not subject to subsequent changes. The SELLER shall be responsible for any loss to the PURCHASER/CONSULTANT consequent to furnishing of incorrect data/drawings.
- 5.6 All dimensions and weight should be in metric system.
- 5.7 All equipment to be supplied and work to be carried out under the CONTRACT shall conform to and comply with the provisions of relevant regulations/Acts(State Government or Central Government) as may be applicable to the type of equipment/work carried out and necessary certificates shall be furnished.
- 5.8 The Seller shall provide cross sectional drawings, wherever applicable, to identify the spare part numbers and their location. The size of bearings, their make and number shall be furnished by the SELLER.
- 5.9 Specifications, design and drawings issued to the SELLER along with NIT/RFQ and CONTRACT are not sold or given but loaned. These remain property of PURCHASER/CONSULTANT or its assigns and are subject to recall by PURCHASER/CONSULTANT. The SELLER and his employees shall not make use of the drawings, specifications and technical information for any purpose at any time except for manufacture against the CONTRACT and shall not disclose the same to any person, firm or corporate body, without written permission of PURCHASER/CONSULTANT. All such details shall be kept confidential.
- 5.10 SELLER shall pack, protect, mark and arrange for despatch of EQUIPMENT as per instructions given in the CONTRACT.

6.0 STANDARDS

The GOODS supplied under the CONTRACT shall conform to the standards mentioned in the Technical Specifications, or such other standards which ensure equal or higher quality, and when no applicable standard is mentioned, to the authoritative standard appropriate to the GOODS' country of origin and such standards shall be the latest issued by the concerned institution.

**7.0 Instructions, Direction & Correspondence**

7.1

The materials described in the CONTRACT are to be supplied according to the standards, data sheets, tables, specifications and drawings attached thereto and/or enclosed with the CONTRACT, itself and according to all conditions, both general and specific enclosed with the contract, unless any or all of them have been modified or cancelled in writing as a whole or in part.

- a. All instructions and orders to SELLER shall, excepting what is herein provided, be given by PURCHASER/CONSULTANT.
- b. All the work shall be carried out under the direction of and to the satisfaction of PURCHASER/CONSULTANT.
- c. All communications including technical/commercial clarifications and/or comments shall be addressed to CONSULTANT in quintuplicate with a copy to PURCHASER and shall always bear reference to the CONTRACT.
- d. Invoices for payment against CONTRACT shall be addressed to PURCHASER. The CONTRACT number shall be shown on all invoices, communications, packing lists, containers and bills of lading, etc.
- e. Invoice must contain seller's GST Registration number, PAN, Bank detail of supplier, GST Registration number of IREL Factory/ Office, HSN Code for products being supplied. Supplier must submit e-way bill, e-invoice from GSTM Portal.

7.2 Contract Obligations:

7.2.1

If after award of the contract, the Seller does not acknowledge the receipt of award or fails to furnish the performance guarantee within the prescribed time limit, the PURCHASER reserves the right to cancel the contract and apply all remedies available to him under the terms and conditions of this contract.

7.2.2

Once a contract is confirmed and signed, the terms and conditions contained therein shall take precedence over the Seller's bid and all previous correspondence.

8.0 Modification in Contract:

8.1

All modifications leading to changes in the CONTRACT with respect to technical and/or commercial aspects including terms of delivery, shall be considered valid only when accepted in writing by PURCHASER/CONSULTANT by issuing amendment to the CONTRACT. Issuance of acceptance or otherwise in such cases shall not be any ground for extension of agreed delivery date and also shall not affect the performance of contract in any manner except to the extent mutually agreed through a modification of contract.

8.2

PURCHASER/CONSULTANT shall not be bound by any printed conditions or provisions in the SELLER's Bid Forms or acknowledgment of CONTRACT, invoices, packing list and other documents which purport to impose any conditions at variance with or be supplemental to CONTRACT.

9.0 Patent Rights, Liability & Compliance of Regulations:

9.1

SELLER hereby warrants that the use or sale of the materials delivered hereunder will not infringe claims of any patent covering such material and SELLER agrees to be responsible for and to defend at his sole expense all suits and proceedings against PURCHASER based on any such alleged patent infringement and to pay all costs, expenses and damages which PURCHASER and/or CONSULTANT may have to pay or incur by reason of any such suit or proceedings.

9.2

The SELLER shall indemnify the PURCHASER against all third party claims of infringement of patent, trade mark or industrial design rights arising from use of the GOODS or any part thereof in the PURCHASER's country.



- 9.3 SELLER shall also protect and fully indemnify the PURCHASER from any claims from SELLER'S workmen/employees or their heirs, dependants, representatives, etc. or from any other person/persons or bodies/companies etc. for any acts of commissions or omission while executing the CONTRACT.
- 9.4 SELLER shall be responsible for compliance with all requirements under the laws and shall protect and indemnify completely the PURCHASER from any claims/penalties arising out of any infringements.
- 9.5 PURCHASER will promptly notify the SELLER in writing of any such claim, suit, action or proceeding coming to its attention, giving authority and all available information and assistance for the SELLER's defence of the same. If at any time the installation of the plant or any part thereof, or the use thereof in India for the purpose for which it is furnished or the sale of products produced therewith, is prevented or enjoyed because of patent infringement or claimed infringement, the SELLER shall promptly at his own expense, either procure for PURCHASER the rights to use and continue to use such plant or replace the same at his own expense with equally efficient non-infringing plant satisfactory under all requirements of the contract, so that the operation of PURCHASER's plant will not be unduly delayed or interrupted. If shipment of the plant, or any part thereof is prevented by attachment, injunction or otherwise, or in the course of transit from the SELLER's factory or other point of origin to the site of PURCHASER, as a result of any claim of patent infringement the SELLER shall, at his own cost and expense, promptly furnish and post the necessary bond or take such other steps as may be necessary to enable shipment to be made without delay. PURCHASER will have the right to retain counsel of its own choice to collaborate in the defence of any such claim, suit action or proceeding.

10.0 Inspection, Testing & Expediting

- 10.1 The PURCHASER or its representative shall have the right to inspect and/or to test the GOODS to confirm their conformity to the CONTRACT specifications. The special conditions of CONTRACT and/or the Technical Specifications shall specify what inspections and tests the PURCHASER requires and where they are to be conducted. The PURCHASER shall notify the SELLER in writing the identity of any representative(s) retained for these purposes.
- 10.2 The inspections and tests may be conducted on the premises of the SELLER or his sub-contractor(s), at point of DELIVERY and/or at the GOODS' final destination, When conducted on the premises of the SELLER or his sub-contractor (s), all reasonable facilities and assistance including access to the drawings and production data shall be furnished to the inspectors at no charge to the PURCHASER.
- 10.3 Should any inspected or tested GOODS fail to conform to the specifications, the PURCHASER may reject them and the SELLER shall either replace the rejected GOODS or make all alterations necessary to meet Specifications' requirements, free of cost to the PURCHASER.
- 10.4 The PURCHASER's right to inspect, test and where necessary reject the GOODS after the GOODS' arrival in the PURCHASER's country shall in no way be limited or waived by reason of the GOODS having previously been inspected, tested and passed by the PURCHASER, or their representative prior to the GOODS shipment from the country of origin.



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- 10.5 The INSPECTOR shall follow the progress of the manufacture of the GOODS under the CONTRACT to ensure that the requirements outlined in the CONTRACT are not being deviated with respect to schedule and quality.
- 10.6 SELLER shall allow the INSPECTOR to visit, during working hours, the workshops relevant for execution of the CONTRACT during the entire period of CONTRACT validity.
- 10.7 In order to enable PURCHASER's representatives to carryout the inspection in time, SELLER shall notify PURCHASER 15 days before assembly, testing and packing of main EQUIPMENT. If requested, SELLER shall assist PURCHASER's representatives in getting visas in the shortest possible time (applicable only in case of foreign order).
- 10.8 SELLER shall place at the disposal of the INSPECTOR, free of charge, all tools, instruments, and other apparatus necessary for the inspection and/or testing of the GOODS. The INSPECTOR is entitled to prohibit the use and dispatch of GOODS and/or materials which have failed to comply with the characteristics required for the GOODS during tests and inspections.
- 10.9 SELLER shall advise in writing of any delay in the inspection program at the earliest, describing in detail the reasons for delay and the proposed corrective action.
- 10.10 ALL TESTS and trials in general, including those to be carried out for materials not manufactured by SELLER shall be witnessed by the INSPECTOR. Therefore, SELLER shall confirm to PURCHASER by fax or e-mail about the exact date of inspection with at least 30 days notice. SELLER shall specify the GOODS and quantities ready for testing and indicate whether a preliminary or final test is to be carried out.
- 10.11 If on receipt of this notice, should PURCHASER waive the right to witness the test, timely information will be given accordingly.
- 10.12 Any and all expenses incurred in connection with tests, preparation of reports and analysis made by qualified laboratories, necessary technical documents, testing documents and drawings shall be at SELLER's cost. The technical documents shall include the reference and numbers of the standards used in the construction and, wherever deemed practical by the INSPECTOR, copy of such standards.
- 10.13 Nothing in Article-10 shall in any way release the SELLER from any warranty or other obligations under this CONTRACT.
- 10.14 Arrangements for all inspections required by Indian Statutory Authorities and as specified in technical specifications shall be made by SELLER.
- 10.15 **Inspection & Rejection of Materials by consignees:**
When materials are rejected by the consignee, the supplier shall be intimated with the details of such rejected materials, as well as the reasons for their rejection, also giving location where such materials are lying at the risk and cost of the supplier. The supplier will be called upon either to remove the materials or to give instructions as to their disposal within 14 days and in the case of dangerous, infected and perishable materials within 48 hours, failing which the consignee will either return the materials to the SELLER freight to pay or otherwise dispose them off at the SELLER's risk and cost. The PURCHASER shall also be entitled to recover handling and storage charges for the period, during which the rejected materials are not removed @ 5% of the value of materials for each month or part of a month till the rejected materials are finally disposed off.



11.0 Time Schedule & Progress Reporting

- 11.1 Together with the Contract confirmation, SELLER shall submit to PURCHASER, his time schedule regarding the documentation, manufacture, testing, supply, erection and commissioning of the GOODS.
- 11.2 PURCHASER's/CONSULTANT's representatives shall have the right to inspect SELLER's premises with a view to evaluating the actual progress of work on the basis of SELLER's time schedule documentation.
- 11.3 Irrespective of such inspection, SELLER shall advise PURCHASER at the earliest possible date of any anticipated delay in the progress.
- 11.4 Notwithstanding the above, in case progress on the execution of contract at various stages is not as per phased time schedule and is not satisfactory in the opinion of the PURCHASER/CONSULTANT which shall be conclusive or SELLER shall neglect to execute the CONTRACT with due diligence and expedition or shall contravene the provisions of the CONTRACT, PURCHASER/CONSULTANT may give notice of the same in writing to the SELLER calling upon him to make good the failure, neglect or contravention complained of. Should SELLER fail to comply with such notice within the period considered reasonable by PURCHASER/CONSULTANT, the PURCHASER/CONSULTANT shall have the option and be at liberty to take the CONTRACT wholly or in part out of the SELLER's hand and make alternative arrangements to obtain the requirements and completion of CONTRACT at the SELLER's risk and cost and recover from the SELLER, all extra cost incurred by the PURCHASER on this account. In such event, PURCHASER/ CONSULTANT shall not be responsible for any loss that the SELLER may incur, and SELLER shall not be entitled to any gain. PURCHASER/CONSULTANT shall, in addition, have the right to encash Performance Guarantee in full or part.

12.0 Delivery & Documents:

- 12.1 Delivery of the GOODS shall be made by the SELLER in accordance with terms specified in the CONTRACT, and the goods shall remain at the risk of the SELLER until delivery has been completed.
- 12.2 Delivery shall be deemed to have been made :
- a) In the case of FOB, CFR & CIF Contracts, when the Goods have been put on board the ship, at the specified port of loading and a clean Bill of Lading is obtained. The date of Bill of Lading shall be considered as the delivery date.
 - b) In case of FOT despatch point contract (For Indian bidder), on evidence that the goods have been loaded on the carrier and a negotiable copy of the GOODS receipt obtained, the date of LR/GR shall be considered as the date of delivery.
 - c) In case of FOT site/ FOR Destination (for Indian bidders), on receipt of goods by PURCHASER/Consultant at the designated site(s).
- 12.3 The delivery terms are binding and essential and consequently, no delay is allowed without the written approval of PURCHASER/CONSULTANT. Any request concerning delay will be void unless accepted by PURCHASER/CONSULTANT through a modification to the CONTRACT.
- 12.4 Delivery time shall include time for submission of drawings for approval, incorporation of comments, if any, and final approval of drawings by PURCHASER/CONSULTANT
- 12.5 In the event of delay in delivery, Liquidated Damages as stipulated in Article – 22.1 shall apply.



- 12.6 The documentation, in English Language, shall be delivered in due time, in proper form and in the required number of copies as specified in the contract.
- 12.7 The additional copies of final drawings and instructions will be included in the package of goods, properly enveloped and protected.
- 12.8 The SELLER should comply with the Packing, Marking and Shipping Documentation Specifications enclosed.

13.0 Transit Risk Insurance

13.1 All goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery.

13.2 Where delivery is on FOB or CFR basis, marine insurance shall be the responsibility of the Purchaser.

Insurance Requirements

- Indigenous Bidders: Transit risk insurance from F.O.T. despatch point onwards shall be arranged and borne by PURCHASER. In case of F.O.T site contracts, transit insurance to be borne by SELLER.
- Foreign Bidders: Marine insurance as well as transit insurance in Purchaser's country shall be arranged and borne by PURCHASER.

The SELLER shall ensure that in effecting despatch of materials, the primary responsibility of the carriers for safe movement is always retained so that the PURCHASER's interests are fully safeguarded and are in no way jeopardised. The Seller shall furnish the cost of materials against each equipment.

14.0 Transportation

14.1 Where the SELLER is required under the CONTRACT to deliver the GOODS FOB, transport of the GOODS until delivery, that is, upto and including the point of putting the GOODS on board the export conveyance at the specified port of loading, shall be arranged and paid for by the SELLER and the cost thereof shall be included in the Contract price.

14.2 Where the SELLER is required under the CONTRACT to deliver the GOODS CFR or CIF, transport of the Goods to the port of discharge or such other point in the country of destination as shall be specified in the CONTRACT shall be arranged and paid for by the SELLER and the cost thereof shall be included in the Contract price.

15.0 Incidental Services:

15.1 The Seller may be required to provide any or all of the following services:

15.1.1 Performance or supervision of onsite assembly and/or start-up of the supplied Goods:

15.1.2 Furnishing tools required for assembly and/or maintenance of the supplied Goods:

15.1.3 Performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Seller of any warranty/ guarantee obligations under the Contract.

15.1.4 Training of the Purchaser's personnel at the Seller's plant and/or at Site, in assembly, start-up operation, maintenance and/or repair of the supplied Goods at no extra cost. However, Purchaser will bear boarding, lodging & personal expenses of Trainees.



- 15.2 Prices charged by the Seller for the preceding incidental services, shall not exceed the prevailing rates charged to other parties by the Seller for similar services.
- 15.3 When required, Seller shall depute necessary personnel for supervision and/or erection of the Equipment at site for duration to be specified by Purchaser on mutually agreed terms. Seller's personnel shall be available at Site within seven days for emergency action and twenty one days for medium and long-term assistance, from the date of notice given by Purchaser.
- 15.4 The cost of incidental services shall not be included in the quoted prices. The cost of applicable incidental services should be shown separately in the price schedules whenever asked for in the tender.

16.0 Spare Parts, Maintenance Tools, Lubricants

- 16.1 Seller may be required to provide any or all of the following materials and notification pertaining to spare parts manufactured or distributed by the Seller.
 - 16.1.1 Such spare parts as the Purchaser may opt to purchase from the Seller, provided that his option shall not relieve the Seller of any warranty obligations under the Contract, and
 - 16.1.2 In the event of termination of production of the spare parts:
 - i) Advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements, and
 - ii) Following such termination, furnishing at no cost to the Purchaser, the blueprints, drawings and specifications of the spare parts, if any when, requested.
 - 16.2 Seller shall supply item wise list with value of each item of spare parts and maintenance tools requirements, along with full details of manufacturers/vendors for such spares/maintenance tools for :
 - 16.2.1 The construction, execution and commissioning.
 - 16.2.2 Two years operation and maintenance.
 - 16.3 Spare parts shall be new and of first-class quality as per engineering standards/ codes, free of any defects (even concealed), deficiency in design, materials and workmanship and also shall be completely interchangeable with the corresponding parts.
 - 16.4 Type and sizes of bearings shall be clearly indicated.
 - 16.5 Spare parts shall be packed for long storage under tropical climatic conditions in suitable cases, clearly marked as to intended purpose.
 - 16.6 A list of special tools and gauges required for normal maintenance and special handling and lifting appliances, if any, for the Goods shall be submitted to Purchaser.
 - 16.7 Bidders should note that if they do not comply with Clause 16.2 above, their quotation may be rejected.
- 16.8 Lubricants**
- 16.8.1 Whenever lubricants are required, Seller shall indicate the quantity of lubricants required for the first filling, the frequency of changing, the quantity of lubricants required for the one year's continuous operation and the types of recommended lubricants indicating the commercial name (trade-mark), quality and grade.
 - 16.8.2 If Seller is unable to recommend specific oil, basic recommended characteristics of the lubricants shall be given.
 - 16.8.3 Seller shall indicate various equivalent lubricants available in India.

**17.0 Guarantee**

17.1

All Goods or Materials shall be supplied strictly in accordance with the specifications, drawings, data sheets, other attachments and conditions stated in the Contract. No deviation from such specifications or alterations or of these conditions shall be made without PURCHASER'S /CONSULTANT'S agreement in writing which must be obtained before any work against the order is commenced. All materials supplied by the SELLER pursuant to the Contract (irrespective of whether engineering, design data or other information has been furnished, reviewed or approved by PURCHASER) are guaranteed to be of the best quality of their respective kinds (unless otherwise specifically authorised in writing by PURCHASER) and shall be free from faulty design, workmanship and materials, and to be of sufficient size and capacity and of proper materials so as to fulfil in all respects all operating conditions, if any, specified in the Contract.

If any trouble or defect, originating with the design, material, workmanship or operating characteristics of any materials, arises at any time prior to twelve(12) months from the date of the first commercial operation of the Plant for which the materials supplied under the Contract form a part thereof, or Fifteen (15) months from the date of last shipment whichever period shall first expire, and the SELLER is notified thereof, SELLER shall, at his own expense and as promptly as possible, make such alterations, repairs and replacements as may be necessary to permit the materials to function in accordance with the specifications and to fulfil the foregoing guarantees. PURCHASER may, at his option, remove such defective materials, at SELLER'S expense in which event SELLER shall, without cost to PURCHASER and as promptly as possible, furnish and install proper materials. Repaired or replaced materials shall be similarly guaranteed by the SELLER for a period of no less than twelve (12) months from the date of replacement/repair.

In the event that the materials supplied do not meet the specifications and/or not in accordance with the drawings, data sheets or the terms of the Contract and rectification is required at site, PURCHASER shall notify the SELLER giving full details of differences. The SELLER shall attend the site within seven (7) days of receipt of such notice to meet and agree with representatives of PURCHASER, for taking the action required to correct the deficiency. Should the SELLER fail to attend meeting at Site within the time specified above, PURCHASER shall immediately rectify the work/materials and SELLER shall reimburse PURCHASER all costs and expenses incurred in connection with such trouble or defect.

17.2 PERFORMANCE GUARANTEE OF EQUIPMENT

17.2.1

SELLER shall guarantee that the performance of the EQUIPMENT supplied under the CONTRACT shall be strictly in conformity with the specifications and shall perform the functions specified under the CONTRACT.

17.2.2

If the SELLER fails to prove the guaranteed performance of the EQUIPMENT set forth in the specification, the SELLER shall investigate the causes and carry out necessary rectifications/modifications to achieve the guaranteed performance. In case the SELLER fails to do so within a reasonable period, the SELLER shall replace the EQUIPMENT and prove guaranteed performance of the new equipment without any extra cost to PURCHASER.

17.2.3

If the SELLER fails to prove the guarantee within a reasonable period, PURCHASER/CONSULTANT shall have the option to take over the EQUIPMENT and rectify, if possible, the EQUIPMENT to fulfil the guarantees and/or to make necessary additions to make up the deficiency at Seller's risk and cost. All expenditure incurred by the PURCHASER/ CONSULTANT in this regard shall be to SELLER's account.



18.0 Prices:

Prices charged by the SELLER for Goods delivered and services performed under the CONTRACT shall not, with the exception of any price adjustments authorized by the Contract vary from the prices quoted by the SELLER in his bid. The price indicated in the Purchase Order is firm and not subject to alteration on any account unless specified otherwise in the terms and conditions of Purchase Order. However, in case of delayed delivery, price reduction clause shall apply.

19.0 Subletting and Assignment:

The SELLER shall not without previous consent in writing of the PURCHASER, sublet, transfer or assign the contract or any part thereof or interest therein or benefit or advantage thereof in any manner whatsoever. Provided, nevertheless, that any such consent shall not relieve the SELLER from any obligation, duty or responsibility under the contract.

20.0 Time as Essence of Contract:

The time and date of delivery/completion of the GOODS/SERVICES as stipulated in the Contract shall be deemed to be the essence of the Contract.

21.0 Delays in The Seller's Performance:

If the specified delivery schedule is not adhered to or the progress of manufacture or supply of the items is not satisfactory or is not in accordance with the progress schedule, the PURCHASER has the right to:

- i) hire for period of delay from elsewhere goods which in PURCHASER's opinion will meet the same purpose as the goods which are delayed and SELLER shall be liable without limitation for the hire charges; or
- ii) cancel the CONTRACT in whole or in part without liability for cancellation charges. In that event, PURCHASER may procure from elsewhere goods which PURCHASER's opinion would meet the same purpose as the goods for which CONTRACT is cancelled and SELLER shall be liable without limitations for the difference between the cost of such substitution and the price set forth in the CONTRACT for the goods involved; or
- iii) hire the substitute goods vide (I) above and if the ordered goods continue to remain undelivered thereafter, cancel the order in part or in full vide (ii) above.

21.1 Any un-excusable delay by the SELLER or his subcontractor shall render the SELLER liable, without prejudice to any other terms of the Contract, to any or all of the following sanctions: forfeiture of Contract performance guarantee, imposition of Liquidated Damages for delay in delivery , termination of the contract for default and purchase from another source at the risk and cost of the SELLER.

22.1 Liquidated Damages Schedule for Delayed Delivery

Subject to Article -25, if the SELLER fails to deliver any or all of the GOODS or performance the services within the time period (s) specified in the CONTRACT, the PURCHASER shall, without prejudice to his other remedies under the CONTRACT, deduct from the CONTRACT PRICE, a sum calculated on the basis of the CONTRACT PRICE, including subsequent modifications.

22.1.1 Deductions shall apply as per following formula: A sum equivalent to 0.5 (Half) per cent of the prices of any portion of stores delivered late, for each week or part thereof of delay. The total damages shall not exceed 10 (Ten) per cent of the value of delayed goods. The LD cannot exceed the amount stipulated in the contract.

22.2 In case of delay in delivery on the part of SELLER, the invoice/document value shall be reduced proportionately for the delay and payment shall be released accordingly.



22.3 In the event the invoice value is not reduced proportionately for the delay, the PURCHASER may deduct the amount so payable by SELLER, from any amount falling due to the SELLER or by recovery against the Performance Guarantee. Both seller and PURCHASER agree that the above percentages of price reduction are genuine pre-estimates of the loss/damage which the PURCHASER would have suffered on account of delay/breach on the part of the SELLER and the said amount will be payable on demand without there being any proof of the actual loss/or damage caused by such breach/delay. A decision of the PURCHASER in the matter of applicability of price reduction shall be final and binding.

23.0 Rejections, Removal of Rejected Equipment & Replacement

23.1 Preliminary inspection at SELLER's works by INSPECTOR shall not prejudice PURCHASER's/ CONSULTANT's claim for rejection of the EQUIPMENT on final inspection at SITE or claims under warranty provisions.

23.2 If the EQUIPMENTS are not of specification or fail to perform specified functions or are otherwise not satisfactory the PURCHASER/CONSULTANT shall be entitled to reject the EQUIPMENT/MATERIAL or part thereof and ask free replacement within reasonable time failing which obtain his requirements from elsewhere at SELLER's cost and risk.

23.3 Nothing in this clause shall be deemed to deprive the PURCHASER AND/OR AFFECT ANY rights under the Contract which it may otherwise have in respect of such defects or deficiencies or in any way relieve the SELLER of his obligations under the Contract.

23.4 EQUIPMENT rejected by the PURCHASER/ CONSULTANT shall be removed by the Seller at his cost within 14 days of notice after repaying the amounts received against the SUPPLY. The PURCHASER shall in no way be responsible for any deterioration or damage to the EQUIPMENT under any circumstances whatsoever.

23.5 In case of rejection of EQUIPMENT, PURCHASER shall have the right to recover the amounts, if any, from any of CONTRACTOR'S invoices pending with PURCHASER or by alternative method(s).

24.1 Termination for Default

24.1.1 In the event that the SELLER commits a breach of the provisions of this CONTRACT and/or fails to perform any of its obligations under this CONTRACT including but not limited to failing to deliver any or all of the GOODS within the time period (s) specified in the CONTRACT, the SELLER shall be said to have committed a default of the provisions of this CONTRACT. In the event that such default is not cured by the SELLER within 30 days of a notice issued by the PURCHASER of such default, the PURCHASER shall be entitled to terminate this CONTRACT forthwith. The PURCHASER may, at its sole discretion, extend the time for curing the default by the SELLER beyond 30 days.

The PURCHASER may, without prejudice to any other remedy for breach of CONTRACT, by written notice of default sent to the SELLER, terminate the CONTRACT in whole or in part:

- A) If the SELLER fails to deliver any or all of the GOODS within the time period(s) specified in the CONTRACT; or
- B) If the SELLER fails to perform any other obligation(s) under the CONTRACT, and
- C) If the SELLER, in either of the above circumstances, does not cure his failure within a period of 30 days (or such longer period as the PURCHASER may authorize in writing) after receipt of the default notice from the PURCHASER.



- 24.1.2 In the event the PURCHASER terminates the CONTRACT in whole or in part, pursuant to Article 24.1.1, the PURCHASER may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered and the SELLER shall be liable to the PURCHASER for any excess costs for such similar GOODS. However, the SELLER shall continue performance of the CONTRACT to the extent not terminated.
- 24.1.3 In case of termination of CONTRACT herein set forth (under clause 24) except under conditions of Force Majeure and termination after expiry of contract, the VENDOR shall be blacklisted/ Debarred as per prevailing guidelines.

24.2 Termination for Insolvency

- 24.2.1 The PURCHASER, may at any time, terminate the CONTRACT by giving written notice to the SELLER, without compensation to the SELLER, if the SELLER becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the PURCHASER.

25.0 Force Majeure

- 25.1 Force majeure is an event beyond the control of SELLER and not involving the SELLER's fault or negligence and which is not foreseeable, which prevents the SELLER from fulfilling its obligations under the CONTRACT.

Force Majeure shall mean and be limited to the following:

- a) War/hostilities
- b) Riot or Civil commotion
- c) Earthquake, flood, tempest, lightening or other natural physical disaster.
- d) Restrictions imposed by the Government or other Statutory bodies which prevent or delay the execution of the Contract by the SELLER.

The decision as to whether an event constitutes force majeure shall rest with PURCHASER which shall be final and binding.

- 25.2 If there is delay in performance or other failures by the SELLER to perform obligations under the contract due to event of a Force Majeure, the SELLER shall not be held responsible for such delays/failures.
- 25.3 If a Force Majeure situation arises, the SELLER shall promptly notify the purchaser in writing of such conditions and the cause thereof within fifteen days of occurrence of such event. Unless otherwise directed by the Purchaser in writing, the SELLER shall continue to perform its obligations under the contract as far as reasonable/practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 25.4 If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period of exceeding 120 days, PURCHASER may at its option terminate the contract without any financial repercussion on either side.

26.0 Resolution of Disputes/ Arbitration:

- 26.1 The PURCHASER and the SELLER shall make every effort to resolve amicably by direct informal, good faith negotiations any disagreement or dispute arising between them under or in connection with the contract.



26.2 If, after thirty days from the commencement of such informal negotiations, the PURCHASER and the SELLER have been unable to resolve the disagreement or dispute, the same be referred for resolution to the formal mechanism as specified hereunder.

26.3 **Legal Construction:** The Contract shall in all respects be construed and operated as an Indian Contract and in accordance with Indian Laws as in force for the time being.

