

GENERAL DIRECTIONS & CONDITIONS OF CONTRACT



BRAHMAPUTRA VALLEY FERTILIZER CORPORATION LTD.

P.O PARBATPUR: PIN- 786623

DIST: DIBRUGARH, ASSAM

INDEX

1. Definitions and Interpretations.
2. Singular And Plural
3. Headings
4. Law Governing The Contract
5. Service of Notices to Contractors
6. Occupation & Use Of Land
7. Commencement Of Work
8. Tender Document Available For Inspection
9. Incomplete Tender Paper
10. Earnest Money & Security Deposit
11. Tenderer to Study Tender Documents Carefully
12. Contractor to Provide Facilities to Other Contractors
13. Tender by Other than Individual
14. Tenderer to Quote Both in Figures & Words.
15. Declaration of Tenderer's Relation with BVFCL's Employees
16. BVFCL is Not to Assign Any Reason for Rejection of Tenders
17. Tender Liable to Rejection
18. Tenderer Bound By his Quotation
19. Contractor to Execute Agreement
20. Final certificate
21. "On Account" Payment
22. "On Account" Payments Not Prejudicial to Final Settlement
23. Payments To Contractor's Bank, If So Desired
24. BVFCL's Lien on All Money Due
25. Stores Supplied by BVFCL
26. Return Of BVFCL's Surplus Materials to BVFCL
27. No Compensations for Alterations in or Restrictions of Works to be Carried Out
28. Action & Compensation Payable In Case of Bad Work
29. Works to be open for inspection
30. Notice to be Given Before Work is Covered Up
31. Contractor To Supply All Plants, Ladders, Scaffolding Etc.
32. Provision Of Workmen's Compensation Act
33. BVFCL Not Responsible For Contractor's Employees
34. Contractor's Responsibility for the Manner of Execution of Work
35. Sums Payable By Way of Compensation Without Reference to Actual Loss
36. Action Where No Specification
37. Contractor's Percentage Whether Applied to Net or Gross Amount of Bills
38. Cleanliness Of Site
39. Inconvenience to the Public
40. Contractor to Comply with All Laws Etc.
41. Contractor to Be Liable for All Taxes Etc.
42. Assignment or Subletting of Contracts
43. Contractor to Remove Unsuitable Employees
44. Handing Over of Works
45. Repayment of Security Deposits
46. Income Tax Clearance Certificate
47. Set Off
48. Determination of Contract Owing To Default Of Contractor
49. Matters Finally Determined By BVFCL
50. Settlement Of Disputes
51. Arbitration.
52. Jurisdiction.

1. Definitions & Interpretations:

In this General Directions & Condition of Contract, the following terms shall have the meaning hereby assigned to them except where the context otherwise requires:

- a. 'BVFCL' shall mean the Brahmaputra Valley Fertilizer Corporation Ltd. or its Administrative Officers authorised to deal with any matter with which the presents are concerned on its behalf.
 - b. 'General Manager' shall mean the Executive in executive charge of the whole of Namrup Project of BVFCL.
 - c. 'Engineer' shall mean the Executive' in charge of the work and shall include the superior officers of the Engineering Department of BVFCL.
 - d. 'Engineer's Representative' shall mean the Assistant Engineer in direct charge of the works and shall include any Engineering Assistant or Overseer appointed by BVFCL.
 - e. 'Contractor' shall mean person, firm or Company who enters into contract with BVFCL and shall include their executors, administrators, successors and permitted assigns.
 - f. 'Contract' shall mean and include the agreement of the work order, the accepted schedule of rates or the schedule of the rates of BVFCL modified by the tender percentage for items of the works quantified or not quantified, the General Conditions of Contract, the Special Conditions of Contract, if any, the drawings, the specifications, if any, and tender forms if any.
 - g. 'Works' shall mean the works to be executed in accordance with the contract.
 - h. 'Specification' shall mean the specifications for materials and works issued under the authorities of the Engineer or as amplified, added or specified by special specifications if any.
 - i. 'Site' shall mean the site and other places on, in or through which the works are to be carried out and another lands or places provided by BVFCL for the purpose of the contract.
 - j. "Government" means an includes the Central Government as well as State Governments.
2. **Singular & Plural** – Words carrying singular number shall also include plural and vice versa, where context requires.
 3. **Headings** – The headings in these general conditions are solely for the purpose of facilitating reference and shall not be deemed to be the part of or taken into consideration in the interpretation or construction there of or of the contract.
 4. **Law governing the contract:** The contract shall be governed by law for the rime being in force in the republic of India.
 5. **Services of notices of contract:** The contractor shall furnish to the Engineer, the name, designation and address of his authorised agent and all complaints, notices, communications and references shall be deemed to have been duly given to the contractor if delivered to the Contractor or his authorised agent or left at or posted to the addresses so given and shall be deemed to have been given in the case of posting on the day on which they would have reached such address in the ordinary course of post or on the day on which they were so delivered or left. In the case of contract by partners, any change in the constitution of the firm shall be forthwith notified by the contractor to the Engineer.
 6. **Occupation and use of land:** No land belonging to or possession of BVFC shall be occupied by the Contractor without permission of BVFC. The contractor shall not use or allow to be used, the site for any purpose other than that of executing the works.
 7. **Commencement of works:** The contractor shall commence the works within the 7 (seven) days of the receipt by him an order, in writing to this effect from the Engineer and shall proceed with the same with due expedition and without delay.
 8. **Tender documents available for Inspection:** Tender Documents consisting of the designs, drawings, schedule of quantities and rates of the various items along with their description and complete specifications and the sets of "General Direction and condition of contract" or any other document required in connection with the signed for the purpose of identification by the

