



BIRLA INSTITUTE OF TECHNOLOGY

PROPOSED STUDENT HOUSING & CAFETERIA

Tender Ref. No.: 26-27/G/PE/00001, Date: 01/09/2026

Last date for submission of bids: 14/09/2026, before 3 pm

Duration of the Work: 15 Months for each block

The address for submission of Quotations and for obtaining further information:

DEPUTY REGISTRAR

**BIRLA INSTITUTE OF TECHNOLOGY,
MESRA RANCHI-835 215 (JHARKHAND)
INDIA**

BIT

TENDER DOCUMENT

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LIST OF ABBREVIATIONS

AAC	Autoclaved Aerated Concrete Blocks
BIS	Bureau of Indian Standards
BIT	Birla Institute of Technology
EMD	Earnest Money Deposit
etc	et cetera
GCC	General Conditions of Contract
GST	Good and Service Tax
HVAC	Heating, Ventilation, and Air Conditioning
IFS	Indian Financial System Code
IS	Indian Standards
ITT	Instructions to Tenderers
JV	Joint Venture
MEP	Mechanical, Electrical & Plumbing
NIT	Notice Inviting Tender
PAN	Permanent Account Number
PCC	Plain Cement Concrete
RCC	Reinforced Cement Concrete
RTGS	Real-Time Gross Settlement
Sq.ft.	Square Feet
Sq.mt.	Square meter

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SECTION: 01
PROJECT BRIEF

1. Project Brief

Birla Institute of Technology (BIT), Mesra Campus, Ranchi proposes the development of a new student housing complex within its institutional campus to meet the increasing demand for on-campus residential facilities. The project is envisioned as a large-scale, multi-storey residential infrastructure designed to provide safe, comfortable, and efficient accommodation for students, while integrating modern building standards, sustainability principles.

The proposed development is planned on a total land parcel of 3.45 acres and comprises a G+6 storied block consisting of four residential towers, along with a centrally located G+1 storied cafeteria block. The total built-up area of the project is approximately 2,26,220 Sq.ft., encompassing all residential, administrative, services, circulation, and common facilities.

The student housing is designed to accommodate a total of 1016 students through 508 residential units, primarily planned as twin-sharing accommodation. The planning intent focuses on optimal land utilization, efficient vertical circulation, and clear segregation of residential, service, and common functions, while maintaining strong visual and physical connectivity with the campus.

1.1. Project Details

1. **Project Client:** Birla Institute of Technology, Mesra
2. **Project Name:** Proposed Student Housing at BIT
3. **Project Location:** Birla Institute of Technology, Mesra, Jharkhand, 835215.
4. **Plot Area:** 3.5 Acres
5. **Built-up Area:** 2,48,440 Sq.ft.
6. **Site coordinates:** 23.412942 N, 85.440153 E

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1.2. Area Statement

The total built-up area is **2,48,440 Sq.ft.**

Table 1: Area Statement

SL NO	DESCRIPTION	TOTAL GROSS AREA (sqm)	DUCTS / CUTOUTS AREA (sqm)	BUILTUP AREA (sqm)	CONSTRUCTION AREA	NO: OF UNITS	REMARKS
1	Ground Floor	761	24	737	845	13	Especially abled room, sick room & visitor room added
2	First Floor	734	24	710	761	18	DB room, washroom layout updated, lounge area and pantry segregated as different areas.
3	Second Floor	766	24	742	800	21	
4	Third Floor	766	24	742	800	18	
5	Fourth Floor	766	55	711	769	17	
6	Fifth Floor	766	55	711	769	18	
7	Sixth Floor	766	24	742	800	22	
8	Terrace Floor	118	0	118	845	0	
TOTAL AREA PER BLOCK (sqm)		5443	230	5213	6389	127	
TOTAL AREA PER BLOCK (sqft)		58590	2475	56110	68770		
TOTAL NO. OF BLOCKS						4	
NO. OF UNITS IN 4 BLOCKS						508	
TOTAL CAPACITY						1016	
HEIGHT PER FLOOR						3 m	
TOTAL HEIGHT in m (G+6, with 0.6m plinth)						21.6	
BUILT UP AREA FOR TOWER 01 (in sqft)						56110	
TOTAL BUILT UP AREA (4 Blocks) (in sqft)						224440	
AREA FOR CAFETERIA (in sqft)						24000	
AREA BUILT UP AREA (in sqft)						248440	

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SECTION: 02
NOTICE INVITING TENDER

2. Notice Inviting Tender (NIT)

Date: 01.09.2026

Tenders are invited behalf of the client for the development of BIT MESRA Student Housing in tenders in a single bid system from experienced and eligible contractor for the **“Construction of Student Housing at Birla Institute Technology Mesra Campus on item rate contract basis”** and as per schedule as under:

Table 2: Notice Inviting Tender (NIT)

Tendering Document No.	BIT Student Housing /MESRA/2026 DT : 01.09.2026
Name of the Work	Construction of Student Housing Block 01, Block 02, Block 03 & Block 04, Cafeteria Block for structural and civil works on Item rate contract basis for BIT Mesra, Ranchi.
Brief Scope of Work	Construction of RCC framed structure building including Debris clearance, Excavation, Foundation, Structural Works, Civil Works, external civil works, compound wall, anti-termite treatment, water proofing etc as per scope of work detailed out in the tender document. The scope also includes the coordination with Architect's, plumbing, electrical, firefighting, HVAC consultants and contractors for satisfactory execution of all works/activities in the time bound manner. This project consists of construction of G+6 Floors, as per scope of work the construction should include adopting new & latest technology of construction etc. as per scope of work, detailed Design Basis Report (DBR's), Technical Specifications, Tender Drawings and conditions elaborated in this tender document.
Period of Completion	Overall, 15 (Fifteen) Calendar Months. As per the phases mentioned in SCC. This includes completion of following building/areas: all external & internal structural works, civil works, anti-termite treatment, water proofing, including plastering. Student Housing Block 01 – 15 Months Student Housing Block 02 – 15 Months Student Housing Block 03 – 15 Months Student Housing Block 04 – 15 Months Cafeteria Block – 12 Months
Earnest Money Deposit (EMD)	Bank Demand Draft of Rs.70,00,000/- in favour of Birla Institute of Technology, Mesra.
Validity of tender open	15 Days from the closing date.
Last date of submission of tender	30 Days from the date of issue of the tender document

1. Minimum Eligibility Criteria:

The Interested tenderers should meet the following minimum qualification criteria.