26.4 Arbitration:

- a) All disputes and differences of any kind whatsoever arising out of or in connection with the contract or carrying out of the works (whether during the course of works or after their completion and whether before or after termination, abandonment or breach of contract) shall be referred to and settled by the person authorized and notified in writing by PURCHASER who shall state his decision in writing. Such a decision may be in the form of a final certificate or otherwise and shall be made within a period of 30 days from the date of receipt of such reference to them.
- b) If the SELLER is dissatisfied with the decision of such authorized person, then he may within 30 days of receipt of such decision send a written appeal to PURCHASER, represented by the Chairman and Managing Director at the registered office, Mumbai for the same to be referred to Arbitration by a Sole Arbitrator to be appointed by mutual consent and after due approval of CMD, IREL. The Arbitration proceedings shall be conducted as per the provisions of the Arbitration and Conciliation Act, 1996. It is made clear that this Arbitration Clause shall be applicable to any and all disputes and differences between the Parties arising out of and/or relating to this CONTRACT and the Parties shall be bound to refer the same to arbitration in accordance with the procedure contemplated herein.
- c) If the period of 30 days under Clause (b) has expired at any stage, stipulated in the preceding paras without any response from the SELLER before such expiry, the SELLER is deemed to have communicated his satisfaction to the decision of PURCHASER at the relevant stage and all his rights of further appeal or as the case may be and adjudication are deemed to have been waived once and for all.
- d) The seat of arbitration will be at _____ and language thereof shall be English.
- e) Notwithstanding the invocation, commencement and/or pendency any dispute resolution proceedings under this Clause 26.0 including arbitration under Clause 26.4, the SELLER shall continue to be bound by the provisions of the CONTRACT, if not terminated by the EMPLOYER, and shall be obligated to discharge its obligations under the CONTRACT including continuation of the WORK under the CONTRACT.
- f) The Bidder shall not in any way delay or default or cause to delay or default the carrying out of the works by reason of the fact that any matter has been agreed to be referred for dispute resolution under Clause 26.0 including Arbitration under Clause 26.4.

26.5 Jurisdiction

The courts at _____ only shall, subject to Arbitration Clause, have exclusive jurisdiction to deal with and decide any matter arising out of this contract.

27. Taxes & Duties

- 27.1 A foreign Seller shall be entirely responsible for all taxes, stamp duties, licence fees, and other such levies imposed outside the PURCHASER's country.
- 27.2 A domestic Seller shall be entirely responsible for all taxes, duties, licence fees etc. incurred until the delivery of the contracted goods to the PURCHASER. However, GST on



finished products shall be reimbursed by PURCHASER. Seller need to prepare E-Invoice under GST and submit monthly/ quarterly GST Return as per GST Rules. Failure to submit GST Return on time as per GST Rules may result into deduction of GST while processing suppliers' Bill.

- 27.3 Customs duty payable in India for imported goods ordered by PURCHASER on foreign Seller shall be borne and paid by PURCHASER.
- 27.4 Any income tax payable in respect of supervisory services rendered by foreign Seller under the Contract shall be as per the Indian Income Tax Act and shall be borne by SELLER. It is upto the bidder/seller to ascertain the amount of these taxes and to include them in his bid price.

28. Permits & Certificates

- 28.1 SELLER shall procure, at his expense, all necessary permits, certificates and licences required by virtue of all applicable laws, regulations, ordinances and other rules in effect at the place where any of the work is to be performed, and SELLER further agrees to hold PURCHASER and/or CONSULTANT harmless from liability or penalty which might be imposed by reason of any asserted or established violation of such laws, regulations, ordinances or other rules. PURCHASER will provide necessary permits for SELLER's personnel to undertake any work in India in connection with Contract.

29. Fall Clause

- 29.1 The price charged for the materials supplied under the order by the supplier shall in no event exceed the lowest price at which the supplier or his agent/principal/dealer, as the case may be, sells the materials of identical description to any Persons/Organizations including the Purchaser or any Department of the Central Govt. or any Department of a State Govt. or any Statutory Undertaking of the Central or State Govt. as the case may be, during the currency of the order.
- 29.2 If at any time during the said period, the supplier or his agent/principal/dealer, as the case may be, reduces the sale price, sells or offers to sell such materials to any persons/organizations including the Purchaser or any Deptt. Of Central Govt. or State Govt. as the case may be, at a price lower than the price chargeable under the order, he shall forthwith notify such reduction or sale or offer of sale to the Purchase Authority who has issued this order and the price payable under the order for the materials supplied after the date of coming into force of such reduction or sale or offer of sale shall stand correspondingly reduced. The above stipulation will, however, not apply to: a) Exports by the Contractor/Supplier or b) Sale of goods as original equipment at prices lower than the prices charged for normal replacement c) Sale of goods such as drugs which have expiry dates.
- 29.3 The supplier shall furnish the following certificate to the concerned Paying Authority along with each bill for payment for supplies made against this order:- "I/We certify that there has been no reduction in sale price of the items/goods/materials of description identical to those supplied to the PURCHASER under the order herein and such items/goods/materials have not been offered/sold by me/us to any person/organizations including the Purchaser or any Deptt. of Central Govt. or any Deptt. of State Govt. or any Statutory Undertaking of the Central or State Govt. as the case may be upto the date of bill/during the currency of the order whichever is later, at a price lower than the price charged to the PURCHASER under the order". Such a certificate shall be obtained, except for quantity of items/goods/materials categories under sub-clause (a), (b) & (c) of sub-para 29.2 above, of which details shall be furnished by the supplier.

30.0 Limitation of Liability



Notwithstanding anything contrary contained herein, the aggregate total liability of Seller under the Agreement or otherwise shall be limited to 100% of Agreement / Order price. However, neither party shall be liable to the other party for any indirect and consequential damages, loss of profits or loss of production.

31.0 Method of blacklisting vendors

- 31.1 Any failure by the vendor (SELLER) to supply/execute the contract as per order may result in blacklisting of vendors by the PURCHASER through its competent authority. The blacklisted vendor shall not be considered for a minimum period of one year from the date of blacklisting.
- 31.2 Further the competent authority may blacklist the bidder, if the bidder changes bid (either techno-commercial and / or price) or withdraws his bid after receipt of the same and during the validity period of bid.
- 31.3 Further, the vendor (SELLER) shall be banned from doing any business with the PURCHASER, indefinitely or for such period as may be determined by the PURCHASER at its sole discretion, in case of :
- If security considerations including question of loyalty to the state so warrant.
 - If the proprietor, partner, Director's representative of the SELLER is convicted by a court of law following prosecution for any offences including offences relating to business or commercial dealings.
 - If there is strong justification, as determined by the PURCHASER at its sole discretion, for believing that the proprietor or employee or representative of the SELLER has been guilty of malpractice such as bribery, corruption, fraud, substitution of tenders, interpolation, misrepresentation, evasion or habitual default in payment of any tax levied by law, etc.
- 31.4 An order for ban/ suspension passed for a certain specified period shall be deemed to have been automatically revoked on expiry of that specified period and it will not be necessary to issue a specific formal order of revocation, except that an order of suspension/ban passed on account of doubtful loyalty or security consideration shall continue to remain in force until it is specifically revoked in writing.
- 31.5 An order of ban on grounds of conviction by Court of Law may be revoked if, in respect of the same facts, the SELLER has been wholly acquitted by a court of law.

32.0 Secrecy

The SELLER shall not at any time during the pendency of the contract or thereafter disclose any information furnished to them by PURCHASER or any drawings, designs, reports and other documents and information prepared by the Contractor for this contract, without the prior written approval of PURCHASER except in so far as such disclosure is necessary for the performance of the Contractor's work and service hereunder.

33. General

- 33.1 In the event that terms and conditions stipulated in the General Conditions of Contract should deviate from terms and conditions stipulated in the Contract, the latter shall prevail. Any specific Terms / Conditions mentioned in PO will supersede this GCC.
- 33.2 **Losses due to non-compliance of Instructions:** Losses or damages occurring to the PURCHASER owing to the SELLER's failure to adhere to any of the instructions given by the PURCHASER/CONSULTANT in connection with the contract execution shall be recoverable from the SELLER.
- 33.3 **Recovery of sums due :** All costs, damages or expenses which the PURCHASER/CONSULTANT may have paid, for which under the contract, SELLER is liable, may be recovered by the PURCHASER (he is hereby irrevocably authorized to do



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so) from any money due to or becoming due to the SELLER under this Contract or other Contracts and/or may be recovered by action at law or otherwise. If the same due to the SELLER be not sufficient to recover the recoverable amount, the SELLER shall pay to the PURCHASER, on demand, the balance amount.

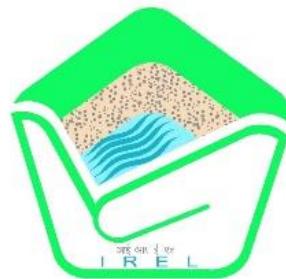
- 33.4 **Payments, etc. not to affect rights of the PURCHASER:** No sum paid on account by the PURCHASER nor any extension of the date for completion granted by the PURCHASER shall affect or prejudice the rights of the PURCHASER against the SELLER or relieve the SELLER of his obligation for the due fulfillment of the CONTRACT.
- 33.5 **Cut-off Dates :** No claims or correspondence on this Contract shall be entertained by the PURCHASER/Consultant after 90 days after expiry of the performance guarantee (from the date of final extension, if any).
- 33.6 **Paragraph heading:** The paragraph heading in these conditions shall not affect the construction thereof.



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**GENERAL CONDITIONS OF CONTRACT
FOR
PROCUREMENT OF
WORKS**

IREL (India) Limited





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General Conditions of Contract

1.0 Definitions:

In the contract (as hereinafter defined), the following 'words' and 'Definitions' expression shall have the meaning hereby assigned to them except where the context otherwise requires:

- a) "Employer" means IREL (India) Limited (IREL) having its registered office at Plot No. 1207, Veer Savarkar Marg, Near Siddhi Vinayak Temple, Prabhadevi, Mumbai- 400028. The term Employer includes successors, assigns of IREL.
- b) "Contractor" means the person or persons, firm or company whose tender has been accepted by the Employer and includes the Contractors' personal representatives, successors and permitted assignees.
- c) "Engineer" means the representative of IREL or the other Engineer appointed from time to time by the Employer and notified in writing to the contractor to act as Engineer for the purposes of the contract in place of the said representative.
- d) "Engineer's Representative" means any resident engineer or assistant of the Engineer or any other employee or agent appointed from time to time by the Employer or the Engineer to perform the duties set forth in Clause 1.5 hereof and whose authority shall be notified in writing to the Contractor by the Engineer.
- e) "Work" shall mean and include all works specified or set forth and required in and by the specifications, drawing and schedule hereto annexed or to be implied therefrom or incidental thereto or to be hereafter specified or required in such explanatory instructions and drawings (being in conformity with the original specification, drawing and schedule) and also such additional instructions and drawings not in conformity as aforesaid as shall from time to time, during the progress of the work hereby contracted for, be supplied by the Employer.
- f) "Contract" means the Invitation to tender, Instructions to Tenderers, General Conditions of Contract, Special. Conditions of Contract, Specifications, Drawings. Tender Schedule showing approximate quantities, quoted rates and amount against each item, Time Schedule, Letter of Intent/Award, Tender and Contract agreement.
- g) "Contract Price" means:
In the case of Lump sum Contracts, the price payable to the Contractor as mentioned in the Contract for each line item. Price is fixed & firm during the entire duration of contract subject to price reduction clause in case of delay in performance; however, price is subject to price variation clause as per special conditions of contract, if any.

In the case of Item Rate Contracts, Rates by the item rates quoted by the tenderer and accepted by the Company for the various items.
- h) "Constructional Plant" means all appliances or things of whatsoever nature as required or about the execution, completion or maintenance of the Works or, Temporary Works (as hereafter defined) but does not include materials or other things intended to form or forming part of the permanent work or temporary housing, hutting, offices & Stores etc.
- i) "Temporary Works" means all temporary works of every kind required in or about the execution, completion or maintenance of the works.
- j) "Drawings" means the drawings referred to in the Specification and any modification of such drawings approved in writing by the Engineer and such other drawings as may from time to time be furnished or approved in writing by the Engineer.
- k) "Site" means the lands and other places envisaged by the Employer where the Works are to be executed or carried out.



- I) "Letter of Intent" is an intimation by a letter to tenderer that tender has been accepted in accordance with the provisions contained in that letter.
 - m) "Approved" means approved in writing including subsequent written confirmation of previous verbal approval and "approval" means approval in writing including aforesaid.
- 1.2 **Singular & Plural :** Words importing the singular only also include the plural and vice versa where the context requires.
- 1.3 **Clause Headings or Marginal notes:** The Clause headings or marginal notes in these General Conditions shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction thereof or of the contract.
- 1.4 **Specification:** The term "Specification" shall mean schedules, detailed designs, statements of technical data, performance characteristics and all such particulars mentioned as such in the contract. In the absence of any specific specifications issued by the Employer, the specifications issued by the BIS will apply.

1.5 ENGINEER-IN-CHARGE:

The Engineer-in-charge shall represent and act on behalf of IREL at all times during the currency of the all notices, instructions, orders, certificates, approvals and all other communications under this Contract shall be given by the Engineer-in-charge, except as herein otherwise provided.

The Engineer-in-charge shall have authority for

- General supervision, follow up of supply and direction of the Works
 - Direction to stop the Works whenever such stoppage may be necessary to ensure the proper execution of the works
 - To reject all Works and Materials which do not conform to the contract specifications.
- The Engineer-in-charge shall have no authority to relieve the CONTRACTOR of any of his duties or obligations under the contract nor except as expressly provided here-in-under or elsewhere in the Contract to order any work involving delay or any extra payment by IREL or to make any variation of or in the Works.

2.0 ASSIGNMENT AND SUB-LETTING:

- 2.1 The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or thereunder (other than a charge in favour of the Contractor's Bankers of any money due or to become due under this Contract) without the prior written consent of Employer.
- 2.2 The Contractor shall not sub-let the whole or part of the Works except where otherwise provided by the Contract, and even then only with the prior written consent of the Employer and such Consent if given shall not relieve the Contractor from any liability or obligation under the contract and he shall be responsible for the acts, defaults and neglects of any Sub-contractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen Provided always that the provision of labour on a piecework basis shall not be deemed to be a sub- letting under this clause.
- 2.3 CONTRACTOR shall supervise and direct the work of all SUB-CONTRACTORS and shall be responsible for co-coordinating their work. If CONTRACTOR fails to correct, or commence to correct and execute the correction with due diligence of deficient or defective work performed by any SUB-CONTRACTOR within reasonable time (provided it doesn't materially impact safe operation of plant), after receipt by CONTRACTOR of a notice from EMPLOYER with respect thereto. EMPLOYER may (but shall not be obligated to), after seven days following receipt by CONTRACTOR of an additional notice, and without prejudice to any other right or remedy take all reasonable steps to remedy such defective or deficient work at risk and cost of CONTRACTOR.



- 2.4 CONTRACTOR shall require all SUB-CONTRACTORS to perform in accordance with the relevant requirements of the CONTRACT including FINAL PROPOSAL, all APPLICABLE LAWS and APPLICABLE PERMITS, Prudent Utility Practice, Good Engineering Practices, the requirements of the NIT, and all Warranties of SUB-CONTRACTORS/SUBVENDORS and Manufacturers and all insurance policies relating to the PLANT or the WORK.
- 2.5 CONTRACTOR shall be solely responsible for paying each SUB-CONTRACTOR and any other person to whom any amount is due from CONTRACTOR for services, equipment, construction equipment, materials or supplies otherwise related to the PLANT or the WORK.
- 2.6 CONTRACTOR shall take all reasonable steps and actions to ensure that such services, equipment, construction equipment, materials and supplies and the like have been or will be received, inspected and approved and that such services have been or will be properly performed.
- 2.7 EMPLOYER shall not be deemed by virtue of the CONTRACT to have any contractual obligation to or relationship with any SUB-CONTRACTOR.

3.0 EXTENT OF CONTRACT:

The Contract comprises the construction, completion and maintenance of the works and except in so far as the contract otherwise provides, the provision of all labour, materials, constructional plant, temporary works and everything whether of a temporary or permanent nature required in and for such construction, completion and maintenance.

4.0 CONTRACT DOCUMENTS:

4.1 CUSTODY OF DRAWINGS:

The drawings shall remain in the sole custody of the Engineer but two copies thereof shall be furnished to the Contractor free of cost. The Contractor shall provide and make at his own expense any further copies required by him. On the completion of the contract, the Contractor shall return to the Engineer all drawings provided under the contract, The Contractor shall give adequate notice in writing to the Engineer or Engineer's representative, of any further drawings or specifications that may be required for the execution of the works or otherwise under the contract.

4.2 ONE COPY OF DRAWINGS TO BE KEPT ON SITE:

One copy of the drawings furnished to the Contractor as aforesaid shall be kept by the Contractor on the site and the same shall at all reasonable time be available for inspection and use by the Engineer and the Engineer's representative and by any other person authorised by the Engineer in writing.

4.3 FURTHER DRAWINGS AND INSTRUCTION:

The Engineer shall have full power and authority to supply to the Contractor from time to time during the progress of the works such further drawings and instructions as shall be necessary for the purpose of the proper and adequate execution and maintenance of the works and the Contractor shall carry out and be bound by the same.

5.0 CONTRACT AGREEMENT:

The Contractor shall enter into and execute a Contract Agreement in the form annexed hereto within the specified time in Letter of Intent/ Award and in default thereof the earnest money paid by the Contractor shall be forfeited and acceptance of his Tender shall be considered as withdrawn. The cost of the stamp fee of the agreement is to be borne and paid by the Contractor.

**6.0 MODIFICATIONS IN CONTRACT:**

All modifications leading to changes in the CONTRACT with respect to technical or commercial aspects including terms of completion period shall be considered valid only when amendment to the CONTRACT is issued by the Employer.

The modification or amendment of the CONTRACT for an adjustment in the CONTRACT PRICE and/ or COMPLETION DATE in accordance with the applicable provision of the CONTRACT, if any, shall be subject to mutual agreement.

IREL shall not be bound by any printed conditions or provisions in the CONTRACTOR's bid forms or acknowledgement of CONTRACT and other documents which support to impose any condition at variance with or supplemental to CONTRACT.

7.0 USE OF CONTRACT DOCUMENTS AND INFORMATION:

7.1 The CONTRACTOR shall not, without the IREL's prior written consent, disclose the CONTRACT or any provision thereof, or any specification, plan, drawing, pattern, sample or information furnished by or on behalf of the IREL in connection therewith, to any person other than a person employed by the CONTRACTOR in the performance of the CONTRACT. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purpose of such performance.

7.2 The CONTRACTOR shall not without the IREL's prior written consent, make use of any document or information enumerated in Clause 7.1 except for purpose of performing the CONTRACT.

7.3 Any document other than CONTRACT, itself, enumerated in Clause 7.1 shall remain the property of the IREL and shall be returned (all copies) to the IREL on completion of the CONTRACTOR's performance under the CONTRACT, if so required by the IREL.

7.4 CONTRACTOR TO INFORM HIMSELF FULLY:

The CONTRACTOR in fixing his rate shall for all purpose whatsoever reason may be, deemed to have himself independently obtained all necessary information for the purpose of preparing his tender and his tender as accepted shall be deemed to have taken into account all contingencies as may arise due to such information or lack of same. The correctness of the details, given in the Tender Document to help the CONTRACTOR to make up the tender is not guaranteed.

The CONTRACTOR shall be deemed to have examined the CONTRACT DOCUMENTS, to have generally obtained his own information in all matters whatsoever that might affect the carrying out of the works at the schedules rates and to have satisfied himself to the sufficiency of his tender. Any error in description of quantity or omission there from shall not vitiate the CONTRACT or release the CONTRACTOR from executing the work comprised in the CONTRACT according to DRAWINGS and SPECIFICATIONS at the scheduled rates. He is deemed to have known the scope, nature and magnitude of the WORKS and the requirements of materials and labour involved etc., and as to what all works he has to complete in accordance with the CONTRACT documents whatever be the defects, omissions or errors that may be found in the DOCUMENTS. The CONTRACTOR shall be deemed to have visited surroundings, to have satisfied himself to the nature of all existing structures, if any, and also as to the nature and the conditions of the Railways, Roads, Bridges and Culverts, means of transport and communication, whether by land, water or air, and as to possible interruptions thereto and the access and egress from the site, to have made enquiries, examined and satisfied himself as to the sites for obtaining sand, stones, bricks and other materials, the sites for disposal of surplus materials, the available accommodation as to whatever required, depots and such other buildings as may be necessary for executing and completing the works, to have made local independent enquiries as to the sub-soil, subsoil water and variations thereof, storms, prevailing winds, climatic conditions and all other similar matters affecting these



works. He is deemed to have acquainted himself as to his liability of payment of Government Taxes, Customs duty and other charges, levies etc.

Any neglect or omission or failure on the part of the CONTRACTOR in obtaining necessary and reliable information upon the foregoing or any other matters affecting the CONTRACT shall not relieve him from any risks or liabilities or the entire responsibility from completion of the works at the scheduled rates and times in strict accordance with the CONTRACT.

It is, therefore, expected that should the CONTRACTOR have any doubt as to the meaning of any portion of the CONTRACT DOCUMENT, he shall set forth the particulars thereof in writing to IREL in duplicate, before submission of tender. IREL may provide such clarification as may be necessary in writing to CONTRACTOR, such clarifications as provided by IREL shall form part of CONTRACT DOCUMENTS.

No verbal agreement or inference from conversation with any effect or employee of the IREL before, during or after the execution of the CONTRACT AGREEMENT shall in any way affect or modify and of the terms or obligations herein contained. Any change in layout due to site conditions or technological requirement shall be binding on the CONTRACTOR and no extra claim on this account shall be entertained.

7.5 GENERAL INFORMATION:

- a) **Location of Site:** The proposed location of Project site is defined in the Special Conditions of Contract.
- b) **Access by Road:** CONTRACTOR, if necessary, shall build other temporary access roads to the actual site of construction for his own work at his own cost. The CONTRACTOR shall be required to permit the use of the roads so constructed by him for vehicles of any other parties who may be engaged on the project site. The CONTRACTOR shall also facilitate the construction of the permanent roads should the construction there of start while he is engaged on this work. He shall make allowance in his tender for any inconvenience he anticipates on such account. Non-availability of access roads, railway siding and railway wagons for the use of the CONTRACTOR shall in no case condone any delay in the execution of WORK nor be the cause for any claim for compensation against the EMPLOYER.
- c) **Scope of Work:** The scope of WORK is defined in the Technical Part of the tender document. The CONTRACTOR shall provide all necessary materials, equipment, labour etc. for the execution and maintenance of the WORK till completion unless otherwise mentioned in the Tender Document.
- d) **Water Supply:** Contractor will have to make his own arrangements for supply of water to his labour camps and for works. All pumping installations, pipe network and distribution system will have to be carried out by the Contractor at his own risk and cost. Alternatively, IREL at his discretion may endeavour to provide water to the Contractor at its source of supply provided the Contractor makes arrangement for pipe networks from source of supply and such distribution pipe network shall have prior approval of the Engineer-in-Charge so as not to interfere with the layout and progress of the other construction works. In such case, the rate for water shall be deducted from the running account bills (Subject to rate of deduction specifically mentioned in the tender, if any). However, IREL does not guarantee the supply of water and this does not relieve the Contractor of his responsibility in making his own arrangement and for the timely completion of the various works as stipulated.
- e) **Power Supply:** Subject to availability, IREL will supply power at 400/440 V at only one point at the nearest sub-station, from where the CONTRACTOR will make his own arrangement for temporary distribution. The point of supply will not be more than 500 m away from the CONTRACTOR'S premises. All the works will be done as per the applicable



regulations and passed by the ENGINEER-IN-CHARGE. The temporary line will be removed forthwith after the completion of work or if there is any hindrance caused to the other works due to the alignment of these lines, the CONTRACTOR will re-route or remove the temporary lines at his own cost. The CONTRACTOR at his cost will also provide suitable electric meters, fuses, switches, etc. for purposes of payment to IREL which should be in the custody and control of the IREL. The cost of power supply shall be payable to IREL every month for Construction Works which would be deducted from the running account bills (subject to rate of deduction specifically mentioned in the tender, if any). IREL shall not, however, guarantee the supply of electricity nor have any liability in respect thereof. No claim for compensation for any failure or short supply of electricity will be admissible.

It shall be the responsibility of the CONTRACTOR to provide and maintain the complete installation on the load side of the supply with due regard to safety requirement at site. All cabling, equipment, installations etc. shall comply in all respects with the latest statutory requirements and safety provisions, i.e., as per the Central/State Electricity Acts and Rules etc. The CONTRACTOR will ensure that his equipment and Electrical Wiring etc., are installed, modified, maintained by a licensed Electrician/Supervisor. A test certificate is to be produced to the ENGINEER-IN-CHARGE for his approval, before power is made available.

At all times, IEA regulations shall be followed failing which the IREL has a right to disconnect the power supply without any reference to the CONTRACTOR. No claim shall be entertained for such disconnection by the ENGINEER-IN-CHARGE. Power supply will be reconnected only after production of fresh certificate from authorized electrical supervisors.

The IREL is not liable for any loss or damage to the CONTRACTOR's equipment as a result of variation in voltage or frequency or interruption in power supply or other loss to the CONTRACTOR arising therefrom.

The total requirement of power shall be indicated by the tenderer along with his tender.

7.6 STANDARDS:

The goods and services supplied under this CONTRACT shall conform to the standards mentioned in the technical specifications and when no applicable standard is mentioned, CONTRACTOR shall follow best engineering practices.

7.7 PRIORITY OF CONTRACT DOCUMENTS:

Except if and the extent otherwise provided by the Contract, the provisions of the General Conditions of Contract and Special Conditions shall prevail over those of any other documents forming part of the CONTRACT. Several documents forming the CONTRACT are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies the same shall be explained and adjusted by the ENGINEER-IN-CHARGE who shall thereupon issue to the Contractor instructions thereon and in such event, unless otherwise provided in the Contract, the priority of the documents forming the Contract shall be as follows :

- 1) The Contract Agreement;
- 2) The Letter of Acceptance;
- 3) The Instructions to Bidders(ITB);
- 4) Special Conditions of Contract (SCC);
- 5) General Conditions of Contract (GCC)
- 6) Any other document forming part of the Contract.

Works shown in the DRAWING but not mentioned in the SPECIFICATIONS or described in the SPECIFICATIONS without being shown in the DRAWINGS shall nevertheless be deemed to be included in the same manner as if they had been specifically shown upon the DRAWINGS and described in the SPECIFICATIONS.

**7.8 SPECIAL CONDITIONS OF CONTRACT:**

Special Conditions of Contract shall be read in conjunction with the General Conditions of Contract, specification of Work, Drawings and any other documents forming part of this CONTRACT wherever the context so requires. Notwithstanding the sub-division of the documents into these separate sections and volumes, every part of each shall be deemed to be supplementary to and complementary of every other part and shall be read with and into the CONTRACT so far as it may be practicable to do so.

Where any portion of the General Conditions of Contract is repugnant to or at variance with any provisions of the Special Conditions of Contract, unless a different intention appears, the provisions of the Special Conditions of Contract shall be deemed to over-ride the provisions of the General Conditions of Contract and shall to the extent of such repugnancy, or variations, prevail.

8.0 PATENT INFRINGEMENT:

- 8.1 CONTRACTOR shall at all times, indemnify and keep indemnified IREL against all claims or suits and defend, at its own cost, any suit or action brought against IREL and hold IREL free and harmless against all costs of such claims or suits which may be made against IREL in respect of any infringement of any rights protected by patent, copyright, trademarks, and trade secrets to the extent that such claim, suit, or action is a result of the use of CONTRACTOR's technical Information for the construction, maintenance, and operation of PLANT and the use of CONTRACTOR's and/or any other process, licensor's processes used in PLANT. IREL shall pass on all claims made against it to CONTRACTOR for settlement.
- 8.2 CONTRACTOR declares that to the best of his knowledge and belief the use of CONTRACTOR's Technical Information for the construction, maintenance, and operation of PLANT and the use of CONTRACTOR's processes used in PLANT will not infringe any valid patent rights of a third party. However, if at any time such infringement arises, CONTRACTOR agrees to keep IREL indemnified and harmless against such claims and costs thereof and make arrangements that will allow IREL to continue the operation of PLANT.
- 8.3 IREL shall promptly advise CONTRACTOR in writing of any claim of infringement or any action for infringement of patents brought against it by a third party and based upon the use of CONTRACTOR's Technical Information. If such use is in accordance with instructions given in writing by CONTRACTOR, CONTRACTOR shall undertake the defence, or assist IREL in the defence, of the claim or suit up to final judgment or settlement.
- 8.4 CONTRACTOR shall undertake the defence on behalf of IREL and shall have sole charge and direction of the defence, and shall bear all costs related thereto. CONTRACTOR shall further hold IREL harmless from any damages or other sums that may become payable by IREL under a final judgment or settlement. However, IREL shall render to CONTRACTOR all reasonable assistance that may be required by CONTRACTOR in the defence, and shall have the right to be represented therein by advisory counsel of its own selection and at its own expense.
- 8.5 In addition to the measures specified in Clause-8.4, CONTRACTOR may further, at its option, however, in reasonable consultation with IREL, seek to abate the alleged infringement by modification of PLANT or its operation without adversely affecting the performance and/or secure for IREL immunity from suit for infringement. In such case, CONTRACTOR shall bear/ reimburse IREL all costs related to the said modification and to the said immunity.
- 8.6 In the event that IREL is legally restrained from operating PLANT on account of any infringement action or suit, CONTRACTOR shall take all possible actions to assist IREL to operate and use PLANT, is so far his area of operation is concerned.