Engineer shall be open for inspection by the tenderers at the office of the Engineer during the office hours on all days (except sun-days and holidays).

9. **Incomplete Tender Papers:** If a tender issued to an intending tenderer is incomplete he shall request the office of Engineer to complete the same before he delivers his tender.
10. **Earnest Money & Security Deposit:** The tenderer should deposit Earnest Money in one of the following forms with the Finance Manager. The Brahmaputra Valley Fertilizer Corporation Limited, Namrup Unit, P.O. Parbatpur, PIN-786 623 and attach receipt there of with his tender. On acceptance of the tender by BVFC the Earnest Money deposit by the contractor with his tender will be retained by the BVFC as part of the security for the due and faithful fulfillment of the contract by the contractor. The balance to make up the security deposit which will be 10% of the total value of the contract (unless otherwise specified in the special conditions, if any) shall have to be deposited by the contractor either in cash or in the form of Government securities, Bank Guarantees or it may be recovered by percentage deductions from the contractor's "On Account" bills.

The Earnest Money shall be deposited by the tenderer in any of the following forms:-

- a. Cash.
- b. Demand Draft drawn on the State Bank of India, Namrup, in favour of the Brahmaputra Valley Fertilizer Corporation Limited.
- c. Deposit at call receipt of any Scheduled Bank.

Earnest Money shall not be accepted in any form other than those specified above and the tender not accompanied by Earnest Money in the proper form may not be considered.

No interest will be payable on the Earnest Money of Security deposit or the amounts payable to the contractor under the contract.

11. **Tenderer to study Tender Documents carefully:** The tenderer shall study all the Tender Documents very carefully. He should visit the site and satisfy himself as to the local conditions the accessibility of the site, the full extent and character of the operation the nature of the ground, the type of the machinery and the equipment needed, the conditions affecting the supply of materials and labour and the execution of the contract generally. No claim on ground of want of knowledge in such respects will be entertained.
12. **Tenderer by other than individuals:** When the tender submitted is not in the name of an individual, the tenderer shall disclose the nature, constitution and registration of the tendering firm and shall be signed by the person or persons duly authorised by him by means of legally valid document (or a duly certified copy of the same) which shall be attached with the tender. For illustration, in the event of a tender being submitted by a Partnership Firm, it must be signed separately by each partner, or in the event of the absence of any, it must be signed on his behalf by a person holding a Power of Attorney authorising him to do so, such Power of Attorney to be produced with the tender and it must disclose that the firm is duly registered under the Indian Partnership Act.
13. **Tenderer to Quote both in Figures & Words:** The Tenderer should quote in figures as well as in words the rates for each item. He should clearly mention the amount against each item and strike the total wherever necessary. Special care should be taken that the percentage & the rates are always written in both words and figures in a way that interpolation is not possible. The word "Rs" should always be put before and the word "only" at the end of the word or figures i.e., Rs. 250/- only/Rupees Two hundred and Fifty only. Erasures or over-writings of any kind in the tender may render the tender subject to outright rejection.; Where necessary, the original figures and words should be scored out and corrected figures and words written and the corrections attested by the tenderers.