A. WORK EXPERIENCE:

A.1. The following shall be the Minimum eligibility criteria for selection of bidders:

- a. Legal Valid Entity: The bidders shall necessarily be a legally valid entity either in the form of a limited company or private limited company, registered under the Companies Act, 1956, or JV/consortium, proprietorship, partnership, etc. A proof for supporting the legal validity of bidder shall be submitted.
- b. Registration: The bidder should be registered with the Income Tax, GST and also registered under the labour laws - Employees provident fund organization, employees state insurance corporation.
- c. Clearance: The bidder should have enclosed 3 years ITR.

A.2. Annual Turnover:

A.2.1. Experience of having successfully completed similar works during the last 7-10 years ending previous day of last date of submission of tenders

- a. Three similar works each costing not less than 40% of the estimated cost put to the tender

OR

- b. Two similar works each costing not less than 60% of the estimated cost put to the tender

OR

- c. One similar works each costing not less than 80% of the estimated cost put to the tender

“Similar works” shall mean construction of Non industrial building project(s) comprising construction of multistoried RCC frames structures having minimum G+5 stores (machine room, mumty shall not be counted as a storey) all works executed under one agreement.

A.3. The tenderers must read the terms and conditions of client. He should be submitting his tender if he considers himself eligible and he is in possession of all the documents required.

B. FINANCIAL STRENGTH:

- a. **Average Annual Turnover:** The bidder shall have a **minimum average annual financial turnover of not less than 50% (Fifty Percent)** of the estimated cost of the work put to tender, calculated for the **last three (3)** completed years ending on **31st March 2026**.
- b. **Net Worth:** The network of the bidder (company / firm) as on 31st March 2026 shall be positive. Net worth shall be determined on the audited financial statements and shall be **certified by a Chartered Accountant**.
- c. **Bank Solvency:** The bidder shall submit a self-certified copy of a Bank Solvency Certificate issued by a Nationalized Bank or any Scheduled Bank, for an amount not less than 40% (Forty Percent) of the estimated cost of the project put to tender. The solvency certificate shall be **issued within six (6) months** from the **original last date of submission of the tender**.
- d. **Profitability:** The bidder shall not have incurred losses in more than two (2) financial years during the last five (5) consecutive financial years ending on 31st March 2026.
- e. **Submission of Financial Documents** The bidders are required to send the following documents along with the tender,
 - a. **Summarized Balance sheet** of the last completed financial year (Audited)
 - b. **Summarized Profit & Loss Account** for the **last three (3)** financial years (Audited)

2. Set of Contract/Tender Documents:

The following documents will constitute set of tender documents

- a) Notice Inviting tender (NIT)
 - b) Instructions to tenderers
 - c) General Conditions of Contract (GCC)
 - d) List of approved make of materials.
 - e) Architectural layouts
 - f) Structural layouts
 - g) Quote sheet for tenderers.
3. The tenderers are required to quote strictly as per terms and conditions, specifications, standards given in the tender documents and not to stipulate any deviations.
 4. The tenderers are advised in their own interest to submit their bid documents well in advance from the last date/time of submission of bids so as to avoid last moment/rush while submitting the documents.
 5. The tenderers have to fill the unit rate for each item specified without tampering the excel format either by changing the rows or columns, in case of any comments needed to be mentioned in the remarks column only.
 6. It is mandatory for the tenderers to share the excel sheet and signed pdf documents via email.
 7. Submission of a tender by a tenderer implies that he has read this notice and all other contract documents and has made himself aware of the scope and specifications of the work to be done and of the local conditions and other factors bearing on the execution of the works.
 8. The contractors to upload scanned copies of all the documents valid GST registration/ PAN no as stipulated in the tender document.
 9. **List of Documents to be scanned, shared via email and also submitted in hard copy with the period of tender submission.**

NOTE: All the documents shared should be in readable, printable and legible form. The document submitted in hard copy.

- a. Memorandum of NIT.
 - b. Unconditional Letter of Acceptance of Tender Conditions (in original)
 - c. Details of Work Experience certificates
 - d. Details of Similar works as mentioned in the eligibility criteria.
 - e. Financial details supporting the financial strength as per eligibility criteria
 - f. Valid GST registration/PAN NO.
10. Owners/Architects reserve the right to reject any or all tenders without giving any reasons, and to waive any deviation which do not constitute a material modification in the tenders received. They also reserve the right to accept any tender and not only the lowest without giving any reasons. Not more than over tender shall be submitted by a contractor/company/firm. Architect's/Client has right to choose the contractor and not mandatory.
11. If the tenderers shall submit the tender which satisfies each and every condition laid down in this notice and tender documents. Failing which, the tender shall be liable to be rejected.

3. Memorandum

Table 3: Memorandum

SR.NO.	DESCRIPTION	CL.NO OF NIT/ITT/ GCC	VALUE/DESCRIPTION
1	Name of the work		Construction of BIT Student Housing
2	Client/Owner		Birla Institute of Technology
3	Type of tender		Item Rate Contract
4	Earnest Money Deposit	NIT	Rs.70,00,000/- (Rupees Seventy Lakhs Only).
5	Time allowed for completion of work	NIT	Overall, 15 (Fifteen) Calendar Months . This includes completion of following activities: all external & internal structural works, civil works, anti-termite treatment, water proofing, including plastering.
6	Mobilization Advance	GCC	10% of the contract value against bank guarantee
7	Interest Rate of Mobilization Advance	GCC	Not Applicable
8	Performance Guarantee	GCC	3% (Five Percent Only) of contract value within 30 days from the issue of Letter of Award
9	Retention Amount	GCC	7% of contract value from each RA Bill
10	Mobilization		The date of start of contract shall be reckoned from 15 days after the date of issue of letter of Award/handing over the site/ Agreement whichever is later.
11	Defects Liability Period	GCC	12 Months from the date of issuance of final completion certificate