- 8.7 Neither CONTRACTOR nor IREL shall settle or compromise any suit or action without the written consent of the other, if settlement or compromise obliges the other to make any payment or part with any property or assume any obligations or surrender any rights or to be subjected to any injunction by reason of such settlement or compromise.

9.0 INDEMNITIES:

9.1 INDEMNIFICATION FOR LIABILITIES:

9.1.1 CONTRACTOR INDEMNIFICATION FOR LIABILITIES:

To the fullest extent permitted by Law, CONTRACTOR assumes liability for and agrees to indemnify, protect, save and hold harmless IREL from and against any and all Liabilities (including, any strict liability), arising out of acts or omissions of CONTRACTOR or its personnel or its agents in the performance of its obligations under the CONTRACT causing bodily injury, sickness, disease or death, damage to or loss of any property, and whether or not involving damage to WORKS or SITE that may be imposed on, suffered or incurred by or asserted against IREL and in any way relating to or arising out of

- (i) WORK, any EQUIPMENT
- (ii) the presence, discharge, treatment, storage, transportation, disposal, escape or release of any Hazardous Substance, or the threat thereof, at, to or from SITE after commencement of work (any hazardous substance already existing at SITE before commencement of WORK excluded)
- (iii) The performance of WORK, or as a result of personal injuries (including wrongful death);
- (iv) the violation by CONTRACTOR or any SUB-CONTRACTOR/ VENDOR of any Government Approval or applicable Law;
- (v) Any breach of CONTRACT with any SUB-CONTRACTOR/VENDOR, provided, however, that CONTRACTOR shall not be required under this Clause to indemnify IREL for any liability arising out of or resulting from events or circumstances occurring or existing after PRELIMINARY ACCEPTANCE OF PLANT except where the liability arises from an act or omission of CONTRACTOR or any SUB-CONTRACTOR/VENDOR or any other Person directly or indirectly employed by either of them or anyone for whose acts either of them may be liable that was a contributory cause of such liability.

9.1.2 CONTRACTOR INDEMNIFICATION FOR TAXES:

It is specifically understood that CONTRACTOR hereby accepts and assumes exclusive liability for and save and hold IREL harmless from and against of all Taxes arising from the performance of WORK, and all such Taxes shall be deemed to be included in CONTRACT PRICE, except for GST. GST at applicable rate is payable extra. Seller need to prepare E-Invoice under GST and submit monthly/ quarterly GST Return as per GST Rules. Failure to submit GST Return on time as per GST Rules may result into deduction of GST while processing Bills.

9.1.3 INDEMNIFICATION BY SUB-CONTRACTOR/VENDOR:

CONTRACTOR shall obtain from each SUB-CONTRACTOR/VENDOR, which is an affiliate, and shall use all reasonable efforts to obtain from each SUB-CONTRACTOR/ VENDOR, an indemnification materially similar in form and substance to Clause-9.1.1 and Clause-9.1.2 of which the IREL shall be named as beneficiary.

9.1.4 PAYMENT OF AMOUNTS UNDER THIS CLAUSE:

Except to the extent covered by insurance, all amounts payable and due by CONTRACTOR to IREL under this Clause shall be deducted from CONTRACT PRICE or any other amounts owed by IREL to CONTRACTOR here under. If such amounts payable by IREL to CONTRACTOR are less than the amounts payable and due by CONTRACTOR under this Clause, CONTRACTOR shall be liable to IREL for such excess and shall pay such amount to IREL immediately upon demand.

**9.1.5 PERMITS AND CERTIFICATES:**

CONTRACTOR shall procure, at its expense, all necessary permits, certificates and licences required by virtue of all applicable laws, regulations, ordinances and other rules in force at the place where any of the works is to be performed, and CONTRACTOR further agrees to hold IREL harmless from liability or penalty which might be imposed by reason of any asserted or established violation of such laws, regulations, ordinances or other rule. IREL shall provide the necessary permits for CONTRACTOR's personnel to undertake any work in India in connection with CONTRACT.

9.1.6 MECHANICS LIEN:

CONTRACTOR agrees to indemnify and hold harmless IREL against all labourer's material, men's and/or mechanics liens arising from its work, and shall keep the premises of IREL free from all such claims, liens and encumbrances.

10.0 WORK TO BE TO THE SATISFACTION OF ENGINEER:

The Contractor shall execute, complete and maintain the Works in strict accordance with the contract, to the satisfaction of the Engineer and shall comply with and adhere strictly to the Engineer's instructions and direction on any matter (whether mentioned in the Contract or not). The Contractor shall take instructions and directions only from the Engineer or from the Engineer's representative on any matter touching or concerning the Works.

11.0 PROGRAMME TO BE FURNISHED:

As soon as practicable after the acceptance of his tender, the Contractor shall, if required, submit to the Engineer for his approval a programme showing the order of procedure and the method in which he proposes to carry out Works and shall whenever required by the Engineer or Engineer's representative furnish for his information particulars in writing of the Contractor's arrangement for the carrying out of the Works and of the constructional plant and temporary Works which the Contractor intends to supply, use or construct as the case may be. The submission to and approval by the Engineer or Engineer's representative of such programme or the furnishing of such particulars shall not relieve the Contractor of any of his duties or responsibilities under the Contract.

12.0 Contractors Superintendence:

The Contractor shall give and provide all necessary superintendence during the execution of the works and as long thereafter as the Engineer may consider necessary for the proper fulfilling of the Contractor's Obligation under the contract. The Contractor or one of his competent and authorised agent approved of in writing by the Engineer (which approval may at any time be withdrawn) is to be constantly on the Works and shall give his whole time to the superintendence of the same. If such approval shall be withdrawn by the Engineer, the Contractor shall as soon as is practicable (having regard to the requirement of replacing him as here-in-after mentioned) after receiving written notice of such withdrawal, remove the agent from the Site and shall not thereafter employ him again on the Site in any capacity and shall replace him by another agent approved by the Engineer. Such authorised agent shall receive on behalf of the Contractor directions and instructions from the Engineer or (subject to the limitations of Clause 2 hereof) the Engineer's representative.

13.0 CONTRACTOR'S EMPLOYEE:

The Contractor shall provide and employ on the Site in connection with execution and maintenance of the Works.

- (a) Only such technical assistants and other staff as are skilled and experienced in their respective callings and such sub-agents, foreman and loading hands as are competent to give proper supervision to the work they are required to supervise and
- (b) Such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution and maintenance of the Works.



- 13.1 The Engineer shall be at liberty to object to and require the Contractor to remove forthwith from the Works any person employed by the Contractor in or about the execution or maintenance of the Works who in the opinion of the Engineer misconducts himself or incompetent or negligent in the proper performance of his duties or whose employment is other-wise considered by the Engineer to be undesirable and such person shall not be again employed upon the Works without the written permission of the Engineer. Any person so removed from the Works shall be replaced without delay by a competent substitute approved by the Engineer.

14.0 EXTRA SUPERVISION ON WORK:

If in the opinion the Engineer, due progress is not made with the work in accordance with the contract, and or the execution thereof becomes contrary to specifications, and/or bad work is executed and/or bad materials are used or supplied by the Contractor, and/or any directions given by the Engineer are not properly complied with or attended to, the Engineer may if he considers it necessary or proper for the execution of the work in accordance with the contract, of which his certificate in writing will be sufficient evidence order the employment of extra supervising staff to supervise the work and the expenses of the employment including the salary of the supervising staff shall be provided by the Contractor, provided that the Engineer shall give to the Contractor not less than 7 days previous notice in writing of intention to exercise his power.

15.0 SETTING-OUT OF THE WORKS:

The Contractor shall be responsible for the true and proper setting out of the Works and the correctness of the position levels, dimensions and alignment of all parts of the Works and for the provision of all necessary instrument appliances and labour in connection therewith. If at any time during the progress of the works, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the Works, the Contractor on being required so to do by the Engineer or Engineers representative shall at his own expense rectify such error to the satisfaction of the Engineer or Engineer's representative unless such error is based on incorrect data supplied in writing by the Engineer or the Engineer's representative in which case the expense of rectifying the same shall be borne by the Employer. The checking of any setting out or of any line or level by the Engineer or the Engineer's representative shall not in any way relieve the Contractor of his responsibility for the correctness thereof and the Contractor shall carefully protect and preserve all bench marks, site rails, pegs and other things used in setting out the works.

16.0 USE OF EXPLOSIVES:

Explosives shall not be used on the work by the contractor without the permission in writing of the Engineer and then only in the manner and to the extent to which he has prescribed. Where explosives are used, the same shall be stored in a special magazine to be provided by and at the cost of the Contractor, who shall be liable for all damages, loss or injury to any person or property & shall be responsible for complying with all the Statutory obligations in these respects.

17.0 CARE OF WORKS:

The Contractor shall in connection with the Works provide and maintain at his own cost all lights, guards, fencing and watching when and where necessary or required by the Engineer or Engineer's representative or by a duly constituted authority for the protection of the Works or for the safety and convenience of the Public or others.

- 17.1 From the commencement to the completion of the Works, the Contractor shall take full responsibility or the care thereof and of all Temporary Works and in case any damage, loss or injury shall happen to the Works or to any part thereof or to any temporary Works from any cause whatsoever (save and except the excepted risks as defined in sub-clause (2) of the clause) shall at his own cost repair and make good the same so that at completion the Works shall be in good order and condition and in conformity in every



respect with the requirements of the Contract and the Engineer's instructions. In the event of any such damage, loss or injury happening from any of the excepted risks the Contractor shall if and to the extent required by the contractor shall also be liable for any damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under Clause 58 hereof.

17.2 EXCEPTED RISKS:

The "excepted risks" mentioned in Sub-clause (1) above are war hostilities (whether war be declared or not), invasion act of foreign enemies, rebellion, revolution, insurrection of military or usurped power, civil war or (otherwise than among the Contractor's own employees) riot, commotion or disorder or any such operation of the forces of nature as responsible foresight and ability on the part of Contractor could not foresee or reasonably provide against (all of which are herein collectively referred to as "the excepted risks".)

18. USE OF LAND & BUILDINGS

- (a) Wherever any land or building belonging to IREL is allotted to the Contractor, the Contractor shall return vacant possession of the same land/building in good condition to IREL after the completion of works as soon as the contract is over/terminated, failing which IREL would be entitled to withhold the payment of the security deposit and/or final bill in addition to any other action which the IREL may like to take for getting the vacant possession of the land or building as aforesaid.
- (b) The Contractor should obtain the prior approval of the competent authority for construction of purely temporary shed. The Contractor should submit written application accompanied by layout plan for construction of such temporary shed. Any modification/alteration if deemed necessary thereafter, should be done with prior approval of the competent authority.
- (c) The Contractor shall have to pay licence fee for the area occupied as per rates fixed by the Management of IREL from time to time.
- (d) The permission for such temporary shed will be accorded only for the purpose of work as awarded to such Contractor and the temporary shed so constructed should be dismantled within 15 days from the date of completion of the maintenance work and restore the possession of vacant land in the original condition or in a condition acceptable to the Management of IREL. In case of any difficulty, the Contractor may obtain specific approval of the competent authority which may not be extended more than a period of one month in any case.

In case of failure of the Contractor to dismantle the temporary shed and hand over the vacant possession of the premises, the department shall be compelled to dismantle the temporary shed so constructed at the risk and cost of the contractor without prejudice to any other action which may be taken including recovery of damages as per rates fixed by IREL for the unauthorised occupation of the shed/ premises beyond the permitted period.

- (e) The Contractor should use such premises/shed for such purpose incidental to such awarded work and not as otherwise. It shall be the liability of the contractor to ensure that this occupation of the premises/shed does not provide to be of nuisance to the residents in the vicinity. The Contractor shall also not sublet the premises to any other party.

19.0 DAMAGES TO PERSONS AND PROPERTY:

- 19.1 The Contractor shall (except if and so far as the Specification provided otherwise) indemnify and keep indemnified the IREL against all losses and claims for injuries or damages to any person or any property whatsoever which may arise out of or in consequence of the construction and maintenance of the works and against all claims, demands, proceedings, damages, costs charges and expenses whatsoever in respect of or in relation thereto. Provided always that nothing hereby contained shall be deemed to render the Contractor liable for or in respect of or to indemnify the IREL against any compensation or damages for or with respect to:



- (a) The permanent use or occupation of land by the works or any part thereof (save as herein -after provided) surface or other damage as aforesaid i.e. surface or other damage caused by contract works in the normal course.
- (b) The right of the IREL to construct the Works or any part thereof on over under in or through any land.
- (c) Interference whether temporary or permanent with any right to light, air, way or water or other easement or quasi-easement which is unavoidable result of the construction of the Works in accordance with the Contract.

Provided further that for the purposes of this clause, the expression "the land" shall be deemed to be limited to the area defined in the specification as shown on the drawings in which land crops, trees and structures will be disturbed or damaged as an inevitable consequence of the carrying out of the Works.

20.0 ACCIDENT OR INJURY TO WORKMEN:

- (a) The employer shall not be liable for or in respect of any damages or compensation payable as per or otherwise in respect of or in consequence of any accident or injury to any workmen or other persons in the employment of the Contractor or any Sub-Contractor and the Contractor shall indemnify and keep indemnified the Employer against all such damages and compensation and against all claims, demands, proceedings, cost, charges and expenses whatsoever in respect thereof in relation thereto.
- (b) The Contractor shall forthwith report all accidents and injuries as a result of his contractual work to the employer or his representative.

21.0 WORKMEN'S COMPENSATION ACT:

The Contractor shall at all times indemnify the Employer against all claims for compensation under the provision of the Workmen's Compensation Act, 1923 (VIII of 1923) or any other law for the time being in force by or in respect of any workmen employed by the Contractor in carrying out the contract and against all costs and expenses incurred by the employer in connection therewith and (without prejudice to any other means of recovery) the employer shall be entitled to deduct from any money due or to become due to the Contractor (whether under this contract or any other contract) all moneys paid or payable by the Employer by way of compensation aforesaid or for costs or expenses in connection with any claim thereto and the Contractor shall abide by the decision of the Employer as to the sum payable by the Contract, under the provision of this clause.

22.0 GIVING OF NOTICE AND PAYMENT OF FEES:

- 22.1 The Contractor shall give, all notices and pay all fees required to be given or paid to any Central or State, Statute, Ordinance or other Law or any rule, Regulation or Bye-Law of local or other duly constituted authority in relation to the execution of the Works or of any temporary works and by the rules and regulations of all public bodies whose property or rights are affected or may be affected in any way by the works or any Temporary Works.

22.2 COMPLIANCE WITH STATUTES REGULATIONS ETC.:

The Contractor shall conform in all respects with the provision of any such statute, ordinance, or Law as aforesaid and the rules, Regulations or Bye-laws of any local or other duly constituted authority which may be applicable to the Works or to any Temporary Works and with such rules and regulations of public bodies as aforesaid and shall keep the employer indemnify against all penalties and liability of every kind for breach of any such Statute, Ordinance, Law, Rules, Regulation or Bye-laws.

**23. FOSSILS ETC.:**

All fossils, coins, articles, value of antiquity and structures and other remains or things of geological or archaeological interest discovered on the site of the works shall as between the employer and the Contractor be deemed to be the absolute property of the Employer and the Contractor shall take reasonable precautions to prevent, his workmen or any other persons from removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal acquaint the Engineers representative of such discovery and carry out at the expense of the employer the engineer's Representative's orders as to the disposal, removal or otherwise of the same.

24.(a) PATENT RIGHTS & ROYALTIES:

The Contractor shall save harmless and indemnify the Employer from and against all claims and proceeding for or on account of infringement of any patent rights, designs trade-mark or name or other protected rights in respect of any Constructional plant, machine, work or material used for or in connection with the Works or Temporary Works of any of them and from and against all claims, demands, proceeding, damages, cost, charges and expenses whatsoever in respect thereof or in relation there to.

- (b) Except where otherwise specified, the Contractor shall pay all tollage and other royalties, rent and other payments or compensation (if any) for getting stone, sand, gravel, clay or other materials required for the Works or temporary Works or any of them.

25. INTERFERENCE WITH TRAFFIC ADJOINING PROPERTIES.

All operations necessary for the execution of the Works and for the construction of any Temporary works shall so far as compliance with the requirements of the Contract permits be carried on so as not to interfere unnecessarily or improperly with the Public convenience or the access to use and occupation of public or private roads and footpaths or to or properties whether in the possession of the Employer's Workmen or of any other person and Contractor shall save harmless and indemnify employer in respect of all claims, demands, proceeding, damages, costs, charges and expenses whatsoever arising out of or in relation to any such matters.

26.(a) EXTRAORDINARY TRAFFIC:

The Contractor shall use every reasonable means to prevent any of the highways and bridges communicating with or on the routes to the site from being damaged or injured by any traffic of the Contractor or any of his Sub-Contractors and in particular shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of plant and material from and to the site shall be limited as far as reasonably possible and so that no unnecessary damage or injury may be occasioned to such highways and bridges. For any damage caused by the breach hereof, the Contractor shall be solely responsible.

(b) WATERBORNE TRAFFIC:

Where the nature of the works is such as to require the use by the Contractor of water borne transport, the fore going provisions of this clause shall be construed as though "highway" included a dock, deck, sea wall, or other structure related to a water-way and "vehicles" included craft and shall have effect accordingly.

27. OPPORTUNITIES FOR OTHER CONTRACTORS:

The Contractor shall in accordance with the requirements of the Engineer afford all reasonable opportunities for carrying out their work to any other contractors employed by the Employer and their workmen and to the workmen of the Employer and of any other duly constituted authorities who may be employed in the execution on or near the site of any work not included in the Contract or of any Contract which the Employer may enter into in connection with or ancillary to the works.



28. SUPPLY OF PLANT, MATERIAL AND LABOUR:

Except where otherwise specified the Contractor shall at his own expense supply and provide all the Constructional Plant, Temporary Works, materials both for temporary and for permanent Works, labour (including the supervision thereof), transport to or from the Site and in and about the Works and other things of every kind required for the constructions, completion and maintenance of the Works.

29. DELAY IN OBTAINING MATERIALS BY THE EMPLOYER:

If the Employer has undertaken to supply materials specified in the special conditions at rates stated therein, the Contractor shall keep himself in touch with the day-to-day position regarding the supply of materials from the Engineer and so adjust the progress of the work that their labour may not remain idle nor may there be any other claim due to or arising from delay if any, in obtaining the materials. It should be clearly understood that no claim whatsoever shall be entertained by the Employer on account of delay in supplying materials.

30. SITE CLEARANCE ON COMPLETION OF WORK:

On the completion of the work all rubbish, debris, vats tanks, materials, and temporary structures of any sort or kind used for the purpose of or connected with its construction are to be removed by the Contractor and all pits and excavations filled up and the site handed over in a tidy and workman like condition and no final payment in settlement of the account for the said work shall be held to be due or shall be made to the Contractor, till such site clearance shall have been effected by him, and such clearance may be made by the Engineer, at the expense of the Contractor in the event of his failure to comply with this provision within 7 days after receiving notice in writing from the Engineer to that effect. If it becomes necessary for the Engineer to have the site cleared as indicated above at the expense of the Contractor, the Employer shall under no circumstances, be held liable for any losses or damages to such of Contractor's property as may be on such site due to such removal there from which removal may be effected by means of public sale of such materials and property or in such way as seems fit and most convenient to the Engineer.

31. RETURN OF SURPLUS MATERIALS:

Notwithstanding anything contained to the contrary anywhere in this contract, wherever any materials for the execution of the contract are procured with the assistance of the Employer either by issue from Employer's stocks or purchase made under orders or permits or licenses issued by the Employer, the Contractor shall use the said materials economically and solely for the purpose of the contract and not dispose of them without the permission of the Employer, and if required by the Engineer shall return to the Employer all surplus or unserviceable materials that may be left with the Contractor after the completion of the contract or at its termination, for any reason whatsoever on being paid or credited such price as the Engineer shall determine, having due regard to initial cost and the condition of the materials at the time of such return thereof. The price to be allowed to the Contractor, however, shall not exceed the amount charged to him excluding the storage charge if any. The decision of the Engineer shall be final and conclusive. In the event of breach of the aforesaid condition, the Contractor shall in addition to making himself liable of action for contravention of the terms of the licences or permit and/or for criminal breach of trust) be liable to the Employer for payment of all moneys, advantages or profit resulting or which in the usual course would have resulted to him by reason of such breach.



WORK MATERIAL AND PLANT

32. QUALITY OF MATERIAL & WORKMANSHIP AND TESTS:

All materials and workmanship shall be of the respective kinds described in the Contract and in accordance with the Engineer's instructions and shall be subjected from time to time to such tests as the Engineer may direct at the place of manufacture or fabrication or on the Site or at all or any of such places. The Contractor shall provide such assistance, instruments, machines, labour and materials as are normally required for examining, measuring and testing any work and the quality, quantity or weight of any material used and shall supply samples of materials before incorporation in the Works for testing as may be selected and required by the Engineer.

Cost of samples: All samples shall be supplied by the Contractor at his cost.

Cost of tests : The cost of making any test in performance of his works shall be borne by the Contractor.

Cost of tests not provided for:

If any test is ordered by the Engineer which is either,

- a. not so intended or provided or
- b. is not so particularised for or
- c. though so intended or provided for is ordered by the Engineer to be carried by an independent person at any place other than the Site or the place of manufacture or fabrication of the materials tested. Then the cost of such test shall be borne by the Contractor if the test shows the workmanship of materials not to be in accordance with the provisions of the Contract or the Engineer's instructions but otherwise by the Employer.

33. ACCESS TO SITE:

The Employer/Engineer and any person authorised by him shall at all times have access to the Works and to the Site and to all workshops and places where work is being prepared or where materials, manufactured articles or machinery are being obtained for the Works and the Contractor shall afford every facility for and every assistance in or in obtaining the right to such access.

34. INSPECTION, TESTING AND EXPEDITING:

- 34.1 The EMPLOYER or his representatives shall have their right to inspect and/or to test the goods to conform to the specifications laid down in the CONTRACT. The SPECIAL CONDITIONS OF CONTRACT and/ or the TECHNICAL SPECIFICATIONS shall specify what inspections and test the EMPLOYER requires and where they are to be conducted. The EMPLOYER shall notify the CONTRACTOR in writing of the identity of any other representatives retained for this purpose. Expediting by EMPLOYER's representative in no way relieves the CONTRACTOR of his obligation under the terms and conditions of this CONTRACT.

- 34.2 The inspections and tests may be conducted on the premises of the CONTRACTOR or his SUB-CONTRACTOR at point of completion and/or at the good's final destination. When conducted on the premises of the CONTRACTOR or his SUB-CONTRACTOR, all reasonable facilities and assistances including access to drawings and production data shall be furnished to the inspector at no charge to the EMPLOYER.

- 34.3 CONTRACTOR shall be held responsible for any possible delay in the approval or testing phase as well as for any possible delay in the remittance of necessary certificates. Delay on the part of the Inspection institutions will not be considered a case of 'Force Majeure'.



34.4 Participation or presence of EMPLOYER or their representatives at any tests or their failure to be present at or to witness any tests to be undertaken pursuant here to shall not in any way or manner relieve or release the CONTRACTOR from any of its warranties, guarantees or other obligations under the CONTRACT.

34.5 Copies of all test results/report of the tests shall be furnished promptly by the CONTRACTOR to EMPLOYER.

35.1 EXAMINATION OF WORK BEFORE COVERING UP:

No work shall be covered up or put out of view without the approval of the Engineer or the Engineer's representative and the Contractor shall afford full opportunity for the Engineer or the Engineer's representative to examine and measure any work which is about to be covered up or put out of view and to examine foundations before permanent work is over, any such work or foundations is or are ready or about to be ready for examination and the Engineer's representative shall without unreasonable delay unless he considers it unnecessary and advises the Contractor accordingly attend for the purpose of examining and measuring such work or of examining such foundations.

35.2 UNCOVERING & MAKING OPENINGS:

The Contractor shall uncover any part or parts of the Works or make opening in or through same as the Engineer may from time to time direct and shall reinstate and make good such part or parts to the satisfaction of the Engineer. If any such part or parts have been covered up or put out of view after compliance with the requirements of subclause(l) of this Clause and are found to be executed in accordance with the Contract, the expenses of uncovering making opening in or through reinstating and making good the same shall be borne by the Employer but in any other case all such expenses shall be borne by the Contractor and shall be recoverable from him by the Employer or may be deducted by the Employer from any moneys due or which may become due to the Contractor.

36. REMOVAL OF IMPROPER WORK & MATERIALS:

The Engineer shall during the progress of the Works have power to order in writing from time to time:

- (a) the removal from the Site within such time or times as may be specified in the order of any materials which in the opinion of the Engineer are not in accordance with the contract,
- (b) the substitution of proper and suitable materials and
- (c) the removal and proper re-execution (not notwithstanding any previous test there of or interim payment there for) of any work which in respect of materials of workmanship is not in the opinion of the Engineer in accordance with the contract.

37. DEFAULT OF CONTRACTOR IN COMPLIANCE:

In case of default on the part of the Contractor in carrying out such order, the employer shall be entitled to employ and pay other persons to carry out the same and all expenses consequent thereon or incidental thereto shall be borne by the Contractor and shall be recoverable from him by the Employer or may be deducted by the Employer from any moneys due or which may become due to the Contractor.

38. SUSPENSION OF WORK:

The Contractor shall on the written order of the Engineer suspend the progress of the works or any part thereof for such time or times and in such manner as the Engineer may consider necessary and shall during such suspension properly protect and secure the work so far as is necessary in the opinion of Engineer. Provided that the Contractor shall not be entitled to recover any such extra cost unless he gives notice in writing of his intention to claim to the Engineer within 28 days of the Engineer's order. The Engineer shall settle and determine the extra payment to be made to the Contractor in respect of such claim as the Engineer shall consider reasonable.

**39. SUSPENSION LASTING MORE THAN 90 DAYS:**

If the progress of the works or any part thereof is suspended on the written order of the Engineer for more than 90 days, the Contractor may serve a written notice on the Engineer requiring permission within 28 days from the receipt thereof to proceed with the works or that part thereof in regard to which progress is suspended and if such permission is not granted within that time the Contractor by a further written notice so served may (but is not bound to) elect to treat the suspension where it affects part only of the Works as an omission of such part under Clause 62 thereof or where it affects the whole Works as an abandonment of the Contract by the Employer.

40. ISSUE OF OTHER MATERIALS FROM IREL STORES:

(i) Use of additional items:

If the Engineer directs the use of additional items of IREL stores in the work, the Contractor is bound to comply with such directions. The recovery rate for such stores shall be fixed by the Engineer.

(ii) Recovery Rates:

In addition to the above, other materials from IREL stores can be supplied subject to availability if the Engineer is satisfied as to the necessity for such issues. Recovery rates for the materials so issued shall be IREL issue rates plus 12% plus GST as may be in force from time to time.

(iii) Handling Conveyance etc:

All handling, conveyance, etc. from place of issue to the worksite of the Contractor are to be borne by the Contractor and the rates quoted in the Tender Schedule cover these.

(iv) Proper accounting:

All materials issued to the Contractor whether free of cost or on cost recoverable basis shall be properly accounted for. Any loss or damage to the stores issued by IREL will be debited to the Contractor at the IREL issue rates plus 20% plus GST as may be in force from time to time.

(vi) Excess/misuse:

Steel drawn in excess or misused will be charged at 100% overissue/recovery rates as stipulated in the contract.

(vii) Surplus stock:

No claim will be entertained for non-supply or delay in supply of any or all the above stores.

(viii) Except Steel, materials issued to the Contractor on recovery basis shall not normally be taken back. In case of steel and materials issued free, the surplus stock will be taken back at the stipulated rates of issue, provided they are returned in good condition. In case of steel, rebate at full rates will be made only if the pieces are returned in length not less than 6M. Shorter pieces in the range of 4M to 6M length will be taken back @ 50% of the issue rates. The materials shall be returned at IREL stores and all expenses towards conveyance, handling, weighing, sorting, etc. shall be at Contractor's accounts. As regards to the conditions of the materials to be returned, the decision of the Engineer shall be final and binding on the Contractor. The norms prevalent for consumption in respect of Steel shall apply for calculating the consumption of these materials for recovery.