14. **Declaration of tenderer's relation with BVFCL Employees:** Should a Tenderer or a Contractor or a share holder (in the case of a firm or a company of Contractors), have a relative employed in the capacity of Assistant Engineer and above in BVFCL, the tenderer shall inform BVFCL of such fact at the time of submission of the tender, failing which BVFCL may, in its sole discretion, reject the tender or rescind the contract in accordance with provisions of Clause 66.
15. **BVFCL not to assign any reason for rejection of Tender:** The acceptance of tenders will rest with BVFCL which does not bind itself of accepting the lowest tender and reserves to itself the right (i) to reject all tenders or (ii) to split up the work in part amongst two or more contractors (iii) to accept the work in part and not in its entirety, if considered expedient without assigning any reason or giving any explanation thereof.
16. **Tenders liable to rejection:** The following tenders will be liable to summary rejection:
 - i) Tenders submitted by tenderer who resort to canvassing.
 - ii) Tenders which do not fulfil all or any of the conditions laid down in the tender documents or are incomplete in any respect.
 - iii) Tenders, which contain uncalled for remarks or any alternative/additional conditions.
17. **Tenderer bound by his Quotation:** The rates quoted in the tender are to hold good for 3 months from the date of opening of the tender after which the rates are to be confirmed by both the parties before executing the contract. No tenderer can withdraw his tender or revoke the same within the said period of 3 months. If a tenderer withdraws or revokes his tender or revises the tendered rates of any items within the aforesaid period of 3 months, his Earnest Money will be forfeited.
18. **Contractor to Execute Agreement:** The contractor's responsibility under this contract will commence from the date of issue of the letter accepting the tender. The tender documents and letter of acceptance shall constitute the contract.
The successful tenderer shall be required to execute an agreement with the Brahmaputra Valley Fertilizer Corporation Limited, Namrup, Assam, within 7 (seven) days of the receipt of Letter of Acceptance for specification of works and materials by him, as may be given in the Tender Documents and Special Conditions of Contract. The agreement to be executed will be in Agreement Form of works to be specified by BVFCL. The provisions contained in Tender Documents and any other documents exchanged between the tenderer and BVFCL shall form part of the contract.
19. **Final Certificate:** On the completion of the work the contractor shall be furnished with a certificate by the Engineer of such completion, but no such certificate shall be given, nor shall the work to be considered to be completed unless the contractor shall have removed from the premises on which the work shall be executed all scaffolding, surplus materials and rubbish and clean off the dirt from all woodwork, doors, windows, walls, floors or other part of any building, in upon or about which the work has been executed or of which he may have had possession or use for the purpose of execution thereof, nor until the work shall have been measured by the Engineer, or whose measurements shall be binding upon and conclusive against the Contractor. If the Contractor shall fail to comply with the requirement of this clause as to removal of scaffolding, surplus materials and rubbish and dispose of the same, as he think fit and clean off and clean off such dirt as aforesaid, and the contractor shall forthwith pay the amount of all expenses so incurred and shall have no claim in respect of any such scaffolding or surplus materials as aforesaid except for any sum actually realised by sale thereof.
20. **'On Account' Payment:** The contractor shall be entitled to be paid monthly by way of 'On Account' Payment only for such works as in the opinion of the Engineer or the Engineer's representative's certification of measurement shall be subject to any deductions which may be made under these presents and shall further be subject to a retention of ten percent by way of Security Deposit determined in terms of clause 11, provided always that the Engineer may by any certificate, make any correction or modification in any previous certificate which shall

have been issued by him and that the Engineer may withhold any certificate if the works or any part thereof are not being carried out to his satisfaction.

21. **“On account” payment not prejudicial to final settlement:** “On Account” payment made to the Contractor shall be without prejudice to the final making up of the accounts and shall in no respect be considered or used as evidence of any facts stated in or to infer from such accounts nor of any particular quantity of work having been executed nor of the manner of its execution being satisfactory.
22. **Payments to Contractor’s Bank, if So Desired:** Payments due to the contractor may if so desired by him, be made to his Bank instead of direct to him provided that the Contractor furnishes to the Engineer, (i) an authorisation in the form of legally valid document such as a Power of Attorney conferring authority on the Bank to receive payment, and (ii) his own acceptances of correctness of the accounts made out as being due to him by BVFCL or his signature on the bill or other claim preferred against BVFCL before settlement by the Engineer of the account or claim by payment to the Bank. The receipt given by such Bank shall constitute a full and sufficient acquittance for the payment. Receipts for the payments made on account of a work, when executed by a partnership. Firm, must also be signed by the several Partners, except where the contractors as described in their tender as firm, in which case the receipt must also be signed in the name of the firm by one of the Partners, or by some other person having authority to give effectual receipts for the firms.
The Contractor shall have no claim for any interest or any other Compensation with respect to any delay in payment of his interim or final bills or the refund of his Security Deposit or in respect of any amounts, which may be in BVFCL’s hands owing to any disputes between BVFCL and contractor.
23. **BVFCL’s lien on all moneys due:** BVFCL shall have a lien on and over all or any money that may become due and payable to the contractor under these present, and /or also on and over the Security Deposit or Security amount or amounts made under the contract and which may become repayable to the contractor under the conditions in that behalf herein contained for or in respect of any debt or sum that may become due and payable to BVFCL by Contractor either alone or jointly with another or others and either under this or under any other contract or transaction of any nature whatsoever between BVFCL and the Contractor. And further that BVFCL shall at all times, be entitled to deduct the said debt or same due by the Contractor from the moneys, securities or deposits which may become payable to the Contractor under these presents.
24. **Stores supplied by BVFCL:** If the contract provides for the use of any special description of materials to be supplied from BVFCL’s stores or if it is required that the contractor shall use certain stores, to be provided by BVFCL, he shall be supplied with such materials and stores as are required from time to time to be used by him for the purpose of this contract only and the value of full quantity of materials and stores so supplied at the rates specified in the Notice Inviting Tender 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. All materials supplied to the contractor shall remain the absolute property of BVFCL and shall not any account be removed from the site of the work and shall at all times be opened to inspection by the Engineer. Any such materials unused and in perfectly good condition at the time of completion or determination of the contract shall be returned to BVFCL’s stores, if by a notice in writing, under his hand the Engineer shall so require, but the contractor shall not be entitled to return any such materials without such consent shall have no claim for compensation on account of such materials so supplied to him as aforesaid being unused by him, or any wastage in or damage for any such materials.
25. **Return of BVFCL’s surplus materials to BVFCL:** Notwithstanding anything contained to the contrary in any or all the clauses of this contract, where any materials for the execution of the contract are procured with assistance of BVFCL, either by issue from BVFCL’s stocks or purchases made against permit or licence issued by the government, the contractor shall hold