SR.NO.	DESCRIPTION	CL.NO OF NIT/ITT/ GCC	VALUE/DESCRIPTION
12	Installment of retention amount	GCC	50% at virtual completion 50% after Defects Liability Period.
13	GST, VAT, Excise, Octroi on all construction materials and any Levies	GCC	To be borne by the contractor as applicable
14	GST on client supplied	GCC	It will be paid by the client
15	Insurance covered by the contractor	GCC	A. Workmen's compensation B. Contractors all risk policy C. Third Party D. Other relevant policy for the project.
16	Cement	GCC	Cement shall be supplied by client. Except RMC sourced from external supplier, which shall be supplied by the Contractor. Hence rates to be quoted accordingly for the respective items in the BOQ. In case the contractor proposes to install and operate an RMC batching plant at the project site, the cement required for the production of concrete through the RMC plant shall be borne by the contractor which should be of Ultratech or ACC brand, while all other costs associated with batching, mixing, testing, handling, transportation, placing, compaction and finishing of RMC shall be also borne by the Contractor. The contractor shall ensure proper storage, handling and utilization of client-supplied cement in accordance with the approved specifications and applicable standards. Any wastage beyond permissible limits attributable to the contractor shall be to the contractor's account, and no additional claim shall be entertained on account of the above arrangement.
17	Steel/Reinforcement	GCC	Reinforcement to be supplied by the client.
18	Electricity	GCC	Supply to be provided by client at single point, installation, permissions, maintenance to be taken care by

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SR.NO.	DESCRIPTION	CL.NO OF NIT/ITT/ GCC	VALUE/DESCRIPTION
			contractor. The cost of electricity will be borne by the contractor on actual basis (through meter).
19	Water	GCC	To be supplied at single point, if available, free of cost, regular maintenance to be taken care by contractor.
20	Police Management/Safety Management	GCC	Coordination with local police, safety, security, traffic management, emergency response plans other protocols to be taken care by contractor
21	Security on site	GCC	Contractor to hire full time security for day and night and ensure the maintenance of logbooks
22	Safety	GCC	Contractor to ensure that the labour is provided with safety shoes, helmet and apron etc. all the time.
23	Labour Tents	GCC	Vacant space will be provided by BIT and it will be the responsibility of the contractor to make arrangement for labour huts etc.
24	Failure of completion of particular item	GCC	In case of failure to complete the project or any specific item, the contractor shall be compensated the cost of work equal to 20% more than quoted rate or actual, whichever is higher.

4. Instruction to tenderers

1. Contractors to read this carefully

- a) The rate of items in the schedule **of items/quantities** must be given in words and figures. Amount of each item must also be entered in the column and the grand total of the amount must be struck out by the tenderers.
- b) If the tender is taken in favor of the company, a power of attorney in favor of the person who may have signed the tender of the company must accompany the tender.
- c) The tender document should be signed by the contractor.
- d) All corrections, erasures and overwriting should be initiated by the contractor.

2. Discrepancies and adjustments of errors:

- a. In the event of a discrepancy between description in works and figures quoted by a tenderer in the rates column, the description in words shall prevail.
- b. In the event of an error occurring in the amount column of the schedule of items/quantities showing items of work, as a result of wrong multiplication of the unit rate and quantity, the unit rate shall be regarded as firm and multiplication shall be amended on the basis of the rate.
- c. All errors in totaling in the 'amount' column in carrying forward total shall be corrected.
- d. Any rounding of amount against 'items' or in 'totals' shall be ignored.

The tendered sum so altered shall for the purpose of the tender be substituted for the sum originally tendered and considered for acceptance.

3. Before quoting the rates, every tenderer is **expected to inspect the site** of the proposed work and to have satisfied himself as to the nature of all works, all existing roads, water-way and other means of communication and access to and from the site and work and the building that may be required for temporary purposes in connection with the construction, completion and maintenance of the works and must make his own inquiries as to work, yard sites and depot and dumps and as to acquisition of such additional sites and areas as may be necessary for temporary purpose for constructing, completing and maintaining the works. He must ascertain the availability of space for storage of construction materials, water supply, electricity, means of access to the work, nature of work and acquaint himself with all local conditions. A tenderer shall be deemed to have full knowledge of all the relevant documents, samples, etc. whether he inspects them or not before submitting the tender.
4. Submission of a tender by a tenderer implies that he has read this notice and all other contract documents and has made himself aware of the scope and specification of the work to be done and of local conditions and other factors bearing on the execution of the works.
5. Person's tendering is informed that no erasures or alterations by them in the text of the document sent herewith shall be allowed and any such erasures or alterations shall be disregarded. If there is any error in writing, no overwriting should be done, the wrong word or figure should be struck out and the correct one written above or neat it in an unambiguous way. Each correction should be initiated.
6. The successful tenderer shall take out insurance policies for all risk and for third party for the value according to the contract cost and instructions shared by clients/ Engineer In-charge.
7. This agreement is subject to Indian Law. Place of performance and Jurisdiction is the registered office of the principal in Bangalore, Karnataka.

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8. Changes and supplements as well as termination notices need to be made in writing.
9. If the contractor/tenderer is a partnership or a consortium, this agreement must be signed by all the partner or consortium members.
10. If one or several provisions of this agreement turn out to be invalid, the remainder of this agreement shall remain valid and binding. In such a case, the parties will strive to come to an agreement in accordance with their original intentions.
11. It is agreed that any dispute or difference arising between the parties with regard to the terms and conditions, any action taken by the principal architect/client in accordance to the terms and conditions or interpretation thereof shall not be subject to arbitration. Any dispute between the parties shall be subject to commercial courts of Bangalore only.