COMMENCEMENT TIME AND DELAYS

41. COMMENCEMENT OF WORK:

The Contractor shall commence the works on site within the period as mentioned in the contract and shall proceed with the same with due expedition and without delay.

42. WAY LEAVES ETC.:

The Contractor shall bear all expenses and charges for special or temporary way leaves required by him in connection with access to the Site. The Contractor shall also provide at his own cost any additional accommodation outside the Site required by him for the purposes of the works, except when otherwise specifically agreed and provided for.

43. TIME FOR COMPLETION:

Subject to any requirement in the Contract as to completion of any portion of the works before completion of the whole of the works, it shall be completed within the time stated in the LOI/Award Letter/Agreement.

44. EXTENSION OF TIME FOR COMPLETION:

Should the amount of extra or additional work of any kind or other special circumstances of any kind whatsoever which may occur be such as fairly to entitle the contractor to an extension of time for the completion of the work, the Engineer shall determine the amount of such extension. Provided that the Engineer as not bound to take in to account any extra or additional work or other special circumstances unless the Contractor has within 14 days after such work has been commenced on such circumstances have arisen or as soon thereafter as is practicable, delivered to the Engineer's representative full and detailed particulars of any claim to extension of time to which he may consider himself entitled in order that such claim may be investigated at the time.

44.1 TIME EXTENSION OF CONTRACT:

The CONTRACTOR shall promptly notify the ENGINEER-IN-CHARGE any event or conditions which might delay the completion of work in accordance with the approved schedule and the steps being taken to remedy such situation.

44.2 If the Work is delayed at any time in the commencement or during the progress of the WORK by any act, delay or neglect solely attributable to IREL or his employees, or by any other contractor utilised by the IREL or by FORCE MAJEURE conditions, the time of completion shall be extended by IREL (without levy of Mutually Agreed Damages) in writing for a reasonable period as may be mutually agreed upon, at the time of closure of contract. The CONTRACTOR shall, immediately on occurrence of such special circumstances but not later than 14 working days, bring to the knowledge of IREL through written application for any such delay as mentioned above.

44.3 IREL shall have the right to suspend the WORK in whole or in part for such time as may be necessary in order that WORKS shall be well and properly executed. In such events, suitable extension of time shall be granted to CONTRACTOR.

45. NO NIGHT OR SUNDAY WORK:

Subject to any provision to the contrary contained in the contract, none of the permanent work shall save as hereinafter provided be carried on during the night or on Sundays (if locally recognised as days of rest) or their locally recognised equivalent without the permission in writing of the Engineer's representative save when the work is unavoidable or absolutely necessary for the saving of life or property or for the safety of the Works in which case the Contractor shall immediately advise the Engineer's representative. Provided always that the provisions of this Clause shall not be applicable in the-case of any work which it is customary to carry out by rotary or double shifts.

**46. RATE OF PROGRESS:**

The whole of the materials, plant and labour to be provided by the Contractor and the mode, manner and speed of execution and maintenance of the work are to be of a kind and conducted in a manner to the satisfaction of the Engineer. Should the rate of progress of the works or any part thereof be at any time in the opinion of the Engineer too slow to ensure the completion of the works by the prescribed time or extended time for completion the Engineer shall so notify the Contractor in writing and the Contractor shall thereupon take such steps as the contractor may think necessary and the Engineer may approve to expedite progress so as to complete the works by the prescribed time or extended time for completion. If the work is not being carried on by day and by night and the Contractor shall request permission to work by night as well as by day if the Engineer shall grant such permission, the Contractor shall not be entitled to any additional payment for so doing but if such permission shall be refused and there shall be no equivalent practicable method of expediting the progress of the work, the time for completion shall be extended by such period as is solely attributable to such refusal. All work at night shall be carried out without unreasonable noise and disturbance. The Contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while or in carrying out the work and from and against all claims, demands, proceedings, costs, charges and expenses whatsoever in regard or in relation to such liability.

47. LIQUIDATED DAMAGES FOR DELAYED EXECUTION OF CONTRACT:

Subject to Article -48, if the CONTRACTOR fails to deliver any or all of the GOODS or performance of the services within the time period(s) specified in the CONTRACT, the EMPLOYER shall, without prejudice to his other remedies under the CONTRACT, levy Liquidated damages from the CONTRACT PRICE, a sum calculated on the basis of the CONTRACT PRICE, including subsequent modifications.

Deductions shall apply as per following formula:

For repair works costing up to Rs. Ten lakhs (Rs 10,00,000/-) : One percent (1%) of the contract value per week subject to a maximum of ten percent (10%) of contract value

For all other works :

Half percent (0.5%) of the contract value per week of delay subject to a maximum of ten percent (10%) of contract value.

47.1 EMPLOYER may deduct the amount so payable by CONTRACTOR, from any amount falling due to the CONTRACTOR or by recovery against the Performance Guarantee. Both CONTRACTOR and EMPLOYER agree that the above percentages of price reduction are genuine pre-estimates of the loss/damage which the EMPLOYER would have suffered on account of delay/breach on the part of the CONTRACTOR and the said amount will be payable on demand without there being any proof of the actual loss/or damage caused by such breach/delay. A decision of the EMPLOYER in the matter of applicability of price reduction shall be final and binding.

48. FORCE MAJEURE:

48.1 Force majeure is an event beyond the control of contractor and not involving the contractor's fault or negligence and which is not foreseeable. Such events may include, but are not restricted to acts of the purchaser/contractor either in its sovereign or contractual capacity, wars or revolution, hostility, acts of public enemy, civil commotion, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts and freight embargoes or any other event which IREL may deem fit to consider so. The decision about force majeure shall rest with IREL which shall be final and binding.

48.2 If there is delay in performance or other failures by the contractor to perform obligations under its contract due to event of a Force Majeure, the supplier/contractor shall not be held responsible for such delays/failures.



- 48.3 If a Force Majeure situation arises, the contractor shall promptly notify the purchaser in writing of such conditions and the cause thereof within fifteen days of occurrence of such event. Unless otherwise directed by the EMPLOYER in writing, the CONTRACTOR shall continue to perform its obligations under the contract as far as reasonable/practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 48.4 If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period of exceeding 120 days, IREL may at its option terminate the contract without any financial repercussion on either side.

49. CERTIFICATE OF COMPLETION OF WORK:

As soon as in the opinion of the Engineer the works shall have been substantially completed and shall have satisfactorily passed any final test that may be prescribed by the Contract, the Engineer shall on receiving a written undertaking by the Contractor to finish any outstanding work during the period of Maintenance issue a Certificate of completion in respect of the works and the Period of Maintenance of the works shall commence from the date of such certificate. Provided that the Engineer may give such a certificate with respect to any part of the works before the completion of the whole of the work and shall upon the written application of the contractor give such certificate with respect to any substantial part of the works, which has been both completed to the satisfaction of the Engineer and occupied or used by the employer and when any such certificate is given in respect of a part of the works such part shall be considered as completed and the Period of Maintenance of such part shall commence from the date of such certificate. Provided also that a Certificate of Completion given in accordance with the foregoing provision of any part of the works occupied and use as aforesaid shall not be deemed to certify completion of any round or surfaces requiring reinstatement unless such certificate shall expressly so state.

50. MAINTENANCE AND DEFECTS:

50.1 DEFINITION OF PERIOD OF MAINTENANCE:

In these conditions, the expression "Period of Maintenance" shall be either 12 (Twelve) months or any other period if specifically specified in the special conditions of this contract, and calculated from the date of completion of the works certified by the Engineer in accordance with Clause 49 hereof or in the event of more than one certificate having been issued by the Engineer Under the said Clause from the respective dates so certified and in relation to the Period of maintenance, the expression "the works" shall be construed accordingly.

50.2 EXECUTION OF WORKS OF REPAIR ETC.:

To the intent that the works shall at or as soon as practicable after the expiration of the period of Maintenance be delivered up to the Employer in as good and perfect a condition (fair wear and tear expected) to the satisfaction of the Engineer as that in which they were at commencement of the Period of Maintenance, contractor shall execute all such work of repair, amendment, reconstruction, rectification and making good of defects, imperfections, shrinkages or other faults as may be required of the Contractor in writing by the Engineer during the Period of Maintenance or within fourteen days after its expiration as a result of an inspection made by or on behalf of the Engineer prior to its expiration.

50.3 COST OF EXECUTION OF WORKS OF REPAIR ETC.:

All such work shall be carried out by the Contractor at his own expense if the necessity thereof shall in the opinion of the Engineer be due to the use of materials or workmanship not in accordance with the Contract or to neglect or failure on the part of the Contractor to comply with any obligation expressed or implied on the Contractor's part under the



Contract. If in the opinion of the Engineer such necessity shall be due to any other cause, the value of such work shall be ascertained and paid for as if it was an additional work.

50.4 REMEDY ON CONTRACTOR'S FAILURE TO CARRY OUT:

If the Contractor shall fail to do any such work as aforesaid required by the Engineer, the Employer shall be entitled to carry out such work by his own workmen or by other Contractors, and if such work is the work which the Contractor should have carried out at his own cost, Employer shall be entitled to recover from the Contractor the cost thereof or may deduct the same from any moneys due or that may become due to the Contractor.

51. CONTRACTOR TO SEARCH:

The Contractor shall if required by the Engineer in writing search or the cause of any defect in perfection or fault under the directions of the Engineer. Unless such defect, imperfection or fault shall be one for which the Contractor is liable under the contract, the cost of the work carried out by the Contractor in searching as aforesaid shall be borne by the Employer. But if such defect, imperfection or fault shall be one for which the Contractor is liable as aforesaid the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case repair, rectify and make good such defect, imperfection or fault at his own expense in accordance with the provisions of Clause 50 hereof.

52. ALTERATIONS, ADDITIONS AND OMISSIONS:**52.1 VARIATIONS**

The Engineer shall make any variation from quality or quantity of the works or any part thereof that may in his opinion be necessary and for that purpose or if for any other reason it shall in his opinion be desirable he have power to order the Contractor to do and the Contractor shall do any of the following:

- (a) increase or decrease the quantity of any works included in the contract.
- (b) omit any such work
- (c) change the character or quality or kind of any such work
- (d) change the levels, lines position and dimensions of any part of works and
- (e) execute additional work of any kind necessary for the completion of the works and no such variation in any way vitiate or invalidate the contract but the value (if any) of all such variations shall be taken into account in ascertaining the amount of the contract price.

52.2 No such variation shall be made by the Contractor without an order in writing of the Engineer. Provided that no order in writing shall be required for increase or decrease in the quantity of any work where such increase or decrease is not the result of an order given under this Clause but is the result of the quantities exceeding or being less than those stated in the Tender Schedule. Provided also that if for any reason the Engineer shall consider it desirable to give any such order verbally, the contractor shall comply with such order and any confirmation in writing of such verbal order given by the Engineer whether before or after the carrying out of the order shall be deemed to be an order in writing within the meaning of this clause.

53.1 VALUATION OF VARIATIONS:

The 'Engineer shall determine the amount (if any) to be added to or deducted from the sum named in the Tender in respect of any extra or additional work done or work omitted by his order. All such work shall be valued at the rates set out in the Contract, if in the opinion of the Engineer the same shall be applicable. If the Contract shall not contain any rates applicable to the extra or additional work then reasonable prices shall be fixed by the Engineer.

**53.2 POWER OF ENGINEER TO FIX RATES:**

Provided that if the nature of amount of any omission or addition relative to the nature or amount of the whole of the contract work or to any part thereof shall be such that in the opinion of the Engineer the rate or price contained in the contract for any item of the work is by reason of such omission or additions rendered unreasonable or inapplicable, the Engineer shall fix such other rate or price as in the circumstances he shall think reasonable and proper.

Provided also that no increase of the Contract Price under sub-clause (1) of this clause on variation of rate or price under sub-clause (2) of this clause shall be made unless as soon after that date of the order as is practicable and in the case of extra or additional work before the commencement of the work or as soon thereafter as is practicable notice shall have been given in writing.

- (a) by the Contractor to the Engineer of his intention to claim extra payment or a varied rate or.
- (b) by the Engineer to the Contractor of his intention to vary a rate or price as the case may be.

53.3 CLAIMS:

The Contractor shall send to the Engineer's representative once in every month an account giving particulars (as full and detailed as possible) of all claims for any additional expenses to which the Contractor may consider himself entitled and of all extra or additional work ordered by the Engineer which he has executed during the preceding month and no claim for payment for any such work will be considered which has not been included in such particulars. Provided always that the Engineer, shall be entitled to authorise payment to be made for any such work notwithstanding the Contractor's failure to comply with this condition, if the contractor has at the earliest practicable opportunity notified the Engineer that he intends to make a claim for such work.

53.4 EXTRA ITEM:

Any extra item arising during the execution of work due to any reason shall be paid for based on the sanctioned schedule of rates or rates derived therefrom. The percentage quoted by the tenderer shall be applied to the rate arrived at from the schedule of rates or rates derived therefrom. In case the rates cannot be derived from the Schedule of rates or the quoted rates, CPWD norms shall be followed for determination of rates. Analysis of rates on the basis of field observations shall be considered if schedule of rates/CPWD norms are not available. The rates given in the schedule are complete for labour and materials including all leads, lifts, royalty etc. except otherwise stated in the items. No extra claim on account of these item shall be entertained.

54. PROPERTY IN MATERIALS:

54.1 If the specification or estimate of the work provides for use of any special description of materials to be supplied from the Engineer's store, or if it is required that the Contractor shall use certain stores to be provided by the Engineer (such materials and stores, and Plants and the prices to be charged therefore, as here-in-after mentioned being so far as practicable for the convenience of the Contractor but not so as in any way to control the meaning or effect of this contract specified in the schedule or memorandum hereto annexed), the Contractor shall be supplied with such materials and stores as required from time to time to be used by him for the purposes of the contract only, this being calculated out from specifications, drawing etc. and the value of the full quantity of materials and stores so supplied at the rates specified in the said schedule or memorandum may be set off or deducted from any sums then due, or thereafter to become due to the Contractor under the contract, or otherwise, or against or from the security deposit or the proceeds of sale there of if the same is held in Government securities, the same or a sufficient portion there of being in this case to fulfil the purpose. All materials supplied to the Contractor shall remain in the absolute property of Employer and shall not on any account



be removed from the site of the work and shall at all times be open to inspection by the Engineer.

Any such materials unused and in perfectly good condition at the time of the completion of determination of the contract shall be returned to the Engineer store. If by a notice in writing under his hand he shall so require but the Contractor shall not be entitled to return any such materials unless with such consent and shall have no claim for compensation on account of any such materials so supplied to him as aforesaid during being unused by him or for any wastage in or damages to any such materials.

54.2 MATERIALS OBTAINED FROM DISMANTLEMENT & EXCAVATION ETC:

Contractors in the course of their works, should understand that all material (e.g. store and other materials obtained in the work of dismantling, excavation, etc. will be considered Employer's property) and issued to the Contractor (if they require the same for their own use) at rates approved by him. If these materials are not required by them they will be disposed off to the best advantage of Employer.

54.3 RELICS, GOLD, SILVER FOUND IN OR UPON THE SITE:

All gold, silver, oil and other minerals of any description and precious stones, coins, treasures, relics, antiquities and other similar things which shall be found in or upon the site shall be the property of the Employer, and the Contractor shall duly preserve the same to the satisfaction of Employer and shall, from time to time deliver the same to such person or persons as the Employer may appoint to receive the same.

55. NO APPROVAL BY VESTING:

The operation of the Clause numbered 62 shall not be deemed to imply any approval by the Engineer of the materials or other matters referred to therein nor shall it prevent the rejection of any such materials at any time by the Engineer.



MEASUREMENT

56. QUANTITIES:

The quantities set out in the Tender Schedule are the approximate estimated quantities of the work but they are not to be taken as the actual and correct quantities of the works to be executed by the Contractor in fulfilment of his obligations under the Contract. Any item may be omitted or altered and no claim for compensation will be entertained on this account or for any variation however substantial it may be in the Tender Schedule.

57. WORKS TO BE MEASURED:

The Engineer shall except as otherwise stated ascertain and determine by measurement the value in accordance with the Contract of work done in accordance with the contract. He shall when he requires any part or parts of the Works to be measured give notice to the Contractor's authorised agent or representative who shall forthwith attend or send a qualified agent to assist the Engineer or the Engineer's representative in making such measurement and shall furnish all particulars required by either of them. Should the Contractor not attend or neglect or omit to send such agent then the measurement made by the Engineer or approved by him shall be taken to be the correct measurement of the work. For the purpose of measuring such permanent work as is to be measured by record drawings, the Engineer's representative shall prepare record drawing month by month of such work and the Contractor as and when called upon to do so in writing shall within 14 days attend to examine and agree such record drawings, with the Engineer's representative and shall sign the same when so agreed and if the Contractor does not so attend to examine and agree any such record drawings they shall be taken to be correct. If after examination of such record drawings the Contractor does not agree the same or does not sign the same as agreed, they shall nevertheless be taken to be correct unless the Contractor shall within 14 days of such examination lodge with the Engineer's representative for decision by the Engineer's notice in writing of the respects in which such record drawings are claimed by him to be incorrect. The Contractor shall be paid for the quantities resulting from measurement of the executed work.

58. MODE OF MEASUREMENT FOR CIVIL WORKS:

The mode of measurement shall be as per Indian Standard 1200 latest, subject to the following:

- (a) In case the mode of measurement is not covered by the said Indian Standard for a particular item, the method of measurement shall be as per CPWD specifications for that item only.
- (b) Wherever a particular mode of measurement is specified in the description of the item in the tender schedule/special conditions, the same shall only apply.
- (c) In case of dispute regarding mode of measurement, the decision of the Engineer shall be final and binding on the Contractor.

59. PAYMENT FOR WORK DONE

59.1.1 100% payment against bills for the work done (Subject to the required deductions) shall be made to the Contractor based on detailed measurements and certification of bills by the Engineer.

59.1.2 **ON ACCOUNT PAYMENT:** Bills shall be prepared and submitted by the Contractor. Joint measurements shall be taken continuously and need not be connected with billing stage. Based on these joint measurements recorded in the register, the Contractor shall submit the bills in both soft and hard copies (three copies) in the prescribed format along with the detailed measurements item wise. All the pages of the measurement sheets shall be serially machine numbered and signed by the Contractor. The bills along with measurement sheet shall be computer generated and also suitably programmed for effecting the necessary corrections easily. The bills shall be accompanied with necessary documents such as abstract of quantities, variation statements, reconciliation of materials, part rate statements indicating the extent of work done, statement of secured advance claimed and fulfilling other statutory obligations such as ESI / PF / Insurance / labour



licence etc. Payment against bills for the work done (Subject to necessary deductions) will be made after the verification and certification by the Engineer of the bill submitted by the Contractor.

59.1.4 COMPLETION CERTIFICATE: The Works shall be deemed to have been completed in all respects on the day the Engineer certifies that the works have been so completed in accordance with this Contract, takes over the completed Works and issues a certificate to that effect. The Defect Liability Period will start from the said date of completion / handing over of the work.

59.1.5 FINAL PAYMENTS: Based on the measurement of Work performed, the Contractor shall submit his final bill for the Works within 3 months of completion of work. The bill shall be based only on Works as measured and at accepted tender rates including rates for any additional or extra work which might have been approved by the Company. All deductions due under the Contract shall be incorporated. The final bill shall be accompanied by:

- A) A copy of the Completion Certificate issued by the Engineer.
- B) No Claim Certificate" in the prescribed form or a list of claims if any, not included in the final bill with full details.

The Engineer shall examine and certify the final bill for payment after satisfying that the Works have been satisfactorily completed and that all properties, works and things removed or disturbed or damaged in consequence of the Work have been properly replaced and made good and all expenses and demands incurred or made by or on the Company or in respect of any damage or loss by, from or consequence of the Works have been satisfied, all materials have been returned and the site cleared.

59.1.6 SECURED ADVANCE:

75% payment against bills as Secured Advance on the cost of all non-perishable materials brought by the Contractor to Site for use in the Works (excluding chargeable materials issued by the Company) as assessed and approved by the Engineer may be paid, provided the materials confirm to the specifications of the contract and accepted by the Engineer. These materials shall be pledged by the Contractor to the Company. All the Secured Advance allowed will be deducted while making payment of any bill for the work done and a fresh Secured Advance on the materials remaining then at Site will be paid along with the same bill.

59.2 BILL TO BE SUBMITTED MONTHLY:

A bill shall be submitted by the Contractor each month on or before the date by the Engineer for all work executed in the previous month and the Engineer shall take or cause to be taken the requisite measurement for the purpose of having the same verified and the claim, as far as admissible, adjusted if possible, before the expiry of ten days from the presentation of the bill. If the Contractor does not submit the bill within the time fixed as aforesaid, the Engineer may depute his representative to measure up the said work in the presence of the Contractor, whose counter signature to the measurement list will be sufficient warrant, and the Engineer may prepare a bill from such list which shall be binding on the Contractor in all respects.

59.3 BILLS TO BE ON PRINTED FORMS:

The Contractor shall submit all bills on the printed forms to be had on application at the office of the Engineer and the charges in the bills shall always be entered at the rates specified in the tender in the case of any extra work ordered in pursuance of these conditions and not mentioned or provided for in the tender at the rates herein after provided for such work.

Invoice must contain Contractor's GST Registration number, PAN, Bank detail of Contractor, GST Registration number of IREL Factory/ Office, HSN/SAC Code for service rendered.

**59.4 RETENTION MONEY (IF PROVIDED FOR SUBMISSION IN THE TENDER):**

As and by way of additional security from every progressive on account bill of the Contractor, prescribed percent of the value of the work executed shall be deducted as Retention money and kept as security deposit until the total of the amount so deducted plus the initial security (including the Earnest money) already deposited will equal the prescribed security.

59.5 SET-OFF:

- (a) Any sum of money due and payable to the Contractor (including security deposit returnable to him) may be appropriated/ retained/ withheld and/or set off by the Employer or Government against any claim of the Employer or Government or such other person or persons for the payment of a sum of money arising out of or under this contract or other contracts made by Contractor with the employer or Govt. or such other person or persons.
- (b) The Employer will be at liberty to recoup any damage/loss suffered as a result of any action on the part of the Contractor.

59.6 DEDUCTIONS FROM CONTRACT PRICE:

All costs, damages or expenses which the EMPLOYER may have paid for which, under the CONTRACT, the CONTRACTOR is liable, will be claimed by the EMPLOYER. All such claims shall be billed by the EMPLOYER to the CONTRACTOR regularly as and when they fall due. Such claims shall be paid by the CONTRACTOR within fifteen days of the receipt of the corresponding bills and if not paid by the CONTRACTOR within the said period, the EMPLOYER may then deduct the amount from any bill due or becoming due by him to the CONTRACTOR under the CONTRACT or may be recovered by action of law or otherwise, if the CONTRACTOR fails to satisfy the EMPLOYER of such claims.

59.7 TAXES APPLICABLE TO CONTRACTOR'S MANPOWER, TURNOVER, EQUIPMENT ETC.

The CONTRACTOR shall be solely responsible for all taxes that may be levied on the CONTRACTOR's turnover & profit or on the earnings of any of his employees or personnel engaged by him and shall hold the EMPLOYER indemnified and harmless against any claims that may be made against the EMPLOYER in this behalf. The EMPLOYER does not undertake any responsibility whatsoever regarding any taxes levied on CONTRACTOR and/or his personnel by Centre/ State/ Local Authorities.

59.8 DEDUCTION OF INCOME TAX AT SOURCE:

Income Tax on the gross amount billed will be deducted from Contractor's bills as per Section 194 (C) of the Income Tax Act. In case of contract for consultancy or professional services Tax deduction at source as per Section 194 J. will be carried out

59.9 OVER PAYMENTS / UNDER PAYMENTS DETECTED DURING TECHNICAL AUDIT:

The Company reserves the right to carry out post-payment audit and technical examination of the running/ final bill including all supporting vouchers etc. The Company also reserves the right to propose recoveries detected by CVC (Central Vigilance Commission) based on their audit and observations of works / bills etc. The Company further reserves the right to enforce recovery of any over payment when detected, notwithstanding the fact the amount of running / final bill may be included by one of the parties as an item of dispute before an arbitrator appointed and notwithstanding the fact that the amount of running / final bill figures in the arbitration award.

If as a result of such audit and technical examination any over payment is discovered in respect of any work done by the Contractor under the contract, the Company from the Contractor shall recover it, or if any under payment is discovered, the amount shall be duly paid to the Contractor by the Company.

**60.0 APPROVAL BY MAINTENANCE CERTIFICATE:**

No certificate other than the maintenance certificate referred to in **clause 61** hereof shall be deemed to constitute approval of any work or other matter in respect of which it is issued or shall be taken as admission of the due performance of the contract or any part hereof or of the accuracy of any claim or demand made by the contractor or of additional or varied work having been ordered by the Engineer nor shall any other certificate conclude or prejudice any of the powers of the Engineer.

61.1 MAINTENANCE CERTIFICATE:

The contract shall not be considered as completed until a maintenance certificate shall have been signed by the Engineer and delivered to the Employer stating that the Works have been completed and maintained to his satisfaction. The maintenance certificate will be given by the Engineer twenty - eight days after the expiration of the Period of maintenance (or if different Periods of maintenance shall become applicable to different parts of Works the expiration of the latest such period) or as soon thereafter as any works ordered during such Period pursuant to **Clause 50 and 51** hereof shall have been completed to the satisfaction of the Engineer and full effect given to this Clause notwithstanding any previous entry on the Works of taking possession, working or using thereof or any part thereof by the Employer.

61.2 CESSION OF EMPLOYER'S LIABILITY

The Employer shall not be liable to the Contractor for any matter or thing arising out of or in connection with the Contract or the execution of the Works Unless the Contractor shall have made a claim in writing in respect thereof before the giving of the maintenance certificate under this Clause.

61.3 UNFULFILLED OBLIGATION:

Notwithstanding the issue of the Maintenance certificate the Contractor and (subject to sub - clause (2) of this clause) the Employer shall remain liable for the fulfilment of any obligation incurred under the provisions of the Contract prior to the issue of the Maintenance Certificate which remains un-performed at the time such certificate is issued and for the purpose of determining the nature and extent of any such obligation, the contract shall be deemed to remain in force between the parties hereto.

62.0 URGENT REPAIRS:

If by reason of any accident or failure or other event occurring to in or in connection with the works or any part thereof either during the execution of the works or during the Period of Maintenances, any remedial or other work or repair shall in the opinion of the Engineer or the Engineer's representative be urgently necessary for security and the Contractor is unable or un-willing at once to do such work or repair, the Employer may by his own or other workmen to such work or repair as the Engineer or the Engineer's representative may consider necessary. If the work or repair so done by the Employer is work which in the opinion of the Engineer the Contractor was liable to do at his own expense under the contract, all cost and charges properly incurred by the Employer in so doing shall on demand be paid by the Contractor to the employer or may be deducted by the employer from any moneys due or which may become due to the Contractor. Provided always that the Engineer or the Engineer's representative (as the case may be) shall, as soon after the occurrence of any such emergency as may be reasonably practicable notify the Contractor thereof in writing.

63.0 RESOLUTION OF DISPUTES/ ARBITRATION:

63.1 The EMPLOYER and the CONTRACTOR shall make every effort to resolve amicably by direct informal, good faith negotiations any disagreement or dispute arising between them under or in connection with the Contract.



- 63.2 If, after thirty days from the commencement of such informal, good faith negotiations, the EMPLOYER and the CONTRACTOR have been unable to resolve the disagreement or dispute, the same shall be referred for resolution as per the formal mechanism as specified hereunder shall be applicable.
- 63.3 **LEGAL CONSTRUCTION:** The Contract shall be, in all respects be construed and operated as an Indian Contract and in accordance with Indian Laws as in force for the time being.

63.4 ARBITRATION:

- a) All disputes and differences of any kind whatsoever arising out of or in connection with the contract or carrying out of the works (whether during the course of works or after their completion and whether before or after determination, abandonment or breach of contract) shall be referred to and settled by the person authorized and notified in writing by IREL who shall state his decision in writing. Such a decision may be in the form of a final certificate or otherwise and shall be made within a period of 30 days from the date of receipt of such reference to them.
- b) If the CONTRACTOR is dissatisfied with the decision of such authorized person, then he may within 30 days of receipt of such decision send a written appeal to PURCHASER, represented by the Chairman and Managing Director at the registered office, Mumbai for the same to be referred to Arbitration by a Sole Arbitrator to be appointed by mutual consent and after due approval of CMD, IREL. The Arbitration proceedings shall be conducted as per the provisions of the Arbitration and Conciliation Act, 1996. It is made clear that this Arbitration Clause shall be applicable to any and all disputes and differences between the Parties arising out of and/or relating to this CONTRACT and the Parties shall be bound to refer the same to arbitration in accordance with the procedure contemplated herein.
- c) If the period of 30 days under Clause (b) has expired at any stage, stipulated in the preceding paras without any response from the CONTRACTOR before such expiry, the CONTRACTOR is deemed to have communicated his satisfaction to the decision of IREL at the relevant stage and all his rights of further appeal or as the case may be, adjudication are deemed to have been waived once and for all.
- d) The seat of arbitration will be at _____ and the language thereof shall be English.
- e) Notwithstanding the invocation, commencement and/or pendency any dispute resolution proceedings under this Clause 63 including arbitration under Clause 63.4, the CONTRACTOR shall continue to be bound by the provisions of the CONTRACT, if not terminated by the EMPLOYER, and shall be obligated to discharge its obligations under the CONTRACT including continuation of the WORK under the CONTRACT.
- f) The CONTRACTOR shall not in any way delay or default or cause to delay or default the carrying out of the works by reason of the fact that any matter has been agreed to be referred to and / or referred to dispute resolution under Clause 63 including Arbitration under Clause 63.4.