the said materials as trustee for BVFCL and used materials economically and solely for the purpose of the contract and not dispose off them without the permission of BVFCL and return, if required by the Engineer, all surplus or unserviceable materials that may be left with him after the completion of the contract or its termination for any reason whatsoever on being paid or credited such price as the Engineer may determine, having due regard to the condition of the materials. The price 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 any breach of the aforesaid conditions, the contractor shall in addition to being liable to action, for contravention of the terms Licence or Permit and/ or for criminal breach of trust, be liable to BVFCL/Government for all moneys, advantages or profits resulting or which in the usual course would have resulted to him by reason of such breach.

26. **No Compensation for Alteration in or restrictions of work to be carried out:** If at any time after the commencement of work BVFC shall for any reason whatsoever, not require, the whole there of as specified in the tender to be carried out, the Engineer shall give notice in writing of the fact to the Contractor who shall have no claim to any payment or compensation whatsoever on account of any profit or advantage which he might have derived from the execution work in full but which he did not derive in consequence of the full amount of the work not having been carried out, neither shall the contractor have any claim for compensation by reason or any alteration having been made in the original specifications, drawings, designs and instruction which shall involve any curtailment of the work as originally contemplated.
27. **Action and compensation payable in case of work:** If it shall appear to the Engineer or his subordinate in charge of the work that work has been executed with unsound, imperfect or unskillful workmanship or with materials or in any inferior description or that any materials or articles provided by him for the execution of work are unsound or of a quality inferior to that contracted for, or otherwise not in accordance with the contract, the contractor shall on demand in writing from the Engineer specifying the work, materials, articles complained or notwithstanding that the same may have been inadvertently passed, certified and paid for forthwith rectify or remove and reconstruct the work so specified in whole or in part as the case may require or the case may be removed the materials or articles so specified and provide other and suitable materials and articles at his own cost, and the event of his failing to do so within a period to be specified by the Engineer in his demand as aforesaid the contractor shall be liable to pay compensation at the rate of one percent on the amount of the estimate of everyday (not exceeding 10 days) of his failure to do so and in the case of any such failure, the Engineer may rectify or remove and re-execute the work, remove and replace with other materials or articles as the case may beat the risk and expense of the contractor.
28. **Work to be open for inspection:** All works under or in course of execution or executed in pursuance of the contract shall, at all time be open to the inspection and supervision of the Engineer and his subordinates and the contractor shall at all times, during the usual working hours and at all other times with reasonable notice of intention of the Engineer or his subordinates to visit the works shall have been given to the contractor either himself be present to receive orders and instructions or have a responsible agents duly accredited in writing present for that purpose.
29. **Notice to be given before work covered up:** The contractor shall not give less then five days notice in writing to the Engineer or his subordinate in-charge of the work before covering up or otherwise placing beyond the reach of measurement any work in order that the same may be measured and correct dimensions thereof be taken before the same is covered up or placed beyond the reach of measurement and shall not cover up or place beyond the reach of measurement any work without the consent of the Engineer or his subordinate in-charge of the work and if any work is covered up or placed beyond the reach of measurement without such notice having been given or consent obtained the same may be uncovered at the Contractor's

expense or in default thereof no payment or allowance shall be made for such work of the materials with which the same was executed.