Tenderer/Contractor

CONTRACTOR'S GENERAL INFORMATION

Tenderer has to fill this form and submit along with the tender document to Client

Table 4: Contractors General Information

SR.NO.	DESCRIPTION	DETAILS
1	Name of Applicant/Company	
2	Address of correspondence	
3	Official E-mail for communication	
4	Contact Person: Telephone Nos: Mobile No:	
5	Type of Organization: a. An Individual b. A proprietary Firm c. Partnership Firm (Attach copy of partnership) d. Limited Company (Attach copy of article of association)	
6	Place and Year of Incorporation	
7	Name of Directors/Partners in the organization	
8	Name and Designation of the person who is authorized to deal with	
9	Bank Details: Name of the bank, Address of bank branch, Account No, RTGS, IFSC Code	

Signature of Tenderer with Seal

GST REGISTRATION DETAILS OF CONTRACTOR

Table 5: GST Details of Contractor

Name	
Address (As per registration with GST)	
City	
Postal Code	
State (Complete State Name)	
Permanent Account Number (PAN)	
GSTIN ID	
Type of Business (As per registration with GST)	
Service Accounting Code/HSN Code:	
Contact Person	
Phone Number and Mobile Number	
Email ID	

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SECTION: 03
GENERAL CONDITIONS OF CONTRACT

5. General Conditions of Contract

SUB-SECTION- I

5.1. DEFINITION OF TERMS

All the headings of the clauses, in these General Conditions of Contract or otherwise in any Contract Document, are intended solely for the purpose of giving a broad indication of the contents of the clause and not a summary thereof.

5.1.1. Definitions

In the Contract Documents, as herein defined, where the context so admits, the following words and expressions shall have the following meanings:

- (a) **“Agreed Variation”** shall mean the statement of agreed variation annexed to the Contract and / or Purchase Order.
- (b) **“Alteration Order”** means an order given in writing by the Owner to effect additions to or deletions from and alteration in the Work.
- (c) **“Applicable Laws”** means all laws, brought into force and effect by Government of India or any State Government including rules, regulations, bye-laws, ordinances and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to this Contract including the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as amended, re-enacted or consolidated from time to time.
- (d) **“Anti-Corruption Laws”** means, in relation to a Person, all Applicable Laws relating to anti-bribery, anti-corruption, anti-terrorism and anti-money laundering applicable to such Person including, where applicable but without limitation, the Prevention of Corruption Act 1988, the Prohibition of Benami Property Transactions Act 1988, Prevention of Money Laundering Act 2002, the Unlawful Activities (Prevention) Act 1967 and the Black Money (Undisclosed Foreign Income and Assets), Imposition of Tax Act 2015, U.K. Bribery Act, 2010 and the U.S. Foreign Corrupt Practices Act, 1977.
- (e) **“Approved”** shall mean approved in writing including subsequent written confirmation of previous verbal approval and **“Approval”** means approved in writing including as aforesaid. In no case **“Approval”** shall be interpreted as acceptance by any conduct of the Owner.
- (f) **“Architect”** means such Person appointed by the Owner who prepares the Drawings and Specifications.

- (g) **“BOQ” or “Bills of Quantities”** means quantities of materials and labour proposed to be utilized by the Contractor towards execution of the Works, as forming part of the Tender and the Contract Documents.
- (h) **“Completion Time”** means the period of time (number of calendar days or months or years) shown in the Tender, allowed for completing the execution of the Works and passing of the tests on completion of the Works as set forth in the Contract.
- (i) **“Contractor’s Personnel”** shall mean all such Persons employed, contracted or engaged in any manner whatsoever by the Contractor towards performing any part of the Works under this Contract and shall include the Sub-Contractors (and the Persons employed or engaged by such Sub-Contractor), Site Manager and the Project Manager.
- (j) **“Construction Manager”** means such Person appointed by the Owner who is responsible for: (a) overseeing and directing Works from conception to completion; (b) reviewing the Works in detail, schedule deliverables, and estimate costs and budget; and (c) is responsible for compliance with building and safety regulations.
- (k) **“Consultant”** means such Person appointed by the Owner who shall provide the details for the design of the Project.
- (l) **“Contract”** shall mean the contract effected by the Contractor’s Tender and the Owner’s acceptance thereof comprising (in addition to the Tender and acceptance) the BOQ, Schedule of Rates, schedules of particulars (if any), Specifications and Drawings, the GCC, SCC and any special or particular conditions contained in or attached to any of the foregoing documents, any alteration agreed in writing between the Parties before the formal acceptance of the Tender, all these documents taken together, shall be deemed to form one contract and shall be complementary to one another.
- (m) **“Contract Documents”** shall have the meaning given to such term in Clause 1 of Section III of this GCC and shall include all instructions, issued from time to time by the Owner and / or the Engineer-In-Charge, which shall be deemed to form one contract and shall be complimentary to one another.
- (n) **“Contractor”** means the person or the persons, firm or company whose tender has been accepted by the Owner and includes the Contractor’s legal representative, his successor and permitted assigns.
- (o) **“Contractor’s Representative”** shall have the meaning given to such term in Clause 12.1 of Section III.
- (p) **“Contract Period”** means the period on from the Effective Date (as defined under the Special Conditions of Contract) and until the expiry or early

termination of the Contract, in accordance with the provisions contained herein and the Special Conditions of Contract.

- (q) **“Contract Price”** means the price payable by the Owner to the Contractor for the construction of Works under this Contract and as specified in the Purchase Order to be issued by Owner to the Contractor in accordance with the terms of this Contract.
- (r) **“Defects Liability Period”** in relation to the Work means the specified period from the date of completion of any Work as stipulated in the Contract, during which the Contractor stands responsible for rectifying all defects that may appear in the Work(s).
- (s) **“Drawings”** shall include the drawings mentioned in the Contract Document, any modification of such drawings, approved in writing by the Owner and such other drawings as may be approved from time to time, calculations, maps, plans and tracings or prints, samples, patterns, models, operation and maintenance manuals and other technical information submitted by the Contractor and approved by the Owner.
- (t) **“Engineering Consultant”** means such Person [appointed by the Owner] who shall provide all technical design details in relation to the Drawings, documentations and Specifications for execution of the Works.
- (u) **“Engineer In-charge”** or **“EIC”** shall mean the persons designated as such by the Owner and shall include those who are expressly authorised by it to act for and on its behalf for the implementation of the Contract.
- (v) **“Final Completion Certificate”** shall mean the certificate to be issued by the Engineer-In-Charge when the Works have been completed in all respect (including attending of all check-list points) to the satisfaction of the Engineer-In-Charge and the Owner.
- (w) **“Final Certificate”** in relation to the Work shall mean the certificate regarding the satisfactory compliance of the various provisions of the Contract by the Contractor, issued by the Engineer-In-Charge after the Defects Liability Period is over.
- (x) **“Financing Entity”** means such entities from which Owner has availed any form of loans or debt facilities in relation to the Project.
- (y) **“Force Majeure”** shall mean the occurrence in India, of any of the following events: (i) industry-wide or state-wide riots or civil commotion (in so far as both these are uninsurable) which continue for a consecutive period of thirty (30) days or an aggregate period of 90 (ninety) days in a financial year, other than involving the Contractor's or Sub-Contractor's employees, labour or staff; (ii) war (whether declared or not), invasion, acts of hostilities of foreign