63.5 JURISDICTION:

The courts only shall, subject to Arbitration Clause, have exclusive jurisdiction to deal with and decide any matter arising out of this contract.

**64.0 ACTS OF PARLIAMENT, LOCAL AND OTHER AUTHORITIES AND BYE-LAWS:****64.1 COMPLYING WITH REGULATIONS:**

- 64.1.1 Throughout the execution of the WORK, the CONTRACTOR shall comply with the requirements of all applicable laws and regulations, bye-laws or orders made there under and to the requirements of public, municipal and other authorities in any way affecting or applicable to the work. IREL shall, when requested by the CONTRACTOR, give all reasonable assistance to the CONTRACTOR in obtaining information concerning local conditions.
- 64.1.2 Before making any departure from the specification or drawings which may be necessary to conform to such requirements, the CONTRACTOR shall give the IREL written notice specifying the departure proposed to be made and the reason for making it and applying for instructions thereon. If the CONTRACTOR does not receive such instructions within thirty (30) days, he shall conform to those requirements and inform the IREL accordingly.
- 64.1.3 The Contractor shall remain liable for the payments of all wages or other money to his employees or labourers under the Minimum Wages Act, Payment of Wages Act, Employees Liability Act, Workmen's Compensation Act, PF and ESI Act or any other enactments and rules made applicable from time to time. The Contractor shall also comply with the provisions of the Apprenticeship Act, Contract Labour Regulation and Abolition) Act and the Rules and Orders issued there under from time to time. The Contractor shall be liable to pay the wages directly to the workmen employed by him on the Works.
- 64.1.4 It is obligatory on the part of the Contractor to forward the declaration forms to the ESI authorities for issue of ESIC numbers, make timely contribution towards ESI and PF in accordance with the provisions of relevant acts from time to time in respect of labour engaged by him for all the works executed in the Company. The Contractor should contact the jurisdictional ESI and PF authorities and ensure to observe all formalities such as maintenance of muster rolls, opening of identification cards, making remittance etc. The Contractors / firms / establishments shall remit the PF and ESI contributions in their respective codes. However, in such cases, copies of muster roll, wage register, ESI / PF remittance, copies of the returns shall be furnished to the Engineer for verification and records while preferring bills.
- 64.1.5 The Contractor shall ensure compliance of any other laws, bye-laws, Acts. Statutes, Rules & Regulations framed there under as appreciable in relation to its employees/workmen and establishments in mandatorily, even though not explicitly mentioned here. It shall be the responsibility of the Contractor to get itself acquainted about them adequately.

65.0 BREACH OF TERMS, SUSPENSION AND TERMINATION:**65.1.1 BREACH OF TERMS:**

Breach of any of the terms of the Contract, the EMPLOYER shall be entitled, without prejudice to any and all other remedies available to it, without incurring any liability what-so-ever, to fore-bear from doing such acts or fulfilling such obligations as are to be done or fulfilled by it here under until the CONTRACTOR on terms herein makes good the said breach;

65.2 SUSPENSION:

- 65.2.1 IREL may suspend the Works in whole or in part at any time by giving the CONTRACTOR a notice in writing, if the CONTRACTOR shall be in breach of this Contract or shall fail to perform any of its obligations under this Contract, including the carrying out of the Works; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the CONTRACTOR to remedy such breach or



failure within a period not exceeding 30 (thirty) days after receipt by the CONTRACTOR of such notice of suspension.

65.2.2 On receiving the notice of suspension from IREL, the CONTRACTOR shall stop all such work, which IREL has directed to be suspended with immediate effect. IREL may at any time cancel the suspension notice for all or any part of suspended work by giving written notice to the CONTRACTOR specifying the part of work to be resumed and the effective date of suspension withdrawal. The CONTRACTOR shall resume the suspended work on immediately upon receipt of such withdrawal of suspension notice. In the event of suspension of work, IREL shall not be liable to the CONTRACTOR for any damage and loss.

65.3 TEMPORARY SUSPENSION:

65.3.1 IREL may at any time temporarily suspend the progress of work being performed under the Contract or any part thereof by notice in writing to the CONTRACTOR. All the work so suspended shall be resumed by the CONTRACTOR and extended as assessed and deemed fit by IREL.

65.3.2 IREL will not pay the CONTRACTOR for any work, which is performed during such an interval of suspension, and IREL shall not be liable to the CONTRACTOR for any damages or loss caused by such suspension of work.

65.4 EVENT OF DEFAULT:

Event of Default means the CONTRACTOR Event of Default or IREL Event of Default or both as the context may admit or require.

65.4.1 CONTRACTOR EVENT OF DEFAULT:

Any of the following events shall constitute an event of default by the CONTRACTOR ("CONTRACTOR Event of Default");

- a. the CONTRACTOR fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Sub-clause 65.2 hereinabove, within 30 (thirty) days of receipt of such notice of suspension or within such further period as IREL may have subsequently granted in writing;
- b. The CONTRACTOR fails to commence the Works ;
- c. The CONTRACTOR fails to ensure that Works Completion Date of the Plant is achieved as per schedule mentioned in the contract/ agreement;
- d. Any representation made or warranties given by the CONTRACTOR under this Contract is found to be false or misleading;
- e. The transfer, pursuant to law of either (a) the rights and/or obligations of the CONTRACTOR under the Contract, or (b) all or material part of the CONTRACTOR; except where such transfer in the reasonable opinion of IREL does not affect the ability of the CONTRACTOR to perform, and the CONTRACTOR has the financial and technical capability to perform. its material obligations under the Contract;
- f. The CONTRACTOR suspends or abandons the Works without prior consent of IREL, provided that the CONTRACTOR shall be deemed not to have suspended/ abandoned operation if such suspension/ abandonment was (i) as a result of Force Majeure Event and is only for the period such Force Majeure is continuing, or (ii) is on account of a breach of its obligations under the Contract by IREL;
- g. the CONTRACTOR becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- h. the CONTRACTOR fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 63 hereof;
- i. the CONTRACTOR submits to IREL a statement which has a material effect on the rights, obligations or interests of IREL and which the CONTRACTOR knows to be false;



- j. any document, information, data or statement submitted by the CONTRACTOR in its Bid, based on which the CONTRACTOR was considered eligible or successful, is found to be false, incorrect or misleading; or
- k. The CONTRACTOR repudiates the Contract or otherwise evidences an intention not to be bound by the Contract.

65.4.2 IREL EVENT OF DEFAULT:

The following events shall constitute events of default by IREL ("IREL Event of Default"), unless any such IREL Event of Default has occurred as a result of CONTRACTOR Event of Default or due to a Force Majeure Event:

- a. IREL is in breach of the Contract and has failed to cure such breach within sixty (60) days of receipt of notice in that behalf from the CONTRACTOR;
- b. IREL repudiates the Contract or otherwise evidences an intention not to be bound by this Contract;
- c. Any representation made or warranties given by IREL under the Contract is found to be false or misleading.

65.5 RE COURSE TO EVENT OF DEFAULT:

- 65.5.1 In case of an event of default, the following recourse is available to IREL and the CONTRACTOR or both as the situation may warrant:

- a. In case of occurrence of Event of Default mentioned in Sub-clause a and Sub-clause b of Clause 65.4.1, the CONTRACTOR shall have an option to ask for extension from IREL specifying the conditions that have restricted the CONTRACTOR to complete the tasks in stipulated time. However, IREL's decision on said matter shall stand final as the case may be;
- b. In case of occurrence of any other Event of Default in Clause 65.4.1, IREL shall be entitled to terminate this CONTRACT as per Clause 65.6 herein.
- c. In case of occurrence of Event of Default mentioned in Sub-clause 65.4.2, the CONTRACTOR shall have an option to seek Termination of this Contract. In seeking the Termination of the Contract, CONTRACTOR would have to clearly demonstrate that the Event of Default has occurred despite all possible steps taken by CONTRACTOR to avoid Termination. The Parties shall mutually decide the modalities of Termination.

65.6 TERMINATION DUE TO CONTRACTOR EVENT OF DEFAULT:

- 65.6.1 Without prejudice to any other right or remedy which IREL may have in respect thereof under the Contract, upon the occurrence of an CONTRACTOR Event of Default, IREL shall be entitled to terminate the Contract by issuing a Termination Notice (the "**Termination Notice**") to the CONTRACTOR, provided that before issuing the Termination Notice, IREL shall by a notice in writing inform the CONTRACTOR of its intention to issue the Termination Notice (the "**Preliminary Notice**"). In case the underlying breach/default is not resolved within a period of sixty (60) days from the date of the Preliminary Notice, IREL shall be entitled, to terminate the Contract by issuing the Termination Notice.

- 65.6.2 Upon termination of the Contract by notice of either Party to the other pursuant to Sub-clauses 65.5.1 b or 65.5.1 c hereof, the CONTRACTOR shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Works to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum.

65.7 PAYMENT UPON TERMINATION:

- 65.7.1 Upon termination of this Contract pursuant to Sub-clauses 65.5.1 c hereof, IREL shall make the following payments to the CONTRACTOR (after offsetting against these payments any amount that may be due from the CONTRACTOR to IREL):



Remuneration pursuant to Schedule of rates hereof for Works satisfactorily performed prior to the date of termination;

65.8 DISPUTES ABOUT EVENTS OF TERMINATION:

- 65.8.1 If either Party disputes whether an event specified in Sub-clause 65.4.1 or in Sub-clause 65.4.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Sub-clause hereof.

66.0 LIMITATION OF LIABILITY:

Notwithstanding anything contrary contained herein, the aggregate total liability of Contractor under the Contract or otherwise shall be limited to 100% of contract price. However, neither party shall be liable to the other party for any indirect and consequential damages, loss of profits or loss of production.

67.0 METHOD OF BLACKLISTING VENDORS:

- 67.1 Any failure by the vendor (CONTRACTOR) to supply/execute the contract as per order may result in blacklisting of vendor by the authority competent to conclude the contract. The blacklisted vendor shall not be considered for a minimum period of one year from the date of black listing.
- 67.2 Further, the competent authority may blacklist the bidder, if the bidder changes bid either techno-commercial and / or price or withdraw his bid after receipt of the same and during the validity period of bid.
- 67.3 Further, the vendor (CONTRACTOR) shall be banned from doing any business with IREL in case of :
- If security considerations including question of loyalty to the state so warrant.
 - If the proprietor of the firm, its partner or representative is convicted by a court of law following prosecution for offences relating to business dealings.
 - If there is strong justification for believing that the proprietor or employee or representative of the CONTRACTOR has been guilty of malpractice such as bribery, corruption, fraud, substitution of tenders, interpolation, misrepresentation, evasion or habitual default in payment of any tax levied by law, etc.
- 67.4 An order for ban/ suspension passed for a certain specified period shall be deemed to have been automatically revoked on expiry of that specified period and it will not be necessary to issue a specific formal order of revocation, except that an order of suspension/ban passed on account of doubtful loyalty or security consideration shall continue to remain in force until it is specifically revoked.
- 67.5 An order of ban on grounds of conviction by Court of Law may be revoked if, in respect of the same facts, the accused has been wholly acquitted by a court of law.

68.0 SECRECY

The CONTRACTOR shall not at any time during the pendency of the contract or thereafter disclose any information furnished to them by IREL or any drawings, designs, reports and other documents and information prepared by the Contractor for this contract, without the prior written approval of IREL except in so far as such disclosure is necessary for the performance of the Contractor's work and service hereunder.

**69.0 LABOUR:**

- (a) In respect of all labour directly or indirectly employed by the Contractor, Labour Rules, on the work, it shall be the bounden duty of the Contractor to abide by and to strictly comply with all labour legislations, as may be applicable, enacted by the parliament or by the State Legislature and the rules/regulations framed thereunder by the Central or State Government or Local Authorities providing for the conditions of employment protection of health, Sanitary arrangements, wages, provident fund, gratuity, welfare, and safety of workmen. These rules and statutory obligations shall be deemed to be part of the Contract. Instructions issued by the Employer in this behalf from time to time shall be equally binding on the contractor & the Contractor shall observe them stringently.
- (b) In the event of the Contractor failing to discharge his obligations imposed upon him by or under any statute as aforesaid, the employer shall be entitled to rescind the Contract at the sole risk and cost of the Contractor and/or recover from him the amount of loss sustained by the Employer.
- (c) It is advisable for the Contractor to properly and fully acquaint himself with all the legislations as applicable to his workmen and the work under this contract or in connection herewith, so as to preclude the possibility of infringement and noncompliance thereof and to make it easy for him to observe clause 69 without any deviation.
- (d) The Contractor shall maintain records, registers in respect of workers employed by him as required under various statutes and or prescribed by the Employer, shall issue attendance cards to each worker and shall produce the same for inspection on demand to the authorities under statutes or to the authorised representatives of the Employer.
- (e) All payments of whatever nature to be made by the Contractor to his workmen shall be made in the presence of an authorised representative of Employer and Employer's representative shall sign the acquaintance in token of having witnessed the payment, as prescribed under law.
- (f) The first R.A. bill of the Contractor shall be released only after HRM (Welfare Section) gives clearance regarding compliance of all statutory provisions by the contractor. Final bill of the Contractor shall be cleared only when a clearance certificate is issued by the Contractor from an authority declared for the purpose by the Employer, that the claims of workmen in respect of wages, workmen's compensation, statutory payments etc. have been paid by Contractor to his workmen in full and subject to fulfilment of other conditions of Contract. Labour Rules etc.
- (g) The Contractor shall be entirely responsible for safe and good conduct of his employees during the period of his contract. The Contractor shall also ensure, that no safety rules/instructions are violated by him or his workmen. The Contractor shall maintain his machineries and tools for work in safe condition and shall present the same for checking whenever called by Employer/ his representatives.
- (h) It shall be binding on the part of the Contractor to familiarise himself and be governed by all statutes such as Mines Act 1952, Rules and Regulations including amendments made thereunder, if any, applicable for the work, Indian Electricity Act. 1910 and Indian Electricity Rules 1956 including amendments, if any, applicable for the work.
- (i) The Contractor shall provide and ensure proper use of safety appliances by his workmen throughout the course of their employment.



- (j) The Contractor in fulfilment of his statutory obligations imposed by or under various Labour Laws, will among other things:
 - i) Arrange to provide cool and wholesome drinking water at appointed place/places near work site. The container of water shall be in hygienic condition.
 - ii) Implement the Employees Provident Fund Scheme or Produce exemption certificate from Regional Provident Fund Commissioner if they are so exempted Otherwise, bills for the work will be released withholding 10% from such sums or as decided by the Management from time to time till such time they implement the scheme or produce exemption certificate from the Regional Provident Fund Commissioner. The Contractors are further required to indemnify Employer against any loss or damage, whatsoever, that may be suffered by Employer as a result of any claim, damage or penalties for any failure or non-compliance on their (Contractor's) part with the provisions of the aforesaid Act and Scheme framed thereunder.
- (k) The Contractor shall arrange to get his workmen trained under Mines Vocational Rules-1966 at the Training Department of the Company and shall pay all statutory allowances for such training to his workmen under training. The Contractor shall ensure the proper use of safety appliances by his workmen throughout the course of their employment.

70.0 RETURNS OF LABOUR:

- (a) The Contractor shall if required by the Engineer deliver to the Engineer's representative or at his office a return in detail in such form and at such intervals as the Engineer may prescribe showing the numbers of the labour from time to time employed by the contractor on the Site.

71.0 LABOUR LICENCE:

- (a) The Contractor shall have to obtain a licence from Asstt. Labour Commissioner (Licensing Authority) within 15 days from the award of the Contract under Contract Labour (Regulation and Abolition) Act. 1970 and shall have to comply with all the provisions of the Act and Rules framed thereunder and shall ensure that no violations are pointed out by the Authorities under the Act.
- (b) The RA Bills of the contract shall not be released until the licence for the number of labour employed under Contract Labour(Regulation and Abolition)Act, 1970 has been produced by the Contractor to the office of the employer. Whenever the number is increased, the Contractor shall arrange to get such changes incorporated in the licence.
- (c) The Contractor shall make payment to their workmen in the presence of authorised representative of the Employer only, and obtain the required certificate regarding witnessing of payments.

72.0 WOMEN LABOUR:

The working hours of women labour employed by the Contractor/ tenderer shall conform to the relevant labour acts in force. They shall not be detained after 7.00 PM and employed before 6.00 AM and in no case employed during the night time.

73.0 EMPLOYMENT OF CHILDREN:

No child below the age of 18 years shall be employed. If children/young persons in the work premises are employed contravening the provision of the Factories Act, 1948 and rules framed thereunder, their agreement/ contract is liable to cancellation and/or termination without any compensation or notice.

**74.0 ENTRY PASS :**

All representatives and workers of Contractor shall possess the Entry Pass issued from the Security Deptt. and concerned Officer/Engineer shall have the right to refuse the Entry passes to any worker or representative of the Contractor without assigning any reason. Permission to enter the Plant to any representative or worker of the Contractor may be suspended or withdrawn at any time by the Security Deptt. or concerned Officer/Engineer without assigning any reason. The Contractor(s) shall ensure that any gate pass issued to their workmen or representatives by authorities are not misused by the unauthorised persons for entry in the plant area/in specified area inside the plant.

75.0 SAFE CUSTODY OF ENTRY PASS:

The Contractor shall be governed by the following provisions for enforcing safe custody and proper use of gate passes that may be issued to him for entry into the Plant area:

- (a) it shall amount breach of rules and regulations regarding entry into a prohibited place by Contractors in case any entry passes issued on their demand are found to be misused by any unauthorised person (s).
- (b) It shall also amount to breach of terms of the contract for which the employer reserves the right to terminate the contract at any stage at the risk and cost of the Contractor.
- (c) Final payment would be made to the Contractor only after all the passes issued by the Security Department are surrendered to the Security Department for cancellation for which 'No Demand Certificate' should be obtained.
- (d) In case of passes lost/ not surrendered for any reason an amount as fixed shall be levied as penalty before final payments are cleared or as amended from time to time. No Dues Certificate will not be issued unless all the statutory payments to contract labour including retrenchment benefits, gratuity etc. are paid and a copy of full and final payment Muster Roll duly witnessed by the nominee of employer is submitted to Welfare Dept. by the contractor The Contractor may be debarred in case he is found that he is not complying with the statutory provisions.

76.0 LIABILITY FOR ACCIDENTS AND DAMAGES:

76.1 The CONTRACTOR shall be responsible for loss or damage to the PLANT and provide new equipment and machineries in lieu of equipment/machineries lost/ damaged beyond repairs, free of cost until the PLANT is handed over after successful completion of performance guarantee test run.

Notwithstanding the provisions in the CONTRACT, the CONTRACTOR shall not be responsible for any loss or damage to the PLANT or any part thereof if and to the extent that such loss or damage is not covered by insurance coverage such as War risk, provided the same is general exclusion of the policy of the EAR insurance. War Risks shall mean any of the following events occurring within India: War, hostilities, warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, civil war, rebellion, terrorism, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, mine, bomb, shell, grenade or other projectile, missile, munitions or explosive of war.

76.2 The CONTRACTOR shall indemnify the IREL in respect of all damage or injury to any person or to any property (other than property forming part of the Work) and against all actions, suits, claims, demands, costs, charges and expenses arising in connection therewith which shall have been occasioned by the negligence of the CONTRACTOR or any SUB-CONTRACTOR, or by defective design (other than a design made, furnished or specified by the IREL and which the CONTRACTOR has disclaimed responsibility in writing within a reasonable time after receipt of the IREL's instructions), material or workmanship, any breach of the CONTRACTOR's obligations.

**77.0 SAFETY CLAUSES:**

Before commencement of the work, the Contractor will give an undertaking in writing that they would abide by the safety Rules and Regulations laid down by the organisation rigorously and any deviation from this would make them liable for action.

(a) SAFETY CLEARANCE :

Along with contract document and job instructions from the contracting department, the Contractor will come to Safety & Training Deptt. where he will be further briefed and Contractor's Safety Management Policy will be explained. The Contractor will not be permitted to start the job without getting a written safety clearance from Safety & Training Deptt.

(b) SHUTDOWNS

The contracting department would take necessary shutdowns wherever there are hazards of gases, electricity, moving machinery, etc. The Contractor shall ensure that the shutdowns/ clearance are taken before sending workers in such locations.

(c) WORK AT HEIGHT

Whenever work at height is involved Contractor should obtain passes to work at height for these persons who will be required to work at height from Safety & Training Deptt.

(d) INJURY TO WORKMEN

The Contractor after preliminary examination at PHC may take his injured workmen to his own Doctor with a permission from the Doctor at PHC at his own risk giving an undertaking to that effect in writing to the Doctor. He will, however, have to keep S&T Deptt. informed about the nature of the injury and the period for which the injured person is off duty on account of injury.

(e) RESPONSIBILITY FOR ACCIDENTS

The Contractor shall be fully, responsible for accidents caused due to his or his agent's or workmen's negligence or carelessness in regard to the observance of the safety requirements and shall be liable to pay compensation for injuries and delay work due to these accidents.

(f) PRECAUTIONS & SUPERVISION:

The Contractor shall take all safety precautions and provide adequate supervision in order to do the job safely and without damage to equipment.

(g) SAFETY CODE

The Contractors shall strictly follow the IREL Safety Code and also the instructions issued by the Safety & Training Deptt. from time to time. Before starting the work, the Contractor shall meet the safety Officer and get himself familiar with the safety measures to be taken during the execution of the job. The contractor shall be personally responsible for the safety of his workmen and shall be liable for prosecution in case of any accident.

(h) OTHER ACTS RULES ETC.

Notwithstanding the above clauses, there is nothing in these conditions to exempt the Contractor from the operations of any other Act or Rule in force in the Republic of India.

(i) FAILURE TO OBSERVE SAFETY RULES:

Failure to observe the safety rules will make the Contractor liable to penalty by way of suspension of work, fine and termination of contract.

**(j) SAFE USE OF VEHICLES:**

It will be entirely the responsibility of the Contractor to ensure that the vehicles are not driven with so high speed or in so reckless or rash manner as to cause accident or prove to be potential threat to the safety of the traffic. Where the speed limits have been fixed, they will be strictly adhered to by the Contractor's drivers who will also adhere to slow and safe driving inside the Plant and Township Area. Failure to comply with the above may result in termination of the contract.

(k) THEFT ETC.

Similarly, if a driver or any staff of the Contractor is caught in theft case or in any unauthorised movement of materials or in the activity which is punishable under the law or not authorised by the Plant, the Contractor will bear the full responsibility for the loss and other consequences which may result to the Plant due to such illegal/unauthorised acts besides the action to terminate the contract by the Plant.

(l) COMPENSATION :

In case of accident or injury or damages caused by the Contractor's vehicle or staff to any person or property, the financial responsibility to compensate be borne solely by the Contractor and this amount may, at the discretion of the competent authority of IREL, be recovered from the bills or Security or other deposits of the Contractor.

(m) PRECAUTIONS FOR VEHICULAR TRAFFIC:

Suitable safety precautions must be taken by the Contractor for his vehicular traffic at the level crossing/roads inside the Plant/ Township area. Contractors would be using those roads on their own risk and responsibility without any liability on the part of IREL Management.

78.0 INSURANCE:**78.1 GENERAL:**

CONTRACTOR shall at his own expense arrange, secure and maintain insurance with reputed insurance companies to the satisfaction of the EMPLOYER as follows:

CONTRACTOR at his cost shall arrange, secure and maintain insurance as may be necessary and to its full value for all such amounts to protect the WORKS in progress from time to time and the interest of EMPLOYER against all risks as detailed herein. The form and the limit of such insurance, as defined here in together with the under works thereof in each case should be as acceptable to the EMPLOYER. However, irrespective of work acceptance the responsibility to maintain adequate insurance coverage at all times during the period of CONTRACT shall be that of CONTRACTOR alone. CONTRACTOR's failure in this regard shall not relieve him of any of his responsibilities and obligations under CONTRACT.

Any loss or damage to the equipment, during ocean transportation, port/custom clearance, inland and port handling, inland transportation, storage, erection and commissioning till such time the WORK is taken over by EMPLOYER, shall be to the account of CONTRACTOR.

CONTRACTOR shall be responsible for preferring of all claims and make good for the damage or loss by way of repairs and/or replacement of the parts of the Work damaged or lost. CONTRACTOR shall provide the EMPLOYER with a copy of all insurance policies and documents taken out by him in pursuance of the CONTRACT. Such copies of document shall be submitted to the EMPLOYER immediately upon the CONTRACTOR having taken such insurance coverage. CONTRACTOR shall also inform the EMPLOYER at least 60(Sixty) days in advance regarding the expiry, cancellation and/or changes in any of such documents and ensure revalidation/renewal etc., as may be necessary well in time.



Statutory clearances, if any, in respect of foreign supply required for the purpose of replacement of equipment lost in transit and/or during erection, shall be made available by the EMPLOYER. CONTRACTOR shall, however, be responsible for obtaining requisite licences, port clearances and other formalities relating to such import. The risks that are to be covered under the insurance shall include, but not be limited to the loss or damage in handling, transit, theft, pilferage, riot, civil commotion, weather conditions, accidents of all kinds, fire, war risk (during ocean transportation only) etc. The scope of such insurance shall cover the entire value of supplies of equipments, plants and materials to be imported from time to time.

All costs on account of insurance liabilities covered under CONTRACT will be to CONTRACTOR's account and will be included in VALUE OF CONTRACT. However, the EMPLOYER may from time to time, during the currency of the CONTRACT, ask the CONTRACTOR in writing to limit the insurance coverage risk and in such a case, the parties to the CONTRACT will agree for a mutual settlement, for reduction in VALUE OF CONTRACT to the extent of reduced premium amounts.

78.2 CONTRACTOR as far as possible shall cover insurance with Indian Insurance Companies, including marine Insurance during ocean transportation.

i) **EMPLOYEES' STATE INSURANCE ACT:**

The CONTRACTOR agrees to and does hereby accept full and exclusive liability for the compliance with all obligations imposed by the Employees' State Insurance Act 1948 and the CONTRACTOR further agrees to defend, indemnify and hold EMPLOYER harmless for any liability or penalty which may be imposed by the Central, State or Local authority by reason of any asserted violation by CONTRACTOR or SUB-CONTRACTOR of the Employees' State Insurance Act, 1948, and also from all claims, suits or proceeding that may be brought against the EMPLOYER arising under, growing out of or by reasons of the work provided for by this CONTRACTOR, by third parties or by Central or State Government authority or any political sub- division thereof.

The CONTRACTOR agrees to fill in with the Employee's State Insurance Corporation, the Declaration Forms, and all forms which may be required in respect of the CONTRACTOR's or SUB- CONTRACTOR's employees, who are employed in the WORK provided for or those covered by ESI from time to time under the Contract. The CONTRACTOR shall deduct and secure the agreement of the SUB- CONTRACTOR to deduct the employee's contribution as per the first schedule of the Employee's State Insurance Act from wages and affix the Employees Contribution Card at wages payment intervals. The CONTRACTOR shall remit and secure the agreement of SUB- CONTRACTOR to remit to the State Bank of India, Employee's State Insurance Corporation Account, the Employee's contribution as required by the Act. The CONTRACTOR agrees to maintain all cards and Records as required under the Act in respect of employees and payments and the CONTRACTOR shall secure the agreement of the SUB- CONTRACTOR to maintain such records. Any expenses incurred for the contributions, making contributions or maintaining records shall be to the CONTRACTOR's or SUB-CONTRACTOR's account.

The EMPLOYER shall retain such sum as may be necessary from the total VALUE OF CONTRACT until the CONTRACTOR shall furnish satisfactory proof that all contributions as required by the Employees' State Insurance Act, 1948, have been paid. This will be pending on the CONTRACTOR when the ESI Act is extended to the place of work.

ii) **WORKMEN COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:**

Insurance shall be effected for all the CONTRACTOR's employees engaged in the performance of this CONTRACT. If any of the work is sublet, the CONTRACTOR shall require the SUB-CONTRACTOR to provide workman's compensation and employer's liability insurance for the latter's employees if such employees are not covered under the CONTRACTOR's Insurance.