30. **Contractor to supply all plants, ladders, scaffoldings etc.:** The contractor shall supply at his own cost all materials (except such special materials, if any, as may in accordance with this contract, be supplied from BVFCL's stores) plants, tools, appliances, implements, necessary for the proper execution of the work, whether original, altered or substituted and whether included in the specifications or other documents forming part of the contract or referred to in these conditions or not, or which may become necessary for the purpose to satisfy, or complying with requirements of the Engineer as to any matter as to which under these conditions he is entitled to be satisfied or which he is entitled to require together with carriage thereto and from the work. The contractor shall also supply without charge the requisite number of persons with the means and materials, necessary for the purpose of setting out of works and counting, weighing and assisting in measurement or examination at any time and from time to time of the work or materials. Failing his so doing, the same may be provided by the Engineer at the expense of the Contractor and the expenses may be deducted from any money due to the contractor under the contract or from his security deposit. The Contractor shall be entirely responsible for the true and perfect setting out and for the the correctness of levels, dimensions, alignments etc. of all parts of the work. If at any time, any errors shall appear in any part of the work, the Contractor shall at his own cost, rectify such errors to the satisfaction of the Engineer. The Contractor shall also provide all necessary fencing and lights required to protect the public from accident and shall be bound to bear the expenses of defences of every suit, action or other proceeding of law that be brought by any person for injury sustained owing to neglect of the above precautions and pay any damages and costs, which may be awarded in any such suits, action or proceedings to any such persons or which may, with the consent of the Contractor, be paid to compromise any claim by any such person.
31. **Provision of Workmen's Compensation Act:** In every cases in which by virtue of the provision of Section 12, Sub section (1) of the Workmen's Compensation Act. 1923 of any other law for the time being in force, BVFCL is obliged to pay compensation to a workman employed by the Contractor in execution of work BVFCL will recover from the contractor the amount of the compensation so paid and without prejudice to the right of BVFCL under section 12, Sub section (2) of the said Act or any other law for the time being in force, BVFCL shall be at liberty to recover such amount or any part thereof by deducting it from the Security Deposit or from any sum due by BVFCL to the Contractor whether under this Contract or otherwise BVFCL shall not be bound to contest any claim made against it under section 12, Sub section (1) of the said Act or any other law of the time being in force, except on the written request of the Contractor and upon his giving to BVFCL full security for all cost, which BVFCL might become liable in consequence of contesting such claim.
32. **B.V.F.C.L not responsible for contractor' Employees:** The Contractor shall strictly abide by the provisions of the Employment Exchange (Compulsory Notification of Vacancies) Act. 1959 and may employ such employees as he think fit subject to the limitations and restrictions in the above said Act and the employees so employed shall be employees of the contractor for all purpose whatsoever, and shall not be deemed to be in the employment of BVFC for any purpose whatsoever. The contractor shall abide by all the rules, laws and regulations that may be in the force from time to time regarding the employment or conditions of services of the employees if under any circumstances whatsoever, BVFC is held liable or responsible in any matter whatsoever, for default or omissions on the part of the contractor, in abiding by the aforesaid rules, laws and regulations or is held liable or responsible to the employees of the contractor in respect of any matter whatsoever, BVFC shall be reimbursed by the contractor for the same as also for other expenses or costs incurred by BVFCL in any proceeding or litigation as a result of any claim demand or act on the part of the employees of the Contractor

- BVFCL shall be entitled to claim, damages or compensation from the contractor.
33. **Contractor's responsibility for the manner of the execution of work:** Contractor shall be solely responsible for the manner and the method of executing the work. The work shall be subject to the approval of the Engineer from time to time for the purpose of determination of the question whether the work is executed by the Contractor in accordance with the Contract.
 34. **Sums payable by way of compensation without any reference to actual loss:** All sums payable by way of compensation under any of the conditions shall be considered as reasonable compensation to be applied to the use of BVFCL without reference to the actual loss or damages sustained and whether or not any damage shall have been sustained.
 35. **Action where no specification exists:** In case of any class of work for which there is no such specification as laid down in the contract, such works shall be executed as per the instructions of the Engineer.
 36. **Contractor's percentage whether applied to net or gross amount of bill:** In case the contract is at a percentage below/above a specified Schedule the percentage referred to in the tender will be deducted from or added to the gross amount of the bills for work done.
 37. **Cleanliness at site:** The Contractor shall keep the site clean and free from rubbish to the satisfaction of the Engineer. All surplus materials rubbish etc. will be removed to the place fixed by the Engineer and nothing extra will be paid for it.
 38. **Inconvenience to the public:** The contractor shall not deposit materials on any site which may cause inconvenience to the public. The Engineer may require the Contractor to remove any materials, which are considered by him to be a danger or inconvenience to the public or cause these to be removed at the Contractor's cost.
 39. **Contractor to comply with Laws etc.:** The Contractor shall be responsible to secure compliance with all central and State Laws as well as the Rules and Regulation, By laws and orders of the Local Authorities and Statutory Bodies as may be in force from time to time. He shall give to the Municipal Corporation/ Committee, Police and other relevant authorities all such notice etc. as may be required by law and obtain all requisite licences for temporary constructions, enclosures etc and pay all fees, taxes and such other dues or charges which may be leviable on account of his operations in executing the work under this Contract. He shall make good at his own cost any damage to any adjoining property.
 40. **Contractor to be liable for all taxes etc. :** The rate specified in the tender should be inclusive of any part thereof or allow any part thereof or allow any other taxes, tools custom duty of any kinds, fees, or royalty in respect of the Contract. The contractor shall indemnify BVFCL against levy of any taxes etc. in regard to this contract and in the event of BVFCL being assessed for the said impost BVFCL shall have the right to recover the total amount so assessed from the Contractor's dues and the contractor shall also be responsible for all costs or expenses that may be incurred by BVCL in connection with any proceedings or limitation in respect of the same.
 41. **Assignment or subletting of Contract –** The Contractor shall not assign or sublet the contract or any part thereof or allow any person to become interested therein by any manner whatsoever without the special permission of BVFCL. Any breach of this condition shall entitle BVFCL to determine the contract under clause 66 of these conditions and also render the contractor liable for payment of BVFCL in respect of any loss or damage arising out or ensuing from such cancellation, provided always that execution of the work by petty contractor under the direct and personal supervision of the Contractor or his agent shall not be deemed to be subletting under this clause. The permitted subletting of work by the Contractor shall not establish any contractual relationship between the sub-contractor and BVFCL and shall not relieve the contractor of any responsibility under the contract. In the event of sufficient dues not being available to reimburse BVFCL for the expenditure incurred by it for above, the contractor shall reimburse BVFCL for the same.