enemies, civil war, rebellion, insurrection, military or usurped power; (iii) any act of Governmental Authorities; or (iv) Act of God, such as lightening, unprecedented floods, tornado, and damage from aircraft, the occurrence of which affects the performance, by the Party claiming the benefit of Force Majeure (the “**Affected Party**”), of its obligations under the Contract and which act or event (a) is beyond the reasonable control of the Affected Party, (b) could not have been reasonably foreseen at the time of execution of the Contract; (c) is not usual during the time of year when it occurred; (d) has not been known to have occurred repetitively in the past, (e) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (f) has material adverse effect on the Affected Party. Provided that a mere increase of costs or imposition of any economic hardship on a Party shall not be construed as a Force Majeure.

- (z) “**GCC**” means the General Conditions of Contract as set out in this **Schedule [-]**;
- (aa) “**Good Industry Practice**” shall mean the exercise of such degree of skill, diligence and prudence as would reasonably and ordinarily be expected from a skilled and experienced Person engaged in the same type of undertaking as the Contractor and applying the standards generally adopted by contractors in the construction and development of facilities adhering to the practices generally followed by such Persons.
- (bb) “**Governmental Authority**” means any (a) governmental or quasi-governmental authority of any nature (including, without limitation, any governmental agency, branch, department or other entity and any court or other tribunal) including a national, regional, state, district, city, town, village, or other governmental authority having jurisdiction; or (b) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory or taxing authority or power of any nature.
- (cc) “**IS**” means Indian Standards;
- (dd) “**Measurement Books**” means books maintained during the period of the Project to record all measurements qualifying for payment. The Contractor shall maintain Measurement Books of all work done by them. The Contractor shall get the Measurement Books verified by the Project Manager / quantity surveyor periodically. It shall be responsibility of the Contractor to get all the works verified as per the Measurement Books, before they get concealed. If the Contractor fails to get the measurements of underlying items verified in time, then he shall remove the overlying or concealing items and get the underlying or concealed items verified and make the work good at no extra cost to the Owner. All Measurement Books shall be hard bound with pages numbered. The Owner / Project Manager and the Contractor shall verify the condition of the Measurement Book before implementation. No tearing of pages or overwriting shall be permitted in the Measurement Books. Only neat

cutting of mistakes with joint signatures of Contractor's Representative and the Project Manager / quantity surveyor shall be permitted.

- (ee) **"Order and Instructions"** shall mean any written order or instruction given by the Owner within the scope of their respective powers in terms of the Contract.
- (ff) **"Owner"** shall mean the company / organisation which intends to get Works done through the Contract as mentioned in tender instruction or, their successors and assigns from time to time.
- (gg) **"Person"** shall mean any natural person, firm, company, joint venture, partnership, association or other entity (whether or not having separate legal personality);
- (hh) **"Programme Schedule"** shall mean the [chart] reflecting the progress schedule for the Works, as prepared by the Contractor and approved by the Owner, setting out all relevant details in relation to the execution of the Works, as may be requested by the Owner, including sequence and milestone dates for each of the Works to be executed at Site.
- (ii) **"Project"** shall mean development of the [-] at the Site as per the Specifications and terms laid down in the Contract and within the Time Schedule.
- (jj) **"Project Manager"** means the company appointed by the Owner to render project management consultancy services for the Project.
- (kk) **"Purchase Order"** shall have the meaning given to such term in Clause 2A of Section III of this GCC;
- (ll) **"Records and Audits"** shall mean all the documents, measurement books, details and all necessary documents pertaining to the contract as specified by the EIC / Owner. The Contractor shall maintain / keep all the books and records as specified by, and to the complete satisfaction of, the Owner, in such a manner, so as to enable the Owner, to carry out effective financial control.
- (mm) **"Running Account Bill" "R.A. Bill"** means the Bill(s) submitted by the Contractor on monthly basis for the Work(s) carried out during the immediately preceding month.
- (nn) **"SCC"** means the Special Conditions of Contract set out in **Schedule [-]**.
- (oo) **"Schedule of Rates"** means the schedule of rates with respect to the material and labour being utilized in the Works, annexed to the [Contract and Purchase Order] and shall include all remunerations payable to the Contractor for any work determined in accordance with the conditions herein.

- (pp) **“Scope of Work”** shall mean the totality of the Work envisaged in the Contract and shall include all plants, equipment, appliances, labours, materials of whatsoever in nature for the use, in or for execution, completion, operation or maintenance of the Work.
- (qq) **“Site”** means the area on which the permanent Works are to be executed or carried out and any other places provided by the Owner for the purpose of the Contract.
- (rr) **“Site Facilities”** means the facilities to be provided by the Contractor and Owner, as may be applicable, as set out in Part II of this General Conditions of Contract.
- (ss) **“Site Manager”** means the project management consultant appointed by the Owner who shall be responsible for supervising construction activities over all for the Project.
- (tt) **“Specifications”** shall mean the specifications annexed to or issued with these conditions and includes Indian or other approved standard specifications where required by the Specification and where such specification is not available, the specification approved by the Architect and the Engineer-In-Charge.
- (uu) **“Sub-Contractor”** means any person or firm or Company (other than the Contractor) to whom any part of the Work has been entrusted by the Contractor, with the written consent of the Engineer-In-Charge, and the legal representatives, successors and permitted assigns of such person, firm or company.
- (vv) **“Supplier & Vendor”** shall mean the Contractor.
- (ww) **“Time Schedule”** shall have the meaning given to such term in Clause 6.1 of Section III.
- (xx) **“Virtual Completion Certificate”** means the certificate issued by the Engineer-In Charge upon the Contractor achieving Virtual Completion in accordance with Clause 32 of Section IV.
- (yy) **“Work”** shall mean the permanent and the temporary works, or either of them as appropriate, to be executed in accordance with the Contract or part there of as the case may be, and shall include all extra, additional, altered or substituted Works as required for the purpose of the Contract.
- (zz) **“Taxes”** means means all national and local direct and indirect tax, including any tax on income, capital stock, profits, gross receipts, sales, use, value added, capital gains, transfer, profits, registration, stamp duty, premium, excise, customs duties, octroi, severance, environmental, real property, movable