**iii) TRANSIT INSURANCE:**

In respect of all items to be transported by the CONTRACTOR to the SITE of WORK, the cost of transit insurance should be borne by the CONTRACTOR and the quoted price shall be inclusive of this cost.

iv) COMPREHENSIVE AUTOMOBILE INSURANCE:

This insurance shall be in such a form as to protect the Contractor against all claims for injuries, disability, disease and death to members of public including EMPLOYER's men and damage to the property of others arising from the use of motor vehicles during on or off the 'site' operations, irrespective of the Employership of such vehicles.

v) COMPREHENSIVE GENERAL LIABILITY INSURANCE:

- a) This insurance shall protect the Contractor against all claims arising from injuries, disabilities, disease or death of member of public or damage to property of others due to any act or omission on the part of the Contractor, his agents, his employees, his representatives and Sub-Contractor's or from riots, strikes and civil commotion.
- b) Contractor shall take suitable Group Personal Accident Insurance Cover for taking care of injury, damage or any other risks in respect of his Engineers and other Supervisory staff who are not covered under Employees' State Insurance Act.
- c) The policy shall cover third party liability. The third party liability shall cover the loss/ disablement of human life (person not belonging to the Contractor) and also cover the risk of damage to others materials/ equipment/ properties during construction, erection and commissioning at site. The value of third party liability for compensation for loss of human life or partial/full disablement shall be of required statutory value but not less than Rs. 2 lakhs per death, Rs. 1.5 lakhs per full disablement and Rs. 1 lakh per partial disablement and shall nevertheless cover such compensation as may be awarded by Court by Law in India and cover for damage to others' equipment/ property as approved by the Purchaser. However, third party risk shall be maximum to Rs. 10 (ten) lakhs to death.
- d) The Contractor shall also arrange suitable insurance to cover damage, loss, accidents, risks etc., in respect of all his plant, equipments and machinery, erection tools & tackles and all other temporary attachments brought by him at site to execute the work.
- e) The Contractor shall take out insurance policy in the joint name of EMPLOYER and Contractor from one or more nationalised insurance company from any branch office at Project site.
- f) Any such insurance requirements as are hereby established as the minimum policies and coverages which Contractor must secure and keep in force must be complied with, Contractor shall at all times be free to obtain additional or increased coverages at Contractor's sole expenses.

vi) ANY OTHER INSURANCE REQUIRED UNDER LAW OR REGULATIONS OR BY EMPLOYER:

CONTRACTOR shall also carry and maintain any and all other insurance(s) which he may be required under any law or regulation from time to time without any extra cost to EMPLOYER. He shall also carry and maintain any other insurance which may be required by the EMPLOYER.

79. General

- 79.1 In the event that terms and conditions stipulated in the General Conditions of Contract should deviate from terms and conditions stipulated in the Contract, the latter shall prevail.



79.2 LOSSES DUE TO NON-COMPLIANCE OF INSTRUCTIONS:

Losses or damages occurring to the EMPLOYER owing to the CONTRACTOR's failure to adhere to any of the instructions given by the EMPLOYER in connection with the contract execution shall be recoverable from the CONTRACTOR.

79.3 RECOVERY OF SUMS DUE:

All costs, damages or expenses which the EMPLOYER may have paid, for which under the CONTRACT CONTRACTOR is liable, may be recovered by the EMPLOYER (he is hereby irrevocably authorized to do so) from any money due to or becoming due to the CONTRACTOR under this Contract or other Contracts and/or may be recovered by action at law or otherwise. If the same due to the CONTRACTOR be not sufficient to recover the recoverable amount, the CONTRACTOR shall pay to the EMPLOYER, on demand, the balance amount.

79.4 PAYMENTS, ETC. NOT TO AFFECT RIGHTS OF THE EMPLOYER:

No sum paid on account by the EMPLOYER nor any extension of the date for completion granted by the EMPLOYER shall affect or prejudice the rights of the EMPLOYER against the CONTRACTOR or relieve the CONTRACTOR of his obligation for the due fulfilment of the CONTRACT.

79.5 CUT-OFF DATES:

No claims or correspondence on this Contract shall be entertained by the EMPLOYER/Consultant after 90 days after expiry of the performance guarantee (from the date of final extension, if any).

79.6 PARAGRAPH HEADING:

The paragraph heading in these conditions shall not affect the construction thereof.



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**GENERAL CONDITIONS OF
CONTRACT
FOR PROCUREMENT OF SERVICES
IREL (India) Limited**





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SECTION – I

DEFINITIONS & INTERPRETATIONS

1.1 Definition of Terms:

In this Contract (as defined here-in-after), save where the context otherwise requires, the following words and expressions shall have the meanings respectively assigned to them:

"Approved" means approval in writing including subsequent written confirmation of previous verbal approval(s).

The "Bid /Tender/Offer" means the proposal along with required supporting documents submitted by the Bidder/Service Provider for consideration by the Employer.

The 'Bidder/Tenderer" means the person(s) / Firm / company /Corporation /Organization/entity, who participated in the Tender.

"Completion Certificate" means the certificate to be issued by the Engineer In-charge (EIC) when the Services have been completed entirely in accordance with Contract.

"Completion Date" means the date of actual completion of the services by the Service Provider as certified by the Employer.

"Contract" means an agreement between Employer and the Service Provider/Supplier for execution of the Service(s) as per Contract Documents and its subsequent amendment(s), if any in writing thereto.

"Contract Documents" means collectively the Tender Documents, Designs, Drawings, Scope of Services, Specifications, Schedule of Rates (SOR), Letter of Acceptance and agreed variations if any, and such other documents constituting the tender and acceptance thereof.

"Day" means a calendar day of 24 hours from midnight to midnight irrespective of the numberof hours serviced in that day.

"Demobilization" means removal of all equipment, machinery, manpower from the site after completion of the services with the due permission of EIC.

"Drawings" means and include all Engineering sketches, general arrangements/ layout drawings, sectional plans, all elevations, etc. related to the Contract together with modification and revision thereto.

The "Employer/Service Receiver/ Company/Owner" means IREI (India) Limited , a Public Sector Undertaking, incorporated under the Company's Act 1956 and having its Registered office at Plot No. 1207, Veer Savarkar Marg, Prabhadevi, Mumbai, Maharashtra-400086 and includes its successors, assigns and Units.

The "Engineer-In-Charge" (EIC) means the person designated from time to time by Employer and shall include those who are expressly authorized by him to act for and on his behalf for operation/execution of this Contract for Services.



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"Equipment/Materials/Goods" means and include all equipment, machinery, stores, goods which are required under the Contract for satisfactory performance of Services by the Service Provider.

"Fax of Acceptance" means intimation regarding notification of award by the Employer to the successful Bidder/Service Provider through a Fax/ Letter conveying that the Tender/Bid/Offer has been accepted in accordance with the provisions contained therein.

"Guarantee/Warranty/ Defect Liability Period (DLP)" means the period and other conditions governing the warranty/guarantee/defect liability period of the services as provided in the Contract.

"Metric System": All technical documents are given in the metric system and all service should be carried out according to the metric system. All documents concerning the service shall also be maintained in the metric system.

"Mobilization" means stabilizing adequate infrastructure at designated Site comprising of Equipment, aids, tools, tackles, instruments, Goods & Materials, experienced manpower, supported with supervising personal in order to provide services as per the provision of Contract document.

"Negligence" means any act or failure to act (whether sole, joint or concurrent) by a person or an entity which was intended to cause, or which was reckless disregard of or wanton indifference to, avoidable and harmful consequences such person or entity knew, or should have known, would result from such act or failure to act. Notwithstanding the foregoing, negligence shall not include any action taken in good faith for the safeguard of life or property.

The "Service(s)" means and include all services and activities/jobs to be performed by the Service Provider in pursuant to and in accordance with Contract or part thereof as the case may be and shall include all extra, additional, altered or substituted services and approvals from any agency/third party & license(s)/permissions from statutory authorities (if any), as required for purpose of the Contract.

The "Service Provider" means Bidder/Tenderer whose tender has been accepted by the Employer and includes the Service Provider's legal representative(s), his successor(s) and permitted assign(s).

"Service Provider's/ Bidder's Representative" means such person(s) duly authorized by the Bidder/Service Provider in writing to the Employer as having authority to act for and on behalf the Bidder /Service Provider in matters affecting the Services and to provide the requisite services to Employer.

"Site" means the place(s) provided by the Employer where the Services are to be carried out/executed and any other place(s) as may be specifically designated in the Contract as forming part of the site.

"Specifications" means and include detailed description, statements to technical data, performance characteristics, and standards (Indian as well as International) as applicable and as specified in the Contract.



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The "Sub-Service Provider" means any person / firm / Organization / company /entity (other than the Service Provider) and it's legal representatives, successors and permitted assigns named in the Contract as a Sub-Service Provider for a part of the Services or to whom a part of the Services has been sub-Contracted with the written prior consent of the Employer.

"Value of Contract" or "Total Contract Price" means the sum accepted or the sum calculated in accordance with the prices accepted in the Contract as payable to the Service Provider for the entire execution and full completion of the service, including Amendment(s) to Contract, if any.

"Week" means a period of any consecutive seven Days.

"Willful Misconduct" means intentional disregard of good and prudent standards of performance or proper conduct under the Contract with knowledge that it is likely to result in any injury to any person or loss or damage of property.

"Working Day" means any Day which is not declared by the Employer to be holiday or off-day.

1.2 INTERPRETATIONS & PRIORITY OF CONTRACT DOCUMENTS

1.2.1 The documents forming the Contract are to be read together and interpreted as mutually explanatory of one another. If there is a direct inconsistency in specific obligation(s), then for the purposes of interpretation, and unless otherwise provided in the Contract, the priority of the Contract Documents shall be in accordance with following sequence:

- i) The Contract Agreement
- ii) Detailed Letter of Acceptance along with its enclosures
- iii) Fax of Acceptance
- iv) Scope of Works/ Job Specifications (specific to particular job only, wherever provided)
- v) Drawings
- vi) Special Conditions of Contract (SCC)
- vii) Technical Specifications (wherever applicable)
- viii) Instructions to Bidders (ITB)
- ix) General Conditions of Contract (GCC)
- x) Other Documents

Works shown in the Drawing but not mentioned in the Specifications or described in the Specifications without being shown in the Drawings shall nevertheless be deemed to be included in the same manner as if they had been specifically shown upon the Drawings and described in the Specifications.

Any amendment/change order issued by Employer upon signing of formal Contract shall take precedence over respective clauses of the formal Contract and its annexures.

The higher priority interpretation shall be adopted only to the extent required to deal with an inconsistency. Specific term(s) agreed take priority over general statement(s) and terms in Contract Document created at a later date govern over terms in earlier Contract



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Document. Subject to foregoing, the terms of the groups of documents set out above have equal importance within their group.

- 1.2.2 **Headings and Marginal Notes:** All headings and marginal notes to the clauses of these General Conditions of Contract or to the Specifications or to any other Tender Document are solely for the purpose of giving a concise indication and not a summary of the contents thereof, and they shall never be deemed to be part thereof or be used in the interpretation thereof the Contract.
- 1.2.3 **Singular and Plural:** In Contract Documents unless otherwise stated specifically, the singular shall include the plural and vice versa wherever the context so requires.
- 1.2.4 **Gender:** Where the context so requires, words imparting the masculine gender shall also include the feminine gender and the neuter gender and vice versa.
- 1.2.5 **Severability:** Should any provision of this Contract be found to be invalid, illegal or otherwise not enforceable by any court of law, such finding shall not affect the remaining provision(s)/clause(s) hereto and they shall remain binding on the parties hereto.

1.3 SPECIAL CONDITIONS OF CONTRACT:

- 1.3.1 Special Conditions of Contract consisting of scope of services, specification of Services & items etc. shall be read in conjunction with the General Conditions of Contract, and any other documents forming part of this Contract wherever the context so requires.
- 1.3.2 Notwithstanding the sub-division of the documents into these separate sections and volumes every part of each section/volume shall be deemed to be supplementary to and complementary of every other part and shall be read with and into the Contract so far as it may be practicable to do so.
- 1.3.3 Where any portion of the General Condition of Contract is repugnant to or at variance with any provisions of the Special Conditions of Contract, unless a different intention appears the provisions of the Special Conditions of Contract shall be deemed to over-ride the provisions of the General Conditions of Contract and shall to the extent of such repugnancy, or variations, prevail.
- 1.3.4 Wherever it is mentioned in the Specifications that the Service Provider shall perform certain Service or provide certain facilities, it is understood that the Service Provider shall do so at his cost and the Value of Contract shall be deemed to have included cost of such performance and provisions, so mentioned.
- 1.3.5 The materials, design and services shall satisfy the relevant Standards, the Job Specifications contained herein and Codes referred to. Where the job specification stipulate requirements in addition to those contained in the standard codes and specifications, these additional requirements shall also be satisfied.



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2.0 GENERAL INSTRUCTIONS & OBLIGATIONS

2.1 FORMATION OF CONTRACT:

- 2.1.1 Employer will be the sole judge in the matter of award of Contract and the decision of Employer shall be final and binding.
- 2.1.2 The acceptance of tender will be intimated to the successful Bidder by the Employer either by Fax / E - mail /Letter or like means defined as Service Contract (SC)
- 2.1.3 The Contract shall come into force on the date of SC and the same shall be binding on Employer and Service Provider.

2.2 SIGNING OF AGREEMENT:

- 2.2.1 The successful Tenderer/Service Provider shall be required to forward their acceptance of the SC within 15 days. In the event of failure on the part of the Service Provider to furnish their acceptance within the aforesaid stipulated period, the Earnest Money Deposit or initial Security Deposit/Performance Security Deposit (as available, preferably the later) will be forfeited and Employer may consider the Contract as terminated..

2.3 ADDENDA/CORRIGENDA:

- 2.3.1 Addenda/ Corrigenda to the Tender Documents incorporating modification(s) andclarification(s) to the Tender Document issued prior to the due date of bid submission shall become integral part of the Contract.

2.4 SITE VISIT

The Bidder/Service Provider shall be deemed to have visited the Site(s)/work centre(s) and familiarized itself while submitting the Tender. Non-familiarity with the Site conditions by the Bidder/ Service Provider will not be considered a reason either for extra claim(s) or for anydelay in performance or any other claim in this regard.

2.5 CONFLICT OF INTEREST

During the currency of Contract and after its termination, the Service Provider and its affiliates, shall be disqualified from providing any goods, works or services for any project resulting from or closely related to the Services.

2.6 ABNORMAL RATES:

The Tenderer is expected to quote rate for each item after careful analysis of cost involved for the performance of the completed item considering all specifications and Conditions of Contract.In case, it is noticed that the rates quoted by the Tenderer for any item are unusually higher or unusually lower, it will be sufficient cause for the rejection of the tender/bid unless the Employer is convinced about the reasonableness after scrutiny of the analysis for such rate(s) to be furnished by the Tenderer (on demand). In case of Abnormally High Rated (AHR) item(s), the same shall be dealt as deemed fit.



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2.7 GENERAL OBLIGATIONS OF SERVICE PROVIDER:

Service Provider shall, in accordance with and subject to the terms and conditions of this Contract:

- 2.7.1 Perform the services in accordance with the Scope of Services /Specifications and Activity Schedule of the Tender Document and carry out its obligations with all due diligence and efficiency, in accordance with generally accepted professional techniques and practices and shall observe sound management practices and employ appropriate advance technology and safe methods. When completed, the job/services shall be fit for the purpose for which the services are intended as specifically defined in the Contract.
- 2.7.2 Provide all labour as required to provide the Service unless otherwise provided in the Scope of Services or Special Conditions of the Contract.
- 2.7.3 Perform all other obligations, jobs / services which are required by the terms of this Contract or which reasonably can be implied from such terms as being necessary for providing necessary service as per the Contract.
- 2.7.4 Be deemed to have satisfied himself before submitting his bid as to the correctness and sufficiency of its bid for the services required and of the rates and prices quoted, which rates and prices shall, except insofar as otherwise provided, cover all its obligations under the Contract.
- 2.7.5 Give or provide all necessary supervision during the performance of the services and as long thereafter within the warranty period/DLP as Employer may consider necessary for the proper fulfilling of Service Provider's obligations under the Contract.
- 2.7.6 Not disrupt the Services of the Employer being carried out by the Service Provider / and shall provide access for carrying out job/services to:
-Employer's personnel(s), and /or
-any other Contractor(s) / Service Provider(s) employed by Employer, and /or
-personnel of public authority(ies)/third party(ies)
- 2.7.7 Further, the Service Provider shall execute the job carefully without causing damage to the existing facility(ies) and facility(ies) of third party(ies) and in case of such happening shall immediately bring to the notice of EIC..
- 2.7.8 Further, the coordination and inspection of the day-to-day job under the Contract shall be the responsibility of the Engineer-in-Charge (EIC). The EIC or his authorized representative including any statutory authority shall at all reasonable times, have full power and authority to access and inspect the Services wherever in progress either on the Site or at the Service Provider's premises/workshops and the Service Provider shall afford or procure every facility and assistance to carry out such inspection. Such Inspection shall not release the Service Provider from any obligation under the Contract.



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2.8 SERVICE PROVIDER's REPRESENTATIVE & PERSONNEL:

- 2.8.1 Service Provider shall appoint a person ("Service Provider's Representative") who shall be responsible for and authorized to represent it at all times during the progress of the Service and to receive and to act on any request made by Employer in the performance of the Service pursuant to the terms of this Contract.
- 2.8.2 Service Provider's Representative shall have full authority to represent and bind the Service Provider in relation to any matter concerning the Service Provider's performance of the services under the Contract and Employer shall be entitled to rely on all the decisions of the Service Provider's Representative as if they were the decisions of the Service Provider.
- 2.8.3 Service Provider's Representative shall supervise, coordinate and ensure the quality of all aspects of his obligations under this Contract. Service Provider shall not change its Representative without the prior approval of Employer.
- 2.8.4 Service Provider's Representative shall liaise with Employer for the proper coordination and timely completion of the Services and on any matter pertaining to the same.
- 2.8.5 Service Provider's Representative shall extend full cooperation to Employer's representatives/inspector in the manner required by them for supervision /inspection/ observation of equipment, material, procedures, performance, reports and records pertaining to Services.
- 2.8.6 Service Provider's Representative shall have complete charge of his personnel engaged in the performance of the Service and to ensure compliance of rules and regulations and safety practice.
- 2.8.7 If the Service Provider's Representative is found not acceptable to the EIC, the Service Provider shall, as soon as practicable, having regard to the requirement of replacing him, after receiving notice of such withdrawal, remove the representative and shall not thereafter employ him again on the Services in any capacity and shall replace him by another representative acceptable to the EIC.

2.9 SERVICE PROVIDER'S EMPLOYEES / PERSONNEL:

The Service Provider in connection with performing the Services and remedying of any defects, shall provide:

- (a) only such skilled and experienced personnel(s) in their respective areas; and
- (b) such skilled, semi-skilled and un-skilled labour as is necessary for the proper and timely fulfilling of the Service Provider's obligations under the Contract.

The Service Provider shall provide skilled / qualified /experienced personnel, if specified in the SCC /Scope of Work.

While engaging the contractual manpower, Service Provider is required to make effort to provide opportunity of employment to the people belonging to Scheduled Castes and weaker sections of society also in order to have a fair representation of these sections.



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2.10 CONTRACT PERFORMANCE SECURITY (CPS):

- 2.10.1 The Service Provider shall provide Contract Performance Security (CPS) to the Employer, within the scheduled date specified in the notification of award for an amount mentioned therein. The CPS shall be returned/refunded three months after Contract completion period and Defects Liability Period (DLP), if any. All costs associated with CPS shall be borne by the Service Provider. No charges or interest shall be payable by the Employer even if the CPS is in the form of a Demand Draft.
- 2.10.2 If the Service Provider or their employees /agents / representatives or Sub-Service Provider (if authorized by Employer) shall damage, break, deface or destroy any property /equipment belonging to the Employer or third party(ies) during the execution of this Contract, the same shall be made good by the Service Provider at his own expenses and in default thereof, the EIC may cause the same to be made good by other agencies and recover expenses from the Service Provider. The decision of EIC in this matter shall be final and binding on the Service Provider.
- 2.10.3 All compensation, claim or other sums of money payable by the Service Provider to the Employer under terms of this Contract may be deducted from or paid by the encashment of a sufficient part of his Contract Performance Security or from any sums which may be due or may become due to the Service Provider by the Employer on any account whatsoever and in the event of his CPS being reduced by reasons of any such deductions or sale of aforesaid, the Service Provider shall within ten days thereafter make good in form of bank draft(s)/BG (as the case may be) as aforesaid any sum or sums which may have been deducted from or realised by encashment of his CPS, or any part thereof. The Service Provider shall pay to the Employer on demand without protest any balance remaining due. In this regard no interest shall be payable by the Employer to Service Provider for such sum deposited as CPS.
- 2.10.4 The CPS deposit shall cover the entire Contract value including extra jobs/ services. As long as the CPS submitted at the time of award takes care the extra jobs/ services executed and total executed value are within the awarded Contract price, there is no need for additional CPS . As soon as the total executed value is likely to exceed the ceiling of awarded Contract Value, the Service Provider should furnish additional CPS through DD or submit amendment to existing BG to effect the enhancement of CPS.
- 2.10.5 Failure of the successful bidder to comply with the requirements of Clause 2.10 shall constitute sufficient grounds for the annulment of the award, the forfeiture of CPS and any other actions or remedies available to the Employer.

2.11 FAILURE BY THE SERVICE PROVIDER TO COMPLY WITH THE PROVISIONS OF THE CONTRACT:

- 2.11.1 If the Service Provider refuses or fails to provide the Service or any part thereof with such diligence as will ensure its performance within the time specified in the Contract or extension thereof or fails to perform any of his obligation under the



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Contract or in any manner commits a breach of any of the provisions of the Contract it shall be open to the Employer at its option by written notice to the Service Provider:

- a) TO DETERMINE THE CONTRACT in which event the Contract shall stand terminated and shall cease to be in force and effect on and from the date appointed by the Employer on that behalf, whereupon the Service Provider shall stop forthwith any of the Service then in progress, except such Service as the Employer may, in writing, require to be done to safeguard any property or work or installations from damage, and the Employer, for its part, may take over the Service remaining unfinished by the Service Provider and complete the same through another service provider or by other means, at the risk and cost of the Service Provider, and any of his sureties if any, shall be liable to the Employer for any excess cost occasioned by such service having to be so taken over and obtained by the Employer over and above the cost at the rates specified in the schedule of quantities and rate/prices.

WITHOUT DETERMINING THE Contract to take over the Service of the Service Provider or any part thereof and complete the same through other service provider or by other means at the risk and cost of the Service Provider. The Service Provider and any of his sureties are liable to the Employer for any excess cost over and above the cost at the rates specified in the Schedule of Quantities/rates, occasioned by such services having been taken over and completed by the Employer.

2.11.2 In such events of Clause 2.11.1(a) or (b) above, the following shall be applicable:-

- a) The whole or part of the Contract Performance Security furnished by the Service Provider is liable to be forfeited without prejudice to the right of the Employer to recover from the Service Provider the excess cost referred to in the sub-clause aforesaid. The Employer shall also have the right of taking possession and utilising in completing the services or any part thereof, such as materials, equipment and plants available at service site belonging to the Service Provider as may be necessary and the Service Provider shall not be entitled for any compensation for use or damage to such materials, equipment and plant.
- b) The amount that may have become due to the Service Provider on account of service already executed by him shall not be payable to him until after the expiry of Six (6) calendar months reckoned from the date of termination of Contract or from the taking over of the Service or part thereof by the Employer as the case may be, during which period the responsibility for faulty material or workmanship in respect of such service shall, under the Contract, rest exclusively with the Service Provider. This amount shall be subject to deduction of any amounts due from the Contract to the Employer under the terms of the Contract authorised or required to be reserved or retained by the Employer.

2.11.3 Before taking any action as per Clause 2.11.1(a) or (b) if in the judgment of the Employer, the default or defaults committed by the Service Provider is/are curable and can be cured by the Service Provider if an opportunity given to him, then the Employer may issue Notice in writing calling the Service Provider to



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cure the default within such time specified in the Notice.

2.11.4 The Employer shall also have the right to proceed or take action as per 2.11.1(a) or (b) above, in the event that the Service Provider becomes bankrupt, insolvent, compounds with his creditors, assigns the Contract in favour of his creditors or any other person(s) or being a company or a corporation goes into voluntary liquidation, provided that in the said events it shall not be necessary for the Employer to give any prior notice to the Service Provider.

2.11.5 Termination of the Contract as provided for in sub-clause 2.11.1(a) above shall not prejudice or affect their rights of the Employer which may have accrued upto the date of such termination.

2.12 SERVICE PROVIDER REMAINS LIABLE TO PAY COMPENSATION IF ACTION NOT TAKEN UNDER CLAUSE 2.11

If in any case in which any of the powers conferred upon the Employer by clause 2.11 thereof shall have become exercisable and the same had not been exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions hereof and such powers shall notwithstanding be exercisable in the event of any further case of default by the Service Provider for which by any clause or clauses hereof he is declared liable to pay compensation amounting to the whole of his Contract Performance Security, and the liability of the Service Provider for past and future compensation shall remain unaffected. In the event of the Employer putting in force the power under above sub-clause 2.11 (a) or 2.11 (b) vested in him under the preceding clause he may, if he so desired, take possession of all or any tools and plants, materials and stores at the site thereof belonging to the Service Provider or procured by him and intended to be used for the execution of the Service or any part thereof paying or allowing for the same in account at the Contract rates or in case of these not being applicable, at current market rates to be certified by the EIC whose certificate thereof shall be final, otherwise the EIC may give notice in writing to the Service Provider or Service Provider's Representatives requiring him to remove such tools, plant, materials or stores from the premises (within a time to be specified in such notice). Failure of any action by the Service Provider for removal of material/tools/plant/store etc. within the period mentioned in notice of EIC, the Employer shall also be entitled to recover handling and storage charges @5% of the estimated value of material tools/plant/store for each month or part of a month without relieving the Service Provider from any other related liability.

In the event of the Service Provider's failure to remove the same within a period of 6 months or as decided by the EIC, the EIC may take action for removal through auction or private sale on behalf of the Service Provider and at his risk in all respects. The Service Provider shall be liable to pay the Employer the handling & storage charges per month or a part of the month from the date of serving the notice by the EIC to the date of removal of the materials by the Employer plus overhead charges @ 15% of sale value of such materials. In case of negative or zero sale value, the overhead charges shall be applicable on the handling & storage charges. The decision of EIC w.r.t. such removal and the amount of the proceeds shall be final and binding on the Service Provider.



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2.13 CHANGE IN CONSTITUTION:

Where the Service Provider is a partnership firm, the prior approval of the Employer shall be obtained in writing, before any change is made in the constitution of the firm. Where the Service Provider is an individual or a Hindu undivided family business concern, such approval as aforesaid shall, likewise be obtained before such Service Provider enters into any agreement with other parties, where under, the reconstituted firm would have the right to carry out the service hereby undertaken by the Service Provider. In either case if prior approval as aforesaid is not obtained, the Contract shall be deemed to have been allotted in contravention of clause 2.20 hereof.

2.14 TERMINATION OF CONTRACT:

2.14.1 TERMINATION OF CONTRACT FOR DEATH

If the Service Provider is an individual or a proprietary concern and the individual or the proprietor dies or if the Service Provider is a partnership concern and one of the partner dies then unless, the Employer is satisfied that the legal representative of the individual or the proprietary concern or the surviving partners are capable of carrying out and completing Contract, the Employer is entitled to cancel the Contract for the uncompleted part without being in any way liable for any compensation payment to the estate of the deceased Service Provider and/or to the surviving partners of the Service Provider's firm on account of the cancellation of Contract. The decision of the Employer/EIC in such assessment shall be final & binding on the parties. In the event of such cancellation, the Employer shall not hold the estate of the deceased Service Provider and/or the surviving partners of Service Provider's firm liable for any damages for non-completion of the Contract.

2.14.2 TERMINATION OF CONTRACT IN CASE OF LIQUIDATION / BANKRUPTCY, ETC.

If the Service Provider shall dissolve or become bankrupt or insolvent or cause or suffer any receiver to be appointed of his business of any assets thereof compound with his Creditors, or being a corporation commence to be wound up, not being a member's voluntary winding up for the purpose of amalgamation or reconstruction, or carry on its business under a Receiver for the benefits of its Creditors any of them, Employer shall be at liberty to terminate the Contract forthwith upon coming to know of the happening of any such event as aforesaid by notice in writing to the Service Provider or to give the Receiver or Liquidator or other person, the option of carrying out the Contract subject to his providing a guarantee up to an amount to be agreed upon by the Employer for due and faithful performance of the Contract.