42. **Contractor to remove unsuitable employees** – The Contractor shall on instruction of the Engineer in-Charge, immediately remove from the work any person employed there, one who many misbehave or cause any nuisance or be otherwise in the opinion of the Engineer In-Charge not at all fit person to be retained on the work and such person shall not be again employed or allowed on the works without the prior written permission of the Engineer.
43. **Handing over of Work**- The Contractor shall be bound to hand over the works executed under the contract to BVFCL complete in all respects to the satisfaction of the Engineer. The Engineer shall determine the date on which the Works is considered to have been completed in support of which his certificate shall be regarded as sufficient evidence for all purposes.
44. **Repayment of Security Deposit**- The total Security Deposit shall become due and shall be paid to The Contractor after the expiry of period of maintenance specified in the Tender reckoned from the date on which the Engineer shall have passed the certificate of completion comprising the whole of the works to be done under the provisions of the contract, or any other earlier date subsequent to the completion of the whole of such works that may be fixed by BVFCL in this behalf, provided however, that all the stipulations of this clause have been fulfilled by the Contractor and all clauses and demands made in respect of damage or loss by, from or in consequence of the works have been finally satisfied, provided further that in the event of different maintenance periods having become applicable to different parts of the works pursuant to clause 62 of this conditions, the “expiration of the period of maintenance” shall for the purpose of clause be deemed to the mean expiry of the latest of such periods.
45. **Income Tax Clearance Certificate**- Not withstanding anything contained in clause 63 above, the Security Deposit shall not be paid to the Contractor until a Tax Clearance Certificate, expressly mentioning that the receipts from this contract have been included by the Contractor in the Return Income filed by him to the Tax Authority and that the Contractor was taking steps to co operate in the early completion of the Assessment and payments and of taxes there on by the Contractor.
46. **Set Off**- Any sum of money due and payable to the Contractor (including Security Deposit returnable to him) under this contract may be appropriated by BVFCL or the Government or any other person or persons contacting through the Secretary of any Ministry of the Government and set off against any claim of BVFCL or the Government or any other person or persons for the payment of money arising out of or under any other contract made by the contractor with BVFCL or the Government or any other person or persons.
47. **Determination of Contract Owing to Default of Contractor:**
If the Contractor should
 - i) become bankrupt or insolvent, or
 - ii) make an arrangement with or assignment in favour of his creditors, or agree to carry out the Contract under a Committee of Inspection of his Creditors, or
 - iii) being a Company or Corporation go into liquidation(other than voluntary liquidation for the purpose of amalgamation or reconstruction), or
 - iv) have an execution levied on his goods or property on the works, or
 - v) assign the Contract or any part thereof otherwise than as provided in Clause 59 of these conditions, or
 - vi) abandon the Contract, or
 - vii) persistently disregard the instructions of the Engineer, or contravene any provision of the Contract, or
 - viii) fail to adhere to the agreed program of work, or
 - ix) fail to remove materials from the site or to pull down and replace work after receiving from the Engineer notice to the effect that the said materials or works have been condemned or rejected, or
 - x) fail to take steps to employ competent or additional staff and labour as required under Clauses 40, 52 & 53 of these conditions, or