property, ad valorem, occupancy, license, occupation, withholding tax, stamp duty, fee, minimum alternate tax, dividend distribution tax, municipal taxes, service tax, goods and services tax, assessment or other governmental charge or other taxes, assessments or levies, fees, assessments or charges of any kind whatsoever, including any surcharge or cess thereon, together with any interest and any penalties, additions to tax or additional amount with respect thereto;

- (aaa) **“Tende”** means the Contractor’s price offer to the Owner for the execution and completion of the works and the remedying of any defects therein in accordance with the provisions of the Contract.
- (bbb) **“Tenderer”** means the firm / company who submitted the filled up Tender for the purpose of executing the work under reference.
- (ccc) **“Tests on Completion”** means the tests specified in the Contract or otherwise agreed by the Owner and the Contractor which are to be carried out by the Contractor before the Works or any section or part thereof are taken over by the Owner. The costs for all such tests are deemed to be included in the quoted rates and are to be borne by the Contractor.
- (ddd) **“Third Party Contractor”** shall have the meaning given to such term in Clause 14.8 of Section III.
- (eee) **“Total Contract Value”** shall mean the total value of the Contract as specified in the Special Conditions of Contract including all the addition to or deletion from and alterations for any particular Work.
- (fff) **“Variation”** shall have the meaning given to such term in Clause 5.1 of Section III.
- (ggg) **“Virtual Completion”** shall mean that the Works have been, completed in every respect in conformity with the Contract Documents, Specifications and Drawings, and are ready and fit for occupation / commissioning and accepted in writing by the EIC / authorised representative of the Owner.
- (hhh) **“Working Day”** means all days of the week other than Saturdays and Sundays, on which banks in [Bangalore, India] are open for business.

5.1.2. Interpretation

In the General Conditions of Contract, unless the context otherwise requires:

- (a) The words importing the singular shall mean the plural and vice versa; and words importing the masculine shall include the feminine and neuter and vice-versa.

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- (b) Where any word or expression is given a defined meaning, any other grammatical form of that word or expression shall have the corresponding meaning, where the context requires.
- (c) Any word or expression used in the Contract shall, unless defined or construed in the Contract, bear its ordinary English meaning.
- (d) "" shall refer to clauses of the GCC. Save and except the foregoing, "" shall refer, respectively to Annexures to the GCC. The Annexures to the GCC shall form an integral part of the GCC and will be in full force and effect as though they were expressly set out in the body of the Contract.
- (e) The headings and sub-headings under the Contract (and references to them) are included for convenience only and shall not be taken into account in interpreting the Contract.
- (f) The references to the word "include" or "including" or to the phrase "in particular", shall be construed without limitation.
- (g) The references to any contract, agreement, indenture, deed or other instrument shall be construed as a reference to such contract, agreement, indenture deed, or other instrument as the same may, from time to time, be amended, varied, supplemented or novated.
- (h) The interpretation of a provision of the Contract shall not be construed adversely against a Party solely because that Party drafted the provision.
- (i) Time is of the essence in the performance of the Contractor's obligations under the Contract. If any time period specified herein is extended, such extended time period shall also be of the essence.
- (j) All notices shall be in writing (where the expression "writing" or in "written" shall include communications by e-mail, fax, telegram, and letter) and the words "notify", "endorse", "approve", "permit", "certify" or "determine" shall be construed accordingly. Where any notice, consent or approval is to be given by either of the Parties, the notice, consent or approval shall be given on their behalf only by any Authorised Persons as identified in the Contract.
- (k) Any reference to a statutory provision shall include such provision as is from time to time modified, re-enacted, or consolidated, so far as such modification, re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder.
- (l) Any reference to any period of time shall mean a reference to that according to Indian Standard Time.
- (m) Any reference to a month shall mean a reference to a calendar month.

- (n) Unless otherwise specified, any reference to a period commencing "from" a specified day or date and "till" or "until" a specific day or date shall include both such days or dates.
- (o) When the words "approved", "subject to approval", "satisfactory", "equal to", "proper", "requested", "as directed", "where directed", "when directed", "determined by", "accepted", "permitted", or words and phrases of like importance are used, the approval, judgment, direction, etc. is understood to be a function of the Owner.
- (p) Period of **"Years"**, **"Months"**, **"Weeks"** and **"Days"**: **"Year"** means 365 (three hundred sixty five) consecutive calendar days, **"month"** means the first calendar day of a month to the last calendar day of such month, **"week"** means 7 (seven) consecutive calendar days and a **"day"** means a single calendar day, irrespective of numbers of days and hours worked in relevant period.
- (q) In case of ambiguities or discrepancies within the Contract Documents, the following shall apply:
 - (i) between two clauses of this GCC, the provisions of the specific clause relevant to the issue under consideration shall prevail over those in the other clause.
 - (ii) between two Annexures of this GCC, the Annexure relevant to the issue under consideration shall prevail;
 - (iii) between any value written in numerals and that in words, the latter shall prevail;
 - (iv) between the Agreement and the Purchase Orders, the Agreement shall prevail over the Purchase Orders; and
 - (v) between the GCC and the SCC, the SCC shall prevail over the GCC.

SUB-SECTION- II

5.2. GENERAL INFORMATION

5.2.1. SCOPE OF WORK

The Scope of Work is defined in the invitation of tender and also in Special Conditions of Contract. The Contractor shall provide all items necessary for the execution and maintenance of the work, including all materials, equipment and labour, till Final Certificate is issued and all other obligations of the Contractor under the Contract (including any obligations that may arise during the Defects Liability Period) are duly complied with, unless otherwise specifically mentioned. All materials and equipment that go with the work shall be approved in writing by Engineer-In-Charge prior to the procurement and use.