2.14.3 TERMINATION OF CONTRACT FOR CORRUPT / FRAUDULENT / COLLUSIVE /COERCIVE PRACTICES AND NON-PERFORMANCE

If the Bidder/Service Provider is found to have indulged in Corrupt/Fraudulent/Collusive/Coercive practices, the Contract shall be terminated and the Bidder/ Service Provider shall be banned for future business with IREL.

2.14.4 TERMINATION FOR CONVENIENCE



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Notwithstanding anything contained in the Contract, the Employer may, by 30 (Thirty) days written notice, terminate the Contract in whole or in part.

In case of such termination, the obligation of the Employer to pay, shall be limited to the extent of work/job completed by the Service Provider as per provision of the Contract upto the date of termination, subject to the Service Provider complying with other terms of the Contract.

Notwithstanding the termination of the Contract, the parties shall continue to be bound by the provisions of this Contract that reasonably require some action or forbearance after such termination.

2.15 AMOUNT PAYABLE IN CASE OF TERMINATION:

In all cases of termination herein set forth, the obligation of the Employer to pay, shall be limited to the extent of service rendered by Service Provider as per provision of the Contract upto the date of termination, subject to the Service Provider complying with other terms of the Contract. Notwithstanding the termination of the Contract, the parties shall continue to be bound by the provisions of this Contract that reasonably require some action or forbearance after such termination.

2.16 MEMBERS OF THE EMPLOYER NOT INDIVIDUALLY LIABLE:

No Director, or official or employee of the Employer shall in any way be personally bound or liable for the acts or obligations of the Employer under the Contract or answerable for any default or omission in the observance or performance of any of the acts, matters or things which are herein contained.

2.17 EMPLOYER NOT BOUND BY PERSONAL REPRESENTATIONS:

2.17.1 The Service Provider shall not be entitled to any increase on the scheduled rates or any other right or claim whatsoever by reason of any representation, explanation statement or alleged representation, promise or guarantees given or alleged to have been given to him by any person.

2.18 FORCE MAJEURE:

2.18.1 Force majeure is an event beyond the control of contractor and not involving the contractor's fault or negligence and which is not foreseeable. Such events may include, but are not restricted to acts of the purchaser/contractor either in its sovereign or contractual capacity, wars or revolution, hostility, acts of public enemy, civil commotion, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts and freight embargoes or any other event which IREL may deem fit to consider so. The decision about force majeure shall rest with IREL which shall be final and binding.

2.18.2 If there is delay in performance or other failures by the contractor to perform obligations under its contract due to event of a Force Majeure, the Service Provider shall not be held responsible for such delays/failures.

2.18.3 If a Force Majeure situation arises, the Service Provider shall promptly notify the purchaser in writing of such conditions and the cause thereof within fifteen days of occurrence of such event. Unless otherwise directed by the EMPLOYER in writing, the Service Provider shall continue to perform its obligations under the contract as



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far as reasonable/practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

2.18.4 If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period of exceeding 120 days, IREL may at its option terminate the contract without any financial repercussion on either side.

2.19 LIQUIDATED DAMAGES FOR DELAYED EXECUTION OF CONTRACT:

If the Service Provider fails to perform the services within the time period(s) specified in the CONTRACT, the EMPLOYER shall, without prejudice to his other remedies under the CONTRACT, levy Liquidated damages from the CONTRACT PRICE, a sum calculated on the basis of the CONTRACT PRICE, including subsequent modifications.

Deductions shall apply as per following formula:

Half percent (0.5%) of the contract value per week of delay subject to a maximum of ten percent (10%) of contract value.

EMPLOYER may deduct the amount so payable by Service Provider, from any amount falling due to the Service Provider or by recovery against the Performance Guarantee. Both Service Provider and EMPLOYER agree that the above percentages of price reduction are genuine pre-estimates of the loss/damage which the EMPLOYER would have suffered on account of delay/breach on the part of the Service Provider and the said amount will be payable on demand without there being any proof of the actual loss/or damage caused by such breach/delay. A decision of the EMPLOYER in the matter of applicability of price reduction shall be final and binding.

2.20 ASSIGNMENT/SUBLET:

2.20.1 The Service Provider shall not, save with previous written consent of the Engineer-in-charge, sublet, transfer or assign the Contract or any part thereof or interest therein or benefit or advantage thereof in any manner whatsoever. Provided, nevertheless, that any such consent shall not relieve the Service Provider from any obligation, duty or responsibility under the Contract.

2.20.2 The basic scope of Services cannot be sublet. However, on specific request of the Service Provider and subject to written consent of Employer, the Service Provider may sublet allied/incidental jobs related to the Services. Such consent shall not relieve the Service Provider from any obligation, duty or responsibility under the Contract and Service Provider shall be fully responsible for the Services hereunder and the execution and performance of the Contract.

2.20.3 Sub-letting of whole Contract is prohibited. An undertaking to this effect will be given by Service Provider along with each invoice/ bill.

2.21 DELAYS BY EMPLOYER OR HIS AUTHORISED REPRESENTATIVE:

2.21.1 In case the Service Provider's performance is delayed due to any act or omission on the part of the Employer or his authorized Representative, then the Service



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Provider shall be given due extension of time for the completion of the Service, to the extent such omission on the part of the Employer has caused delay in the Service Provider's performance of his Services.

2.21.2 No adjustment in Contract Price shall be allowed for reasons of such delays and extensions granted except as provided in Tender Document, where the Employer reserves the right to seek indulgence of Service Provider to maintain the agreed Time Schedule of Completion. In such an event the Service Provider shall be obliged to provide Service for additional time beyond stipulated time including Off-days / Holidays or by enhancing resources to achieve the completion date/interim targets.

2.22 NO WAIVER OF RIGHTS:

2.22.1 None of the terms and conditions of this Contract shall be deemed waived by either party unless such waiver is executed in writing by the duly authorized representative of both the parties.

2.23 CERTIFICATE NOT TO AFFECT RIGHT OF EMPLOYER AND LIABILITY OF SERVICE PROVIDER:

2.23.1 No interim payment certificate(s) issued by the EIC of the Employer, nor any sum paid on account by the Employer, nor any extension of time for execution of the service granted by Employer shall affect or prejudice the rights of the Employer against the Service Provider or relieve the Service Provider of his obligations for the due performance of the Contract, or be interpreted as approval of the Service done and no certificate shall create liability for the Employer to pay for alterations, amendments, variations or additional services not ordered, in writing, by Employer or discharge the liability of the Service Provider for the payment of damages whether due, ascertained, or certified or not or any sum against the payment of which he is bound to indemnify the Employer.

2.24 LANGUAGE AND MEASURES:

2.24.1 All documents pertaining to the Contract including Specifications, Schedules, Notices, Correspondence, operating and maintenance Instructions or any other writing shall be written in English/Hindi language. The Metric System of measurement shall be used in the Contract unless otherwise specified.

2.25 RELEASE OF INFORMATION:

The Service Provider shall not communicate or use in advertising, publicity, sales releases or in any other medium, photographs, or other reproduction of the Service under this Contract or description of the site dimensions, quantity, quality or other information concerning the Service unless prior written permission has been obtained from the Employer.

2.26 COMPLETION PERIOD, CONTRACT PERIOD AND COMPLETION OF CONTRACT:

The Completion Period of Service and Contract Period shall be as mentioned in Special Conditions of Contract. Unless terminated under the provisions of any other relevant clause, this Contract shall be deemed to have been completed at the expiration of the Defect Liability Period as provided for under the Contract.



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2.27 INDEPENDENT CAPACITY

The parties intend that an independent Service Provider relationship will be created by this Contract. The Service Provider and his/her employees or agents performing under this Contract are not employees or agents of the Employer. The Service Provider will neither hold himself/herself out as nor claim to be an officer or employee of the Employer by reasons hereof, nor will the Service Provider make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of work will be solely with the Service Provider.

2.28 NOTICE

- 2.28.1 **TO THE SERVICE PROVIDER:** Any notice to be given to the Service Provider or his duly authorised representative at the job Site under the terms of the Contract may be served by the Employer by facsimile / e-mail or through registered post/Courier at the address/contact information furnished by the Service Provider. Proof of issue of any such notice could be conclusive of the Service Provider having been duly informed of all contents therein.
- 2.28.2 **TO THE EMPLOYER:** Any notice to be given to the EIC of the Employer under the terms of the Contract may be served by the Service Provider, by facsimile / e-mail or delivering the same through registered post /Courier at the concerned site office.
- 2.28.3 Either party may change a nominated address to another address in the country where the Services are being provided by prior notice to the other party, with a copy to EIC and the EIC may do so by prior notice to both the parties. The decision of EIC in this regard shall be final and binding on the parties.

2.29 CONFIDENTIALITY:

The Service Provider, its Sub-Service Provider and their personnel shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information related to Service/project, this Contract, or Employer's business or operations without the prior written consent of the Employer.

2.30 INTELLECTUAL PROPERTY RIGHT:

The Service Provider shall retain the copy right and other intellectual property rights in the Service Provider's document and other design documents made by (or on behalf of) the Service Provider.

Subject to the confidentiality obligations, by signing the Contract, within the Contract Price, the Service Provider shall be deemed to give to the Employer a non-terminable, transferable, non-exclusive and royalty-free right to copy, use and communicate the Service Provider's documents for the operation, maintenance, repair of the Service and Statutory purposes, but not for any other purpose. Such documents of the Service Provider shall not be used, copied or communicated to a third party by or on behalf of the Employer for the purposes other than those permitted, without the Service Provider's Consent.



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3 . 0 PERFORMANCE OF SERVICE

3 . 1 EXECUTION OF SERVICES:

3.1.1 All Services shall be provided in strict conformity with the provisions of the Contract Documents and with such explanatory detailed specification and instruction as may be furnished from time to time to the Service Provider by EIC. The Service Provider shall undertake to perform all Services under this Contract with all reasonable skill, diligence and care in accordance with sound industry practice or international / national standards, wherever applicable (as the case may be) to the satisfaction of the Employer and accept full responsibility for the satisfactory quality of such services as performed by them.

3 . 2 CHANGES IN SERVICES:

3.2.1 During the performance of the Services, EIC / Employer may make a change in the Services within the general scope of this Contract including, but not limited to, changes in methodology and minor additions to or deletions from the Services and Service Provider shall render the service as changed. Changes of this nature will be affected by a written order (i.e. Amendment) by the Employer. The time of completion of the said job may be extended for the part of the particular job at the discretion of Engineer-In-Charge, for only such alterations or substitutions of the Services, as he may consider just and reasonable.

3.2.2 If any change result in an increase in compensation payable to Service Provider or in terms of a credit to be passed on to Employer, Service Provider shall submit to EIC an estimate of the amount of such compensation or credit in a form prescribed by Employer. Such estimates shall be based on the rates shown in the Schedule of Rates. Upon review of Service Provider's estimate, Employer shall establish and set forth in the written order the amount of the compensation or credit for the change or a basis for determining a reasonable compensation or credit for the change.

3 . 3 ACTION AND COMPENSATION IN CASE OF POOR SERVICE:

If it shall appear to the EIC that any service has been rendered with unsound, imperfect or unskilled way, or with materials /manpower of any inferior description, or that any materials / manpower provided by the Service Provider for the execution of the Service are unsound, or of a quality inferior to that Contracted for, or otherwise not in accordance with the Contract, the Service Provider shall on demand in writing from the EIC or his authorized representative specifying the Service, materials or manpower complained of notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith rectify the service so specified and at his own cost.

3 . 4 SUSPENSION OF SERVICES:

3.4.1 Subject to the provisions of sub-para 3.4.2 of this clause, the Service Provider shall, if ordered in writing by the EIC, temporarily suspend the Services or any part thereof for such written order and not proceed with the Service therein ordered to be suspended until, he shall have received a written order to proceed



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therewith. The Service Provider shall not be entitled to claim compensation for any loss or damage sustained by him by reason of temporary suspension of the Services aforesaid. An extension of time for completion, corresponding with the delay caused by any such suspension of the Services as aforesaid will be granted to the Service Provider should he apply for the same provided that the suspension was not consequent to any default or failure on the part of the Service Provider.

- 3.4.2 In case of suspensions of entire Service, ordered in writing by EIC, for a period of more than two months, the Service Provider shall have the option to terminate the Contract.

3.5 DEFECTS LIABILITY PERIOD:

- 3.5.1 The Service Provider unless otherwise specified elsewhere in the tender document shall guarantee the installation/Service for a period of 12 months/ (any period as specified) from the date of completion of Service mentioned in the Completion Certificate issued by the EIC. Any damage or defect that may arise or lie undiscovered at the time of issue of Completion Certificate, connected in any way with the equipment or materials supplied by him or in the workmanship, shall be rectified or replaced by the Service Provider at his own expense as deemed necessary by the EIC. In case of default, the EIC may carry out such services by other service provider(s) and deduct actual cost incurred towards labour, supervision and materials consumables from any sums that may then be or at any time thereafter, become due to the Service Provider or from his Contract Performance Security, or the proceeds of sale thereof or a sufficient part on thereof. The decision of EIC in this regard shall be final and binding.
- 3.5.2 If the Service Provider feels that any variation in Service or in quality of materials or proportions would be beneficial or necessary to fulfill the guarantees called for, he shall bring this to the notice of the EIC in writing. If during the period of liability any portion of the Service/Equipment, is found defective and is rectified/ replaced, the period of liability of 12 months for such equipment/ portion of Service shall be operative from the date such rectification/ replacement are carried out and Contract Performance Guarantee shall be furnished separately for the extended period of liability for that portion of Service/ Equipment only. However, in no such case extension will exceed 24 months from the date of initial DLP. Notwithstanding the above provisions the supplier's, guarantees/warrantees for the replaced/rectified Equipment/Service shall also be passed on to the Employer.

3.6 LIMITATION OF LIABILITY

Notwithstanding anything contrary contained herein, the aggregate total liability of Service Provider to Employer under the Contract shall not exceed the Total Contract Value, except that this clause shall not limit the liability of the Service Provider for following:

- (a) In the event of breach of any Applicable Law;
- (b) In the event of fraud, willful misconduct or illegal or unlawful acts, or gross Negligence of the Service Provider or any person acting on behalf of the Service Provider; or



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- (c) In the event of acts or omissions of the Service Provider which are contrary to the most elementary rules of diligence which a conscientious Service Provider would have followed in similar circumstances; or
- (d) In the event of any claim or loss or damage arising out of infringement of Intellectual Property; or
- (e) For any damage to any third party, including death or injury of any third party caused by the Service Provider or any person or firm acting on behalf of the Service Provider in executing the Works/Services.

However, neither party shall be liable to the other Party for any indirect nor consequential loss or damage like loss of use, loss of profit, loss of production or business interruption which is connected with any claim arising under the Contract.

3.7 INDEMNITY:

If any action is brought before a Court, Tribunal or any other Authority against the Employer or an officer or agent of the Employer, for the failure, omission or neglect on the part of the Service Provider to perform any acts, matters, covenants or things under the Contract, or damage or injury caused by the alleged omission or negligence on the part of the Service Provider, his agents, representatives or his Sub- Service Provider's, or in connection with any claim based on lawful demands of Sub-Service Provider's servicemen suppliers or employees, the Service Provider, shall in such cases indemnify and keep the Employer and/or their representatives harmless from all losses, damages, expenses or decrees arising out of such action.

3.8 DAMAGES TO PROPERTY, ANY PERSON AND THIRD PARTY

- i) Service Provider shall be responsible for making good to the satisfaction of the Employer any loss or any damage to structures and properties belonging to the Employer or being executed or procured or being procured by the Employer or of other agencies within in the premises of the Employer, if such loss or damage is due to fault and/or the Negligence or Willful Misconduct or omission of the Service Provider, his employees, agents, representatives or Sub-Service Providers.
- ii) The Service Provider shall take sufficient care in moving his equipments and materials from one place to another so that they do not cause any damage to any person or to the property of the Employer or any third party including overhead and underground cables and in the event of any damage resulting to the property of the Employer or of a third party during the movement of the aforesaid equipment or materials the cost of such damages including eventual loss of production, operation or services in any plant or establishment as estimated by the Employer or ascertained or demanded by the third party shall be borne by the Service Provider. Third party liability risk shall be Rupees One lakh for single accident and limited to Rupees Ten lakhs.
- iii) The Service Provider shall indemnify and keep the Employer harmless of all claims for damages to property other than Employer's property arising under or by reason of this agreement, if such claims result from the fault



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and/or Negligence or Willful Misconduct or omission of the Service Provider, his employees, agents, representative of Sub-Service Provider.

4.0 PAYMENT, INSURANCE AND TAXES

4.1 DEDUCTION FROM THE CONTRACT PRICE:

4.1.1 All costs, damages or expenses which Employer may have paid or incurred, which under the provisions of the Contract, the Service Provider is liable to pay to the Employer. All such claims shall be claimed by the Employer from the Service Provider regularly as and when they fall due. Such claims shall be paid by the Service Provider within 15 (fifteen) days of the receipt of the corresponding bills/ claims and if not paid by the Service Provider within the said period, the Employer may, then, deduct the amount from any immediate moneys due to the Service Provider like R.A Bills, Final Bills, Contract Performance Security or any payment becoming due to the Service Provider under the Contract or may be recovered by actions of law or otherwise, if the Service Provider fails to satisfy the Employer of such claims.

4.2 SCHEDULE OF RATES AND PAYMENTS:

4.2.1 SERVICE PROVIDER'S REMUNERATION:

The price to be paid by the Employer to Service Provider for the whole of the Service to be done and for the performance of all the obligations undertaken by the Service Provider under the Contract Documents shall be ascertained by the application of the respective Schedule of Rates (the inclusive nature of which is more particularly defined by way of application but not of limitation, with the succeeding sub-clause of this clause) and payment to be made accordingly for the Services actually executed and approved by the Engineer-in-Charge. The sum so ascertained shall (except only as and to the extent expressly provided herein) constitute the sole and inclusive remuneration of the Service Provider under the Contract and no further or other payment whatsoever shall be or become due or payable to the Service Provider under the Contract.

4.2.2 SCHEDULE OF RATES TO BE INCLUSIVE:

The prices/rates quoted by the Service Provider shall remain firm till the issue of Final Certificate and shall not be subject to escalation. Schedule of Rates shall be deemed to include and cover all costs, expenses and liabilities of every description and all risks of every kind to be taken in rendering the services to the Employer by the Service Provider. The Service Provider shall be deemed to have known the nature, scope, magnitude and the extent of the service though the Contract Document may not fully and precisely furnish/specify them. The Tenderer shall be deemed to include the requisite services as may be required to complete the Services properly including remedying of any defect therein.

4.2.3 SCHEDULE OF RATES TO COVER CONSTRUCTION EQUIPMENTS, MATERIALS, LABOUR ETC.:

Without in any way limiting the provisions of the preceding sub-clause the Schedule of Rates shall be deemed to include and cover the cost of all construction equipment, temporary work (except as provided for herein), pumps, materials, labour, insurance, fuel, consumables, stores & appliances and such other items / equipments / materials as required for carrying out the services by



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the Service Provider and all other matters in connection with each item in the Schedule of Rates and the execution of the Service or any portion thereof finished, complete in every respect and maintained as shown or described in the Contract Documents or as may be ordered in writing during the continuance of the Contract.

4.2.4 SCHEDULE OF RATES TO COVER ROYALTIES, RENTS AND CLAIMS:

The Schedule of Rates (i.e., Value of Contract) shall be deemed to include and cover the cost of all royalties and fees for the articles and processes, protected by letters, patent or otherwise incorporated in or used in connection with the Service, also all royalties, rents and otherpayments in connection with obtaining materials of whatsoever kind for the Service and shall include an indemnity to the Employer which the Service Provider hereby gives against all actions, proceedings, claims, damages, costs and expenses arising from the incorporation in or use in the Service of any such articles, processes or materials, octroi or other municipal or local Board Charges, if levied on materials, equipment or machineries to be brought to site for use for Services shall be borne by the Service Provider.

4.2.5 SCHEDULE OF RATES TO COVER TAXES AND DUTIES:

No exemption or reduction of Customs Duties, GST, Works Contract Tax or any port dues, transport charges, stamp duties or Central or State Government or local Body or Municipal Taxes or duties, taxes or charges (from or of any other body), entry tax, whatsoever, will be granted or obtained, all of which expenses shall be deemed to be included in and covered by the Schedule of Rates, unless mentioned specifically elsewhere in the Tender Document. The Service Provider shall also obtain and pay for all permits/licenses or other privileges necessary to complete the Service.

4.2.6 SCHEDULE OF RATES TO COVER RISKS OF DELAY:

The Schedule of Rates shall be deemed to include and cover the risk of all possibilities of delay and interference with the Service Provider's conduct/ performance of Services which occurs from any causes including orders of the Employer in the exercise of his power and on account of extension of time granted due to various reasons and for all other possible or probable causes of delay.

4.2.7 SCHEDULE OF RATES CANNOT BE ALTERED:

For Service under unit rate basis, no alteration will be allowed in the Schedule of Rates by reason of services or any part of them being modified, altered, extended, diminished or committed. The Schedule of Rates are fully inclusive of rates which have been fixed by the Service Provider and agreed to by the Employer and cannot be altered. For lumpsum Contracts, the payment will be made according to the Service actually carried out, for which purpose an item wise, or work wise Schedule of Rates shall be furnished, suitable for evaluating the value of Service provided and preparing running account bill. Payment for any additional Service which is not covered in the Schedule of Rates shall only be released on issuance of Amendment to LOA/Contract by the



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Employer.

4.3 PROCEDURE FOR BILLING OF SERVICES:

4.3.1 BILLING PROCEDURE:

Following procedures shall be adopted for billing of services executed by the Service Provider.

The Bill(s) complete in all respect with details and enclosure(s) is to be submitted by Service Provider in line with terms of the Contract. Employer shall make all endeavor to release payments of undisputed amount of the bills submitted within 30 (Fifteen) days from the date of receipt of Bills by the Engineer-in-Charge.

4.3.2 MODE OF MEASUREMENT:

The payment shall be made based on the mode of measurement as specified in the Contract. Otherwise, the mode of measurement shall be adopted as per latest Indian Standard Specifications.

4.4 NOTICE OF CLAIMS FOR ADDITIONAL PAYMENTS:

4.4.1 Should the Service Provider consider that he is entitled to any extra payment for any extra/additional Job(s)/Service(s) or material change in original Specifications carried out by him in respect of job, he shall forthwith give notice in writing to the Engineer-in-Charge that he claims extra payment. Such notice shall be given to the Engineer-in-Charge upon which Service Provider bases such claims and such notice shall contain full particulars of the nature of such claim with full details of amount claimed. Irrespective of any provision in the Contract to the contrary, the Service Provider must intimate his intention to lodge claim on the Employer within 10 (ten) days of the commencement of happening of the event and quantify the claim within 30 (thirty) days, failing which the Service Provider will lose his right to claim any compensation/ reimbursement/ damages etc.. Failure on the part of Service Provider to put forward any claim without the necessary particulars as above within the time above specified shall be an absolute waiver thereof. No omission by Employer to reject any such claim and no delay in dealing therewith shall be waiver by Employer of any of these rights in respect thereof.

4.4.2 Engineer-in-Charge shall review such claims within a reasonable period of time and cause to discharge these in a manner considered appropriate after due deliberations thereon. However, Service Provider shall be obliged to carry on with the Jobs/services during the period in which his claims are under consideration by the Employer, irrespective of the outcome of such claims, where additional payments for Services considered extra are justifiable in accordance with the Contract provisions, Employer shall arrange to release the same in the same manner as for normal job payments. Such of the extra services so admitted by Employer shall be governed by all the terms, conditions, stipulations and specifications as are applicable for the Contract. The rates for extra services shall generally be the unit rates provided for in the Contract. In the event unit rates for extra services so executed are not available as per Contract, payments may either be released on day work basis for which daily/hourly rates for workmen and hourly rates for equipment rental shall apply, or on the unit rate for Services executed shall be derived by interpolation/extrapolation of unit rates already existing in the Contract. In all the matters



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pertaining to applicability of rate and admittance of otherwise of an extra service claim(s) of Service Provider, the decision of Engineer-in-Charge shall be final and binding on the Service Provider.

4.5 INSURANCE:

4.5.1 Service Provider shall, at his own expense, arrange appropriate insurance to cover all risks assumed by the Service Provider under this Contract in respect of its personnel deputed under this Contract as well as Service Provider's equipment, tools and any other belongings of the Service Provider or their personnel during the entire period of their engagement in connection with this Contract. Employer will have no liability on this account. The Personnel covered must be covered to meet the liability under Employee Compensation Act.

4.5.2 The provisions of this Clause shall in no way limit the liability of the Service Provider under the Contract.

4.5.3 If the Service Provider neglects, fails, or refuses to obtain or maintain insurances required to be effected, or fails to provide certification etc., the Employer has the right to procure and maintain policies at Service Provider's expense plus administrative cost of 10% of the amount of Insurance premium.

4.5.4 INSURANCE TYPES:

Service Provider shall at all time during the currency of the Contract provide, pay for and maintain the following insurance amongst others:

- a. Employee Compensation and Employer's common law liability insurance covering liability to employees of the Service Provider under the laws of their place or employment or place or injury, arising out of injury sustained in connection with any of the services. This insurance will be extended where submitted by law, to indemnify the Employer against any statutory liability which it may incur towards injured employees of the Service Provider. A proof of the same should be submitted to EIC for liability in line with Employees Compensation Act.
- b. General Public Liability Insurance covering liabilities including contractual liability for bodily injury, including death of persons, and liabilities for damage of property. This insurance must cover all operations of Service Provider required to fulfill the provisionsunder this Contract.
- c. Service Provider's Equipment/Materials/Goods used for execution of the work hereunder shall have an insurance cover with a suitable limit (as per international standards).
- d. Automobile Public Liability Insurance covering owned, non-owned and hired automobiles used in the performance of the work hereunder, with bodily injury limits and property damage limits as governed by Indian Insurance regulations.

4.5.5 Service Provider shall obtain additional insurance or revise the limits of existing insurance as perEmployer's request in which case additional cost shall be to Service Provider's account. Further, the Service Provider shall ensure the adequacy of Insurance at all time in accordance with the nature of the Service(s), terms of the Contract and Statutory requirements.



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4.5.6 CERTIFICATE OF INSURANCE:

Before commencing performance of the services, Service Provider shall on request furnish EIC/Employer with certificates of insurance indicating:

- i) type and amounts of insurance as required herein;
- ii) insurance company or companies carrying the aforesaid coverage;
- iii) effective and expiry dates of policies;
- iv) that the Employer may give advance notice for any material change in the policy. waiver of subrogation endorsement has been attached to all policies; and
- v) the territorial limits of all policies.

4.5.7 If any of the above policies expire or are cancelled during the terms of the service, and Service Provider fails for any reason to renew such policies, the Employer may replace same and recover the charges towards premium plus administrative charges from Service Provider. Should there be a lapse in any insurance required to be carried out by the Service Provider hereunder for any reason, losses & penalty, if any resulting there from shall be to the sole account of the Service Provider.

4.5.8 Service Provider shall require all its Sub-Service Providers to provide such foregoing insurance cover as the Service Provider is obligated to provide under the Contract.

4.5.9 WAIVER OF SUBROGATION: All insurance policies of the Service Provider with respect to the operations conducted hereunder, shall be endorsed by the underwriter in accordance with the following policy wording: "The insurers hereby waive their rights of subrogation against any individual, Employer, affiliates or assignees for whom or with whom the assured may be operating to the extent of the Contractual indemnities undertaken by the Service Provider".

4.5.10 Deductible: That portion of any loss not covered by insurance provided for in this article solely by reason of deductible provision in such insurance policies shall be to the account of the Service Provider.

4.6 TAXES AND DUTIES:

4.6.1 The Service Provider, unless specified otherwise elsewhere in the Contract agrees to and does hereby accept full and exclusive liability for the payment of any and all Taxes, Duties, including GST now or hereafter imposed, increased, modified from time to time in respect of Services and materials and all contributions and taxes for unemployment compensation, insurance and old age pensions or annuities now or hereafter imposed by any Central or State Government authorities which are imposed with respect to or covered by the wages, salaries, or other compensations paid to the persons employed by the Service Provider and the Service Provider shall be responsible for the compliance of all Sub-Service Providers, with all applicable Central, State, Municipal and local law and regulation and requirement of any Central, State or local Government agency or authority. Service Provider further agrees to defend, indemnify and hold Employer harmless from any liability or penalty which may be imposed by the Central, State or Local authorities by reason or any violation by Service Provider or Sub-Sub-Service Provider of such laws, suits or proceedings that may be brought against the Employer arising under, growing out of, or by reason of the service provided for by this Contract, by third parties, or by Central or State Government authority or any administrative sub-division thereof. Tax deductions will be made as per the rules and regulations in force in



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accordance with acts prevailing from time to time.

4 . 6 . 2 Service Provider shall ensure timely submission of correct invoice(s) with all required supporting document(s) as per Contract within a period specified in Contracts to enable Employer to avail Input Tax Credit.