- xi) fail to afford the Engineer or Engineers' Representative, proper facilities for inspecting the works or any part thereof as required under Clause 37 of these conditions, or
 - xii) promise, offer or give any bribe, commission, gift or advantage either himself or through his partner, agent or servant to any officer or employee of BVFCL or to any person on his or on their behalf in relation to the execution of this or any contract with BVFCL then the Engineer on behalf of BVFCL may serve the Contractor with a notice in writing to that effect. If the Contractor does not within seven days of the delivery to him of such notice, proceed to make good his default in so far as the same is capable of being made good and carry on the work or employ with such directions as aforesaid to the entire satisfaction of the Engineer, BVFCL shall be entitled after giving 48 hours notice in writing under the hand of the Engineer, to remove the Contractor from the whole or any portion or portions (as may be specified in such notice) of the works without thereby avoiding the Contract or releasing the Contractor from any of the obligations or liabilities under the Contract and adopt any or several of the following courses:
 - a) To rescind the Contract of which the rescission notice in writing to the Contractor under the hand of the Engineer shall be conclusive evidence in which case the Security Deposit of the Contractor shall stand forfeited to BVFCL without prejudice to BVFCL's right to recover from the Contractor any amount by which the cost of completing the works by any other agency shall exceed the value of the Contract.
 - b) To carry out the works, or any part thereof, by the employment of the required labour and materials, the cost of which shall include lead, lift, freight, supervision and all incidental charges, and to debit the Contractor with such costs, the amount of which as certified by the Engineer shall be final and binding upon the Contractor, and credit the Contractor with the value of the works done as if the works had been carried out by the Contractor under the terms of the Contract, and the certificate of the Engineer in respect of the amount to be credited to the contractor shall be final and binding upon the Contractor.
 - c) To measure up the work executed by the Contractor and to get the remaining work completed by another Contractor at the risk and expense of the Contractor in all respects in which case any expenses that may be incurred in excess of the sum which would have been paid to the Contractor if the works have been carried out by him under the terms of the Contract, the amount of which excess as certified by the Engineer shall be final and binding upon the Contractor, shall be borne and paid by the Contractor and may be deducted from any Money due to him by BVFCL under the Contract or otherwise or from his Security Deposit provided always that in any case in which any of the powers conferred upon BVFCL by sub clause (1) of Clause 56 hereof shall not be exercised, the non exercise thereof shall not constitute a waiver of the conditions hereof and such powers shall, notwithstanding, be exercisable in the event of any future case of default by the Contractor for which his liability for past and future shall remain unaffected.
- 48. Right of BVFCL after rescision of Contract owing to the default of the Contractor:** In the event of any or several of the courses, referred to in sub clause (1) of this clause, being adopted:
- a. the Contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased any materials or entered in to any commitments or made any advances on account of or with a view of the execution of the works or the performance of the Contract and Contractor shall not be entitled to recover or be

- paid any sum for any work thereto actually performed under the Contract unless and until the Engineer shall have certified the performance of such work and the value payable in respect thereof and the Contractor shall be entitled to be paid the value so certified.
- b. The Engineer or the Engineer's Representative shall be entitled to take possession of any materials, tools, implements, machinery and buildings, on the works or on the property on which these are being or ought to have been executed, and to retain and employ the same in the further execution of the works without the Contractor being entitled to any compensation for the use and employment thereof or for wear and tear or destruction thereof.
 - c. The Engineer shall, as soon as may be practicable after the removal of the Contractor, fix and determine expertly or by after reference to the parties or after such investigation or enquiries as he may consider fit to make or institute and shall certify what amount (if any) had at the time of rescission of the Contract been reasonably earned by or would reasonably accrue to the Contractor in respect of the work actually done by him under the Contract and what was the value of any unused, or partially used materials, any constructional plant and any temporary works upon the site.
 - d. BVFCL shall not be liable to pay to the Contractor any money on account of the Contract until the expiration of the Period of Maintenance and thereafter until the costs of completion and maintenance damages for delay in completion (if any) and all other expenses incurred by BVFCL have been ascertained and the amount thereof certified by the Engineer. The Contractor shall then be entitled to receive only such sum or sums (if any) as the Engineer may certify and would have been due to him upon due completion by him/after deducting the same amount, but if such amount exceed the sum which would have been payable to the Contractor, then the Contractor shall upon demand pay to BVFCL the amount of such excess and it shall be deemed a debt due by the Contractor to BVFCL and shall be recoverable accordingly.
- 49. Matters finally Determined by BVFCL:** All disputes or difference of any kind whatever arising out of or in connection with the Contract, whether during the progress of works or after the completion of and whether before or after the determination of Contract, shall be referred by the Contractor to BVFCL and BVFCL shall, within a reasonable time after presentation, make and notify decisions thereon in writing. The decisions, directions and certificates with respect to any matters decision on which is specially provided by these conditions given and made by BVFCL or by the Engineer on behalf of BVFCL which matters are referred to hereafter as expected Matters shall be final and be binding upon the Contractor and shall not be set aside or be attempted to be set aside on account of any informality, omission, delay or error in proceedings in or about the same or on any other reasons and shall be without any appeal.
- 50. Settlement of Disputes-** Except where otherwise provided in the Contract, all question and disputes relating to the meaning of the specifications, designs, drawing and instructions herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other questions, claims, right, matter or things whatsoever in any way arising out of or relating to the Contract designs, drawings, specifications, estimates, instructions or orders or these conditions or otherwise concerning the work of execution, or failure to execute the same whether arising during the progress of work or after the completion or abandonment, thereof or otherwise shall within one month of the arising of such question or dispute, be referred to the sole arbitration of the General Manager of BVFCL and if the General Manager is unable or unwilling to act, to the sole arbitration of some other persons appointed by him appointed by the General Manager willing to act as such Arbitrator. There will be no objection if the Arbitrator so appointed is an employee of BVFCL and that he had to deal with the matters to

which this agreement relates and that in the course of his duties to deal with the matters to which this agreement relates and that in the course of his duties as such he had expressed views on all or any of the matters in dispute of reference. The award of the Arbitrator so appointed shall be final, conclusive and binding on parties to this Contract. The Arbitrator may, from time to time with the consent of the parties enlarge the time, for making and publishing the award.