5.2.2. WATER

(a) Construction Water

Unless otherwise specified in the SCC, Contractor shall, at its own expense, arrange for the supply of water, as may be required, for the execution and maintenance of work under the Contract without any cost to the Owner and make necessary arrangements at their own cost for storage, installation, operation, maintenances and dismantling of the distribution system.

(b) Drinking Water

Unless otherwise specified, Contractor shall, at its own expense, make adequate arrangements for supply of water for drinking for its staff and labour (including Sub-Contractors) and make necessary arrangements for storage, installation, operation, maintenances and dismantling of the distribution system.

5.2.3. POWER SUPPLY

Unless otherwise specified, Contractor shall, at its own expense, make adequate arrangements for supply of power, as may be required for the execution and maintenance of Work under the Contract. Further distribution and removal on completion of the Project shall be done by Contractor at his cost. If the power is provided by the Owner, the cost of consumption shall be recovered by the Owner on actual basis, as per the existing government tariff. The Contractor shall have to install energy meters as per the direction of EIC at their own cost.

5.2.4. LAND FOR CONTRACTOR'S SITE ESTABLISHMENTS

To the extent possible, the Owner shall try to provide to the Contractor, land within the Site, for the establishment of its site; otherwise, the Contractor shall have to make necessary arrangements in this regard. In the event the site of Contractor's establishment is required to be shifted because of Site conditions, the same has to be done by Contractor without any additional cost to Owner. If the Contractor has to make arrangements for Contractor's site on lease basis, the Owner shall reimburse the Contractor the lease rentals and such other costs directly associated with the lease, subject to prior written approval from the Owner.

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5.2.5. TELEPHONES

The Contractor shall make his own arrangements for telephone, fax and telex facilities as required for timely completion of the work at his own cost.

5.2.6. COORDINATION OF WORK

- (a) The Contractor shall coordinate the works of various agencies engaged at Site to ensure minimum disruption of work carried out by different agencies. It shall be the responsibility of the Contractor to plan and execute the Works strictly in accordance with instructions of the Engineer-In-Charge to avoid hindrance to the work being executed by other agencies.
- (b) The infrastructure facilities mentioned in Clause 1.2 to 1.5 above shall be arranged after the Engineer-In-Charge certifies in writing that the above facilities are required by the Contractor for the execution and maintenance of works under the Contract. The Engineer-In-Charge shall also certify the estimated quantities before start of the work and the quantities actually used every month by the Contractor.

5.2.7. LABOUR COLONY

The Contractor shall be responsible for providing space for accommodation to its labour and staff (including Sub-Contractor's labour and staff) which shall not be located at the Site premises.

SUB-SECTION- III**5.3. GENERAL OBLIGATIONS****5.3.1. INTERPRETATION OF CONTRACT DOCUMENTS**

The Purchase Order, Agreement, Special Conditions of Contract, General Condition of Contract, Scope of Work, Site Facilities, Specification, Schedules and Drawings shall prevail over those of any other documents forming part of the Contract. The documents forming the Contract are to be taken as mutually explanatory. Should there be any discrepancy, inconsistency, error or omission in the Contracts or any of them, the matter may be referred to Engineer-In-Charge who shall give his decision and issue to the Contractor instructions in writing directing in what manner the Work is to be carried out. The decision of the Engineer-In-Charge shall be final and conclusive and the Contractor shall carry out Work in accordance with this decision. In case of ambiguities or discrepancies, the same shall be explained and addressed by the Owner, 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 enlisted below:

- a) The Contract (if completed)
- b) SCC
- c) GCC
- d) Purchase Order
- e) BOQ & Specifications
- f) Drawings
- g) Any other document forming part of the contract

collectively, the “**Contract Documents**”.

Works shown upon the Drawing, but not mentioned in the Specifications or described in the Specifications without being shown on the Drawings, shall nevertheless be held to be included in the same manner as if they had been specifically shown upon the Drawings and described in the Specifications.

5.3.2. SPECIAL CONDITIONS OF CONTRACT

- 5.3.2.1. The SCC shall be read in conjunction with the GCC, Specifications, Drawings and any other documents forming part of the Contract Documents, wherever the context so requires.
- 5.3.2.2. 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.

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5.3.2.3. Wherever it is mentioned in the Specifications that the Contractor shall perform certain work or provide certain facilities, it is understood that the Contractor shall do so at his cost, or as per terms of the Purchase Order and mutual agreement.

5.3.2.4. The materials, design and workmanship shall comply with the Specifications including the relevant IS codes referred to. Where the job specifications stipulate requirements in addition to those contained in the IS Codes (or other standard codes and specifications), such additional requirements shall also be satisfied.

5.3.3. TIME OF PERFORMANCE

5.3.4. The work covered by this Contract shall be commenced within the period as specified in “the tender instruction and information” form after the receipt of the letter of award of Tender and shall be completed in stages on or before the dates as mentioned in the Time Schedule, as agreed by the Parties.

5.3.5. Contractor shall prepare a detailed weekly / monthly construction programme within ten days of receipt of Purchase Order. The Work shall be executed strictly as per the Time Schedule. The period of construction given includes the time required for testing, rectifications, if any, retesting and completion in all respects in accordance with the Contract and to the entire satisfaction of the Engineer-In-Charge.

5.3.6. Monthly / weekly construction targets shall be drawn up by the Contractor based on availability of work fronts and the construction programme as per above paragraph, indicating the resources necessary to achieve these targets. The Contractor shall scrupulously adhere to these targets and programme and shall deploy personnel, construction equipment and aides, as agreed, or as may be necessary. Contractor shall also procure on its own all the materials under the scope of supply in proper time, so that no activity of Work is adversely affected for want of material and to achieve the targets / programmes. In all matters concerning setting out targets, activities, priorities for the weekly and monthly programme and the progress achieved, the decision of the Engineer- in-Charge shall be final and binding on the Contractor. Contractor shall deploy a planning engineer who shall carryout only planning function and shall not be utilised for supervision of work. A detailed programme including the labour histogram, logistics plan, mobilisation of men and machinery (“Master Construction Programme”) needs to be submitted to the Engineer-In-Charge for approval within 15 days of Purchase Order. Contractor shall have sufficient number of supervising staff for each discipline of work as per Site’s organisation chart. If required, Contractor shall mobilize additional manpower at no extra cost to the Owner. Contractor shall also provide to the Engineer-In-Charge, the daily progress report and the chart of labour force deployed at Site / intended to be deployed in the coming week.