If Input Tax credit with respect to GST is not available to Employer for any reason which is not attributable to Employer, then Employer shall not be obligated or liable to pay or reimburse GST charged in the invoice(s) and shall be entitled to / deduct/ setoff /recover the such GST together with all penalties and interest if any, against any amounts paid or payable by Employer to Service Provider.

4 . 6 . 3 Where Employer has the obligation to discharge tax liability under reverse charge mechanism and Employer has paid or is /liable to pay GST to the Government on which interest or penalties becomes payable as per rules (as amended from time to time) for any reason which is not attributable to Employer or Input Tax credit with respect to such payments is not available to Employer for any reason which is not attributable to Employer, then Employer shall be entitled to deduct/ setoff / recover such amounts against any amounts paid or payable by Employer to Service Provider.

4 . 7 INCOME TAX:

Income Tax deduction shall be made from all payments of the Service Provider as per rules and regulation in force in accordance with the Income Tax Act prevailing from time to time.

4 . 8 STATUTORY VARIATIONS:

4 . 8 . 1 All duties, taxes (except where otherwise expressly provided in the Contract) as may be levied / imposed in consequences of execution of the Jobs/Services or in relation thereto or in connection therewith as per the Acts, Laws, Rules, Regulations in force on the due date of submission of Bid for this Contract shall be to Service Provider's account. Any increase / decrease in such duties, taxes after the due date of submission of bid but within the Contractual completion date as stipulated in the Contract will be to the account of Employer subject to submission of documentary proof to the satisfaction of Employer.



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4 . 8 . 2 Any increase in the duties and taxes after the Contractual completion period will be to the Service Provider's account, where delay in completion /mobilization period is attributable to the Service Provider and the taxes & duties are not cenvatable (i.e. Input Tax Credit (ITC) not available). In case of applicability of ITC / cenvatable taxes & duties, payment shall be made as per the prevailing rates during the currency of the Contract. However, any benefit of decrease in duties and taxes after the Contractual completion will be passed on to the Employer.

In the event of introduction of any new legislation or any change or amendment or enforcement of any Act or Law, rules or regulations of Government of India or State Government(s) or PublicBody which becomes effective after the due date of submission of Bid for this Contract but within the Contractual completion period (including extended period allowed due to reasons attributed to Employer) and which results in increased cost of the jobs/services under the Contract through increased liability of taxes, (other than personnel and Corporate taxes), duties, the Service Provider shall be indemnified for any such increased cost by the Employer subject tothe production of documentary proof to the satisfaction of the Employer to the extent which directly is attributable to such introduction of new egislation or change or amendment as mentioned above and adjudication by the competent authority & the courts wherever levy ofsuch taxes / duties are disputed by Employer.

4 . 8 . 3 Similarly, in the event of introduction of new legislation or any change or amendment or enforcement of any Act or Law, rules or regulations of Government of India or State Government(s) or Public Body which becomes effective after the due date of submission of Bid for this Contract and which results in any decrease in the cost of the services/ jobs through reduced liability of taxes, (other than personnel and Corporate taxes) duties, the Service Provider shall pass on the benefits of such reduced cost, taxes or duties to the Employer, to the extent which is directly attributable to such introduction of new legislation or change or amendment as mentioned above.



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5 . 0 LAWS, HEALTH, SAFETY & ENVIRONMENT

5 . 1 LABOUR LAWS:

- i) No labour below the age of 18 (eighteen) years shall be employed on the Job.
- ii) The Service Provider shall not pay less than what is provided under law to labourers engaged by him on the Job.
- iii) The Service Provider shall at his expense comply with all labour laws and keep the Employer indemnified in respect thereof.
- iv) The Service Provider shall pay equal wages for men and women in accordance with applicable labour laws.
- v) If the Service Provider is covered under the Contract labour (Regulation and Abolition) Act, he shall obtain a license from licensing authority (i.e. office of the labour commissioner) by payment of necessary prescribed fee and the deposit, if any, before starting the Job under the Contract. Such fee/deposit shall be borne by the Service Provider.
- vi) The Service Provider shall employ labour in sufficient numbers either directly or through Sub- Service Provider's to maintain the required rate of progress and of quality to ensure workmanship of the degree specified in the Contract while also ensuring that workman is not stressed due to long hour of working and to the satisfaction of the EIC.
- vii) The Service Provider shall furnish to the EIC the distribution return of the number and description, by trades of the service people employed on the services. The Service Provider shall also submit to the EIC a true statement showing in respect of the second half of the preceding month and the first half of the current month (1) the accidents that occurred during the said fortnight showing the circumstances under which they happened and the extent of damage and injury caused by them and (2) the number of female workers who have been allowed Maternity Benefit as provided in the Maternity Benefit Act 1961 on Rules made thereunder and the amount paid to them.
- viii) The Service Provider shall comply with the provisions of the payment of Wage Act 1936, Employee Provident Fund Act 1952, Minimum Wages Act 1948, Employers Liability Act 1938, Servicemen's Compensation Act 1923, Industrial Disputes Act 1947, the Maternity Benefit Act 1961 and Contract Labour Regulation and Abolition Act 1970, Employment of Children Act 1938 or any modifications thereof or any other law relating thereto and rules made thereunder from time to time.
- ix) The EIC shall on a report having been made by an Inspecting Officer as defined in Contract Labour (Regulation and Abolition) Act 1970 have the power to deduct from the money due to the Service Provider any sum required or estimated to be required for making good the loss suffered by a worker or workers by reason of non- fulfilment of the Conditions of the Contract for the benefit of workers, non-



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payment of wages or of deductions made from his or their wages which are not justified by the terms of the Contract or non-observance of the said regulations.

- xx) The Service Provider shall indemnify the Employer against any payments to be made under and for the observance of the provisions of the aforesaid Acts without prejudice to his right to obtain indemnity from his Sub-Service Provider's.

5 . 2 SAFETY REGULATIONS:

- i) In respect of all labour, directly employed in the Service for the performance of Service Provider's part of this agreement, the Service Provider shall at his own expense arrange for all the safety provisions as per safety codes of acts as applicable.
- ii) The Service Provider shall observe and abide by all fire and safety regulations of the Employer. Before starting service, Service Provider shall consult with Employer's safety Engineers or EIC and must make good to the satisfaction of the Employer any loss or damage due to fire to any portion of the service done or to be done under this agreement or to any of the Employer's existing property.

5 . 3 FIRST AID AND INDUSTRIAL INJURIES:

- i) Service Provider shall maintain first aid facilities for its employees and those of its Sub- Service Provider.
- ii) Service Provider shall make outside arrangements for ambulance service and for the treatment of industrial injuries. Names of those providing these services shall be furnished to Employer prior to start and their telephone numbers shall be prominently posted in Service Provider's field office.
- iii) All critical industrial injuries shall be reported promptly to Employer, and a copy of Service Provider's report covering each personal injury requiring the attention of a physician shall be furnished to the Employer.

5 . 4 GENERAL RULES:

- 5.4.1 Smoking within the battery area, tank farm, dock limits or any such area identified by EIC or mentioned in SCC or any guideline, is strictly prohibited. Violators of the no smoking rules shall be discharged immediately after imposing the applicable penalty(ies). Decision of EIC in the matter shall be final and binding on the Service Provider.

5 . 5 CARE IN HANDLING INFLAMMABLE GAS:

- 5.5.1 The Service Provider has to ensure all precautionary measures and exercise utmost care in handling the inflammable gas cylinder/inflammable liquids/paints etc. as required under the law and/or as advised by the fire Authorities of the Employer.

5 . 6 PRESERVATION OF PLACE:

- 5.6.1 The Service Provider shall take requisite precautions and use his best endeavors to prevent any riotous or unlawful behavior by or amongst his worker / personnel employed for the services and for the preservation of peace and protection of the inhabitants and security of property in the neighborhood of the Site. In the event of the Employer requiring the maintenance of a Special Police Force at or in the vicinity of the site during the tenure of services, the expenses thereof shall be borne by the Service Provider and if paid by the Employer shall



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be recoverable from the Service Provider.

5.7 ENVIRONMENT:

- 5.7.1 Employer acknowledges their commitment to conduct their respective operations in a manner which not only complies with all relevant environmental protection and pollution control legislation but also such operations do not cause environmental damage or pollution and in a manner which acknowledges other cultural and associated considerations. In recognition of this commitment, the Service Provider shall perform the services in such a way as to avoid or minimize environmental damage or pollution and fully recognize the special aspects of the environment as communicated by Employer or as applicable. Service Provider shall comply with, and the Service Provider shall ensure compliance with all applicable environmental protection and pollution control legislation as it relates to the services.



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6.0 RESOLUTION OF DISPUTES/ ARBITRATION:

- 6.1 The EMPLOYER and the CONTRACTOR shall make every effort to resolve amicably by direct informal, good faith negotiations any disagreement or dispute arising between them under or in connection with the Contract.
- 6.2 If, after thirty days from the commencement of such informal, good faith negotiations, the EMPLOYER and the CONTRACTOR have been unable to resolve the disagreement or dispute, the same shall be referred for resolution as per the formal mechanism as specified hereunder shall be applicable.
- 6.3 **LEGAL CONSTRUCTION:** The Contract shall be, in all respects be construed and operated as an Indian Contract and in accordance with Indian Laws as in force for the time being.

6.4 ARBITRATION:

- a) All disputes and differences of any kind whatsoever arising out of or in connection with the contract or carrying out of the works (whether during the course of works or after their completion and whether before or after determination, abandonment or breach of contract) shall be referred to and settled by the person authorized and notified in writing by IREL who shall state his decision in writing. Such a decision may be in the form of a final certificate or otherwise and shall be made within a period of 30 days from the date of receipt of such reference to them.
- b) If the CONTRACTOR is dissatisfied with the decision of such authorized person, then he may within 30 days of receipt of such decision send a written appeal to PURCHASER, represented by the Chairman and Managing Director at the registered office, Mumbai for the same to be referred to Arbitration by a Sole Arbitrator to be appointed by mutual consent and after due approval of CMD, IREL. The Arbitration proceedings shall be conducted as per the provisions of the Arbitration and Conciliation Act, 1996. It is made clear that this Arbitration Clause shall be applicable to any and all disputes and differences between the Parties arising out of and/or relating to this CONTRACT and the Parties shall be bound to refer the same to arbitration in accordance with the procedure contemplated herein.
- c) If the period of 30 days under Clause (b) has expired at any stage, stipulated in the preceding paras without any response from the CONTRACTOR before such expiry, the CONTRACTOR is deemed to have communicated his satisfaction to the decision of IREL at the relevant stage and all his rights of further appeal or as the case may be, adjudication are deemed to have been waived once and for all.
- d) The seat of arbitration will be at _____ and the language thereof shall be English.
- e) Notwithstanding the invocation, commencement and/or pendency any dispute resolution proceedings under this Clause including arbitration under Clause 6.4, the CONTRACTOR shall continue to be bound by the provisions of the CONTRACT, if not terminated by the EMPLOYER, and shall be obligated to



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discharge its obligations under the CONTRACT including continuation of the WORK under the CONTRACT.

- f) The CONTRACTOR shall not in any way delay or default or cause to delay or default the carrying out of the works by reason of the fact that any matter has been agreed to be referred to and / or referred to dispute resolution under Clause 63 including Arbitration under Clause 6.4.

6.5 JURISDICTION:

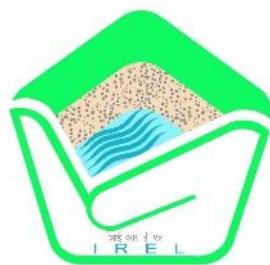
The courts only shall, subject to Arbitration Clause, have exclusive jurisdiction to deal with and decide any matter arising out of this contract.



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**GENERAL CONDITIONS OF CONTRACT
FOR
PROCUREMENT OF
CONSULTANCY SERVICES**

IREL (India) Limited





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ARTICLE 1.0: DEFINITIONS AND INTERPRETATIONS

In this Document, as hereunder defined, the following terms and expressions shall have the meaning hereby assigned to them except where the context otherwise requires:

AGREEMENT means the agreement concluded on non-judicial stamp paper between IREL and Consultant for Services as per this TENDER.

IREL/OWNER shall mean IREL (India) Limited

IREL'S REPRESENTATIVE means the person appointed or authorized from time to time by IREL for execution of the contract.

CONSULTANT'S REPRESENTATIVE means the person appointed from time to time by CONSULTANT for execution of the Contract.

ENGINEER-IN-CHARGE/EXECUTIVE-IN-CHARGE shall mean the person designated from time to time by the IREL and shall include those who are expressly authorized by him to act for and on his behalf for operation of this CONTRACT.

SIGN OFF means a recorded statement for completion of a milestone/major activity by Consultant as envisaged in this document and accepted by IREL.

CONTRACT shall mean Letter of Acceptance and all attached exhibits and document referred to therein and all terms and conditions thereof together with any subsequent modifications thereto.

SERVICES mean the duties to be performed and the services to be rendered by Consultant according to the terms and conditions of the Contract.

HEADINGS the headings appearing herein are for convenience only and shall not be taken in consideration in the interpretation or construction of the Contract.

SINGULAR AND PLURAL WORDS importing the singular only also include the plural and vice-versa where the context requires.

ARTICLE 2.0: PERFORMANCE OF DUTIES AND SERVICES BY CONSULTANT

Consultant shall perform its Services in full accordance with the terms and conditions of the Contract and any applicable local laws and regulations and shall exercise all reasonable professional skill, care and diligence in the discharge of said Project work.

Consultant shall in all professional matters act as a faithful advisor to IREL and will provide all the expert commercial/technical advice and skills which are normally required for the class of Services for which it is engaged.

Consultant, its staff, employees shall carry out all its responsibilities in accordance with the best professional standards.

Consultant shall prepare and submit documents /reports etc. in due time and in accordance with the Tender Conditions.

Consultant will maintain for the performance of the Contract, personnel as determined to be responsible for carrying out this job and such persons shall not be replaced or substituted without written approval of IREL.



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ARTICLE 3.0: IREL'S REPRESENTATIVE

IREL shall nominate its Representative(s) who shall be entitled to act on behalf of IREL with respect to any decision it is empowered to make. The bill / invoice of Consultant will be certified for payment by such representatives.

ARTICLE 4.0: CONSULTANT'S REPRESENTATIVE

Consultant shall nominate a qualified and experienced person as its Representative who will be the contact person between IREL and Consultant for the performance of the Contract. This nomination shall be done within ten (10) days after the coming into force of the Contract. Consultant shall notify IREL in writing prior to the appointment of a new representative. Consultant's Representative may be replaced only with IREL's consent after getting approved his CV's from IREL.

IREL shall be at liberty to object to any nomination and to require Consultant to remove Consultant's representative for good causes. Consultant shall replace immediately such person by competent substitute at no extra cost to IREL.

Consultant's Representative shall be entitled to act on behalf of Consultant with respect to any decisions to be made under the Contract.

ARTICLE 5.0: PAYMENT TERMS

IREL shall pay for the services rendered as per stipulation in the tender through E-Banking only. All Bank charges of consultant's Bankers shall be to the consultant's account.

Consultant will invoice IREL according to the terms and conditions provided in the tender.

ARTICLE 6.0: PERFORMANCE GUARANTEE

Consultant shall submit to IREL contract Performance Guarantee @ 10% or any other % of contract value as per tender for the due performance of the Contract. The Contract Performance Guarantee shall be valid for a period of three months beyond the completion period of the contract. All expenses incurred in obtaining of such guarantee shall be borne by Consultant.

In case of extension of completion period, Consultant shall be required to extend the performance guarantee for an appropriate period of time as per contractual requirements.

ARTICLE 7.0: CONFIDENTIALITY

Consultant shall treat all matters in connection with the Contract as strictly confidential and undertakes not to disclose, in any way, information, documents, technical data, experience and know-how given to him by IREL without the prior written consent of IREL.

Consultant further undertakes to limit the access to confidential information to those of its employees, Implementation Partners who reasonably require the same for the proper performance of the Contract provided however that Consultant shall ensure that each of them has been informed of the confidential nature of the confidentiality and non-disclosure provided for hereof.



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ARTICLE 8.0: TAXES AND DUTIES

Consultant shall pay any and all taxes including service tax, duties, levies etc. which are payable in relation to the performance of the Contract. The quoted price shall be inclusive of all such taxes and duties.

Statutory variation in taxes and duties, if any, within the contractual completion period shall be borne by IREL. No variation in taxes duties or levies other than statutory taxes & duties shall be payable.

Consultant will not claim from IREL any taxes paid by him.

IREL shall deduct Income tax at source at applicable rates.

ARTICLE 9.0: SUSPENSION OF THE PERFORMANCE OF DUTIES AND SERVICES

IREL may suspend in whole or in part – the performance of services of Consultants any time upon giving not less than fifteen (15) days notice. Upon notice of suspension, Consultant shall suspend immediately the services and reduce expenditure to a minimum to be agreed upon by both the parties. Upon suspension of the performance of services, Consultant shall be entitled to reimbursement of the costs which shall have been actually incurred prior to the date of such suspension. However, the total reimbursement shall be restricted to contract price.

By fifteen days prior notice, IREL may request Consultant to resume the performance of the services, without any additional cost to IREL. In case of suspension of work by consultant on IREL's request for more than 10 days, demobilization and remobilization charges will be paid to consultant as per Schedule of Rates. If the suspension of the duties and services exceeds six months, either party shall be entitled to terminate contract according to Article 14 hereunder.

ARTICLE 10.0: LIQUIDATED DAMAGES

In case Consultant fails to complete the services within stipulated period then unless such failure is due to force majeure as defined in Article 17 hereinafter or due to IREL's default, Liquidated damages @ ½% for each week of delay or part thereof shall be levied subject to maximum of 10 % of contract price.

IREL may without prejudice to any methods of recovery, deduct the amount of such damages from any money due or which may at any time become due to Consultant from its obligations and liabilities under the contract or by recovery against the Performance Bank Guarantee. Both Consultant and IREL agree that the above percentage of damages are genuine pre-estimates of the loss/damage which IREL would have suffered on account of delay/ breach on the part of Consultant and the said amount will be payable on demand without there being any proof of the actual loss/or damage caused by such breach/delay. A decision of IREL in the matter of applicability of Liquidated damages shall be final and binding.

ARTICLE 11.0: ASSIGNMENT

Consultant shall not have the right to assign or transfer the benefit and obligations of the contract or any part thereof to the third party without the prior express approval in writing of IREL which it shall do at its discretion. However, in event of that all legal/contractual obligations shall be binding on Consultant only.



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ARTICLE 12.0: INDUSTRIAL AND INTELLECTUAL PROPERTY

In order to perform the services, Consultant must obtain at its sole account, the necessary assignments, permits and authorizations from the titleholder of the corresponding patents, models, trademarks, names or other protected rights and shall keep IREL harmless and indemnify IREL from and against claims, proceedings, damages, costs and expenses (including but not limited to legal costs) for and/or on account of infringements of said patents, models, trademarks names or other protected rights.

All documents, report, information, data etc. collected and prepared by Consultant in connection with the scope of work submitted to IREL will be property of IREL.

Consultant shall not be entitled either directly or indirectly to make use of the documents, reports given by IREL for carrying out of any services with any third parties.

Consultant shall not without the prior written consent of IREL be entitled to publish studies or descriptive article with or without illustrations or data in respect of or in connection with the performance of services.

ARTICLE 13.0: LIABILITIES

Without prejudice to any express provision in the contract, Consultant shall be solely responsible for any delay, lack of performance, breach of agreement and/or any default under this contract.

Consultant shall remain liable for any damages due to its gross negligence within the next 12 months after the issuance of the provisional acceptance certificate of the contract.

The amount of liability will be limited to 10% of the contract value.

ARTICLE 14.0: TERMINATION OF CONTRACT

Termination for Default

IREL reserves its right to terminate / short close the contract, without prejudice to any other remedy for breach of CONTRACT, by giving one month notice if Consultant fails to perform any obligation(s) under the CONTRACT and if Consultant, does not cure his failure within a period of 30 days (or such longer period as IREL may authorize in writing) after receipt of the default notice from IREL.

Termination for Insolvency

IREL may at any time terminate the CONTRACT by giving written notice without compensation to Consultant, if Consultant becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to IREL.

Termination for convenience

IREL may by written notice sent to consultant, terminate the contract, in whole or part, at any time for its convenience. However, the payment shall be released to the extent to which performance of work executed as determined by IREL till the date upon which such termination becomes effective.

ARTICLE 15.0: MODIFICATION

Any modification of or addition to the contract shall not be binding unless made in writing and



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agreed by both the parties.

ARTICLE 16.0: CONTRACT/AGREEMENT

The notification of award along with agreement on non judicial stamp paper of appropriate value as per proforma (**Annexure – I**) within 10 days from the date of receipt of LOI, the cost of stamp paper is to be borne by Consultant, and its enclosures shall constitute the contract between the parties and supersedes all other prior agreements, arrangements and communications, whether oral or written, between the parties relating to the subject matter hereof.

ARTICLE 17.0: FORCE MAJEURE

Force majeure is an event beyond the control of Consultant and not involving the Consultant's fault or negligence and which is not foreseeable. Such events may include, but are not restricted to acts of the purchaser/Consultant either in its sovereign or contractual capacity, wars or revolution, hostility, acts of public enemy, civil commotion, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts and freight embargoes or any other event which IREL may deem fit to consider so. The decision about force majeure shall rest with IREL which shall be final and binding.

If there is delay in performance or other failures by the Consultant to perform obligations under its contract due to event of a Force Majeure, the Service Provider shall not be held responsible for such delays/failures.

If a Force Majeure situation arises, the Service Provider shall promptly notify the purchaser in writing of such conditions and the cause thereof within fifteen days of occurrence of such event. Unless otherwise directed by the IREL in writing, the Service Provider shall continue to perform its obligations under the contract as far as reasonable/practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period of exceeding 120 days, IREL may at its option terminate the contract without any financial repercussion on either side.

ARTICLE 18.0: RECTIFICATION PERIOD

All services shall be rendered strictly in accordance with the terms and conditions stated in the Contract.

No deviation from such conditions shall be made without IREL's agreement in writing which must be obtained before any work against the order is commenced. All services rendered by Consultant pursuant to the Contract (irrespective of whether engineering, design data or other information has been furnished, reviewed or approved by IREL) are guaranteed to be of the best quality of their respective kinds.

Consultant shall rectify at his own cost any mistake in assumption of any data in the study or use of wrong data or faulty study observed within twelve months of the acceptance of his report and will submit the rectified report incorporating the changes wherever applicable within 30 days of observance of mistake.



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ARTICLE 19.0: SUB CONTRACT

Any sub contract to be made by the CONSULTANT relating to the services shall be made only to such extent and with such duly qualified specialists and entities as shall be approved in writing in advance by IREL. Upon the request of IREL, the consultant shall submit for IREL's prior approval, the terms of reference or any amendment thereof for such sub contractor's SERVICES. Notwithstanding such approval, the consultant shall remain fully responsible for the performance of services under the CONTRACT.

ARTICLE 20.0: NOTICES

Any notice given by one party to the other pursuant to the CONTRACT shall be sent in writing or by telegram or fax, telex/cable confirmed in writing.

A notice shall be effective when delivered or on the notice's effective date, whichever is later.

ARTICLE 21.0: ACQUISITION OF DATA

If required, CONSULTANT shall be responsible for carrying out any surveys and acquisition of all data from necessary sources. IREL, if requested in writing by CONSULTANT, may assist the consultant in the said acquisition by way of issue of recommendatory letters only. All requisite clearances, co-ordination, fees, charges, etc. and compliance to the local laws required for completion of the job shall be the responsibility of the CONSULTANT.

ARTICLE 21.0: RESOLUTION OF DISPUTES / ARBITRATION

IREL and the CONSULTANT shall make every effort to resolve amicably by direct informal, good faith negotiations any disagreement or dispute arising between them under or in connection with the Contract.

If, after thirty days from the commencement of such informal, good faith negotiations, the IREL and the CONSULTANT have been unable to resolve the disagreement or dispute, the same shall be referred for resolution as per the formal mechanism as specified hereunder shall be applicable.

ARBITRATION:

- a) All disputes and differences of any kind whatsoever arising out of or in connection with the contract or carrying out of the works (whether during the course of works or after their completion and whether before or after determination, abandonment or breach of contract) shall be referred to and settled by the person authorized and notified in writing by IREL who shall state his decision in writing. Such a decision may be in the form of a final certificate or otherwise and shall be made within a period of 30 days from the date of receipt of such reference to them.
- b) If the CONSULTANT is dissatisfied with the decision of such authorized person, then he may within 30 days of receipt of such decision send a written appeal to PURCHASER, represented by the Chairman and Managing Director at the registered office, Mumbai for the same to be referred to Arbitration by a Sole Arbitrator to be appointed by mutual consent and after due approval of CMD, IREL. The Arbitration proceedings shall be conducted as per the provisions of the Arbitration and Conciliation Act, 1996. It is made clear that this Arbitration Clause shall be applicable to any and all disputes and differences between the Parties arising out of and/or relating to this CONTRACT and the Parties shall be bound to refer the same to arbitration in accordance with the procedure contemplated herein.
- c) If the period of 30 days under Clause (b) has expired at any stage, stipulated in the preceding paras without any response from the CONSULTANT before such expiry, the



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CONSULTANT is deemed to have communicated his satisfaction to the decision of IREL at the relevant stage and all his rights of further appeal or as the case may be, adjudication are deemed to have been waived once and for all.

- d) The seat of arbitration will be at _____ and the language thereof shall be English.
- e) Notwithstanding the invocation, commencement and/or pendency any dispute resolution proceedings under this Clause including arbitration, the CONSULTANT shall continue to be bound by the provisions of the CONTRACT, if not terminated by the IREL, and shall be obligated to discharge its obligations under the CONTRACT including continuation of the WORK under the CONTRACT.
- f) The CONSULTANT shall not in any way delay or default or cause to delay or default the carrying out of the works by reason of the fact that any matter has been agreed to be referred to and / or referred to dispute resolution including Arbitration.

ARTICLE 22.0: LEGAL CONSTRUCTION

Subject to the provisions of this Article, the Contract shall be, in all respects, constructed and operated as an Indian Contract and in accordance with Indian Laws as in force for the time being and is subject to and referred to the Court of Law situated at _____.



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Contract Agreement Form

AGREEMENT for " _____" (hereinafter called the "Job") made on _____ day of, 20 _____ between M/s _____, hereinafter called the "CONSULTANT" (which term shall unless excluded by or repugnant to the subject or context include its successors and permitted assignees) of the one part and the IREL (India) Limited hereinafter called "IREL" (which term shall unless excluded by or repugnant to the subject or context include its successors and assignees) of the otherpart.

WHEREAS

IREL being desirous of having provided for execution of certain work mentioned, enumerated or referred to in the LOI including Completion Schedule of job has called for proposal.

- A. The CONSULTANT has examined the Job specified in TENDER of IREL and has satisfied himself by careful examination before submitting his proposal as to the nature of the Job and local conditions, the nature and magnitude of the Job, the availability of manpower and materials necessary for the execution of Job and has made local and independent enquiries and obtained complete information as to the matters and thing referred to, or implied in LOI or having any connection therewith and has considered the nature and extent of all probable andpossible situations, delays, hindrances or interference's to or with the execution and completion of the Job to be carried out under the Agreement, and has examined and considered all other matters, conditions and things and probable and possible contingencies, and generally all matters incidental thereto and auxiliary thereof affecting the completion of the Job and which might have included him in making his proposal.
- B. The LOI including Completion Schedule of Job and Letter of Acceptance of proposal form partof this Agreement though separately set out herein and are included in the expressionAgreement wherever herein used.

AND WHEREAS

IREL accepted the bid of the CONSULTANT for the provision and the execution of the said Job at thevalues stated in bid and finally approved by IREL upon the terms and subject to the conditions of Agreement.

NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED AND DECLARED AS FOLLOWS :

1. In consideration of the payment to be made to the CONSULTANT for the Job to be executed by him the CONTRACTOR hereby covenants with IREL that the CONSULTANT shall and will duly provide, execute and complete the said Job and shall do and perform all other acts and things in the Agreement mentioned or described or which are to be implied there from or may be reasonably necessary for the completion of the said Job and at the said times and inthe manner and subject to the terms and conditions or stipulations mentioned in the Agreement.



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2. In consideration of the due provision execution and completion of the said Job, IREL does hereby agree with the Agreement that IREL will pay to the CONSULTANT the respective amounts for the Job actually done by him and approved by IREL at the amount specified in this LOA, such payment to be made at such time in such manner as provided for in the Agreement and LOA.
3. In witness whereof the parties have executed these presents in the day and the year first above written.

Signed and Delivered for
for and on behalf of

M/s IREL (India) Limited

Date : _____

Place: _____

Signed and Delivered
and on behalf of

M/s _____

Date : _____

Place: _____

IN PRESENCE OF TWO WITNESSES

1.

2.

1.

2.