51. Arbitration and Jurisdiction:

- (a) If at any time any party to this agreement shall raise any dispute or difference in respect of this agreement in that event party shall forthwith give to the other party notice in writing specifying the nature of difference and the full particulars of its claims including amounts in respect to such disputes or difference.
- (b) If within 30 days of receipt of the notice mentioned in sub clause (a) above of the dispute or difference is not amicably settled between the parties then it shall be deemed that the difference or dispute has arisen between the parties hereto.
- (c) All such dispute or difference shall be referred to the arbitration of the General Manager for the time being of the Division or Unit of the Brahmaputra Valley Fertilizer Corporation Ltd.(Hereinafter called BVFCL) through which Division or Unit this agreement is entered into by BVFCL.
- (d) In the event such General Manager is unwilling or unable to act as such Arbitrator then the dispute or difference shall be referred to the sole arbitration of any other officer of BVFCL to be appointed by such General Manager.
- (e) In any award, the arbitrator must state reason for such award.
- (f) Any party desiring to prefer any appeal shall within the time
- (g) Any party dissatisfied with the award may within 15 days of receipt of intimation of the passing of the award prefer an appeal against such award in the manner mentioned hereinafter.
- (h) The party desiring to prefer any appeal shall within the time mentioned in clause (f) above shall deliver or cause to be delivered against receipt the ground of appeal, a true copy of the award and other papers desired by it (hereinafter collectively referred as “appeal papers”) to the Chairman-cum-Managing Director for the time being of BVFCL at its Registered Office upon intimation in writing to the other party.
- (i) On receipt of such “appeal papers”, the Chairman-cum-Managing Director shall within 10 days of receipt thereof appoint an Appellate Committee for deciding such appeal consisting of three persons of whom any or all of them may be officer or officers of BVFCL but none of whom had been the Arbitrator in the particular matters and had given the award against which such appeal is preferred.
- (j) On appointment of the Appellate Committee such Chairman-cum- Managing Director shall intimate in writing to the parties about such appointment and deliver or cause to be deliver such “appeal papers” to such appellate Committee.
- (k) Thereupon the Appellate Committee shall be calling upon the records of the proceedings from the arbitrator consider the appeal and in so considering the Appellate Committee may at its discretion here the parties to the appeal.
- (l) The Appellate Committee on consideration of the appeal may confirm, vary, reverse or set aside the award of the Arbitrator and in all cases the Appellate Committee shall state the reasons in the Appellate Award.
- (m) If no appeal is preferred within the time mentioned in sub clause (f) above then the award of the Arbitrator shall be final and binding on all parties.
- (n) In the event of preferring an appeal against the award of the Arbitrator to the Appellate Committee in terms of this clause the award of the Appellate Committee shall be final and binding on all parties.
- (o) No objection shall be made to the appointment of General Manager as Arbitrator or any member of the Appellate Committee (as the case may be) on the ground of any of them (i)

being an officer of the Corporation and/or (ii) any time dealt with any matter in dispute or difference and/or (iii) expressed any view thereon.

(p) Subject to aforesaid the provisions of Arbitration Act 1940 shall apply to the Arbitration Proceedings and appealed hereunder.

52.. Jurisdiction : Notwithstanding the place where this contract is to be performed, it is mutually understood and agreed by between the parties hereto that this contract shall be deemed to have been entered in to by the parties concerned in the City of Dibrugarh and the Court of Law in such city alone shall have jurisdiction to adjudicate thereon.

-: O :-

GUARANTEE BOND

(To be used by approved schedule Bank)

1. In consideration of the Brahmaputra Valley Fertilizer Corporation Ltd., a Company incorporated in India having its registered Office at -----and its works at Namrup (hereinafter called the BVFCL) having agreed to exempt (hereinafter called “the said contractor(s)” from the demand, under the terms and conditions of an Agreement dated(made between.....and for (hereinafter called “the said Agreement”) of Security Deposit / performance guarantee for the due fulfillment by the said Contractor(s) of the terms and conditions contained in the said agreement, on production of a Bank Guarantee for Rs. (Rupees.....only) we.....Bank (hereinafter referred to as “the Bank” do hereby undertake to pay the BVFCL an amount not exceeding Rs. against any loss or damage caused to or suffered or would be caused to or suffered by the BVFCL by reason of any breach by the Contractor(s) of any of the terms & conditions contained in the said Agreement.

2. We.....Bank do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on demand from the BVFCL stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by BVFCL by reason of any breach by the said Contractor(s) of any of the terms & conditions contained in the said Agreement or by reason of the Contractor(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.

3. 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 BVFCL under or by virtue of the said Agreement havethe BVFC..... certifies that the terms and conditions of the said Agreement have been fully and properly

carried out by the said Contractor(s) and accordingly discharges the guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the
..... we shall be discharged from all liability under this guarantee thereafter.

4. We.....Bank further agree with the BVFCL that BVFCL shall have the liberty without our consent and without effecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercised by the BVFCL against said Contractor(s) 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 variations or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the BVFCL or any indulgence by the BVFCL to the said Contractor(s) 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.

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

Dated..... Day of 2015

For Bank.