5.3.7. REPORTS & RECORDS

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- 5.3.7.1. Within 15 Days of issue of the LOA (as defined in the Special Conditions of Contract), the Contractor shall prepare and submit for the approval of the Owner, a Construction Master Programme showing the stages and timelines with respect to commencement and completion of all Works in the necessary sequence based on interdependencies. The communications, planning and the control shall be extended to embrace all the contributing Sub-Contractors and integrate them in one. Continuous cost / performance analysis at frequent intervals will be made for corrective actions and updating the Construction Master Programme.
- 5.3.7.2. Within seven (7) days of issue of the LOA, the Contractor shall submit to the Owner and the Project Manager, a detailed construction programme in the form of CPM or PERT for the works, in the form of Gantt Chart showing the critical phases of the Works relating closely to the Master Construction Programme. As and when directed by the Owner, necessary revisions shall be carried out by the Contractor, including the incorporation or milestones that need to be met within specified timelines, when the Works progress, however, the Time Schedule shall not be extended, in any manner whatsoever, without the prior written consent of the Owner.
- 5.3.7.3. Along with the construction programme, the Contractor shall also submit in detail the following Schedules:
- (a) Good for Construction Drawings Schedule
 - (b) Manpower Schedule
 - (c) Plant and Equipment Schedule
 - (d) Materials Schedule (including status and mobilisation programme)
 - (e) Materials Samples Schedule
 - (f) Shop drawings schedule (including status and delivery)
- 5.3.7.4. The Contractor shall, from time to time maintain at each job site (in addition to any records or registers required to be maintained by the Contractor under any Applicable Law) such records and registers as the Engineer-In-Charge shall or may require the Contractor to keep and / or maintain from time to time.
- 5.3.7.5. In addition to any other records or registers to be maintained by the Contractor from time to time and / or reports to be furnished by the Contractor, the Contractor shall daily or otherwise as may be prescribed by Engineer-In-Charge or Site Engineer, submit to the Site Engineer a progress report of all Works completed and / or progress achieved by the Contractor within the preceding day or the period of last report, as the case may be.
- 5.3.7.6. Notwithstanding the above, the Contractor shall submit the following reports to the Owner:
- a) Daily report of number of employees / labours engaged by the Contractor with classification of their jobs/trades, details of new employees / labour engaged (together with their identification proof) ("Contractor Personnel Report").
 - b) Weekly progress report containing the progress of work, schedule completion time, variance from the schedule and the proposed revised schedule of completion and detailing actual or potential delay in any work, classifying the reasons of delay ("Weekly Progress Report").

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- c) Daily report of critical activities including mobilization and commissioning of plant and machinery (initial stage), and mobilization of skilled manpower and materials.
- d) Monthly progress report containing the progress of work, schedule completion time, variance from the schedule and the proposed revised schedule of completion and detailing actual or potential delay in any work classifying the reasons of delay ("Monthly Progress Report")

5.3.7.7. All records and registers of the Contractor shall be produced to the Engineer-In-Charge or his authorised representative in case of demand for inspection and verification.

5.3.7.8. The receipt and / or acceptance of any such report by the Engineer-In-Charge shall be without prejudice to the full rights and remedies of the Owner and obligations / liabilities of Contractor under the Contract, and shall not anyway operate as an estoppel against Owner by reason only of the fact that no notice or objection was taken of any information contained in any such report, nor shall any statement in any such report be deemed to be correct merely by virtue of the existence of such statement, and it being uncontroverted by the Owner / Engineer-In-Charge.

5.3.8. FORCE MAJEURE

5.3.8.1. The Affected Party shall be excused from and not considered to be in default in the performance of its obligations under this Contract if such performance is prevented or delayed due do Force Majeure till such Force Majeure continues and to the extent that the Affected Party's performance of such obligations is prevented, hindered or delayed. Notwithstanding anything to the contrary contained in this Agreement, the Affected Party shall be excused from its obligations as set out in this Clause 4 provided that: (a) it shall comply with the requirements under Clause 4.2 and Clause 4.3; (b) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure; and (c) as soon as the Affected Party is able to resume performance of its obligations under the Contract, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

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- 5.3.8.2. If either Party is prevented or delayed in the performance of its obligations hereunder by Force Majeure as provided for in Clause 4.1 above, and if the affected Party has given a written notice as soon as reasonably possible (but in any event within seven (7) days from the date of occurrence of the event of Force Majeure) to the other Party specifying: (a) the nature of Force Majeure; (b) the impact of such Force Majeure on the performance of the affected Party's obligations under the Contract; (c) the efforts made by the affected Party to prevent or overcome the impact of the Force Majeure on the Affected Party's operations; and (d) an estimate of the further period during which such factors are likely to continue. The Affected Party shall be excused from the performance of such obligations that have been directly affected by such Force Majeure from the date of such notice till the relevant Force Majeure conditions no longer continue (or to such earlier date as such conditions reasonably could have been abated through the exercise of due diligence and good faith efforts).
- 5.3.8.3. The Affected Party shall make all reasonable and diligent efforts in preventing, mitigating or limiting the damage arising out of or as a result of the existence or occurrence of such Force Majeure and to cure the same with due diligence. Upon receipt of a notice from either Party, the Parties hereto, shall mutually agree upon a course of action to remove or alleviate the effect of such effect.
- 5.3.8.4. Subject to Clauses 4.1 and 4.2 above, Owner and Contractor shall not be liable to each other for any costs, loss or damage (including indirect and consequential damages) caused or suffered by them, due to a Force Majeure event.
- 5.3.8.5. If a Force Majeure event delays or appears likely to delay the performance of the work or the completion of Work, for an aggregate period of 90 (ninety) days, then Parties shall consult each other and shall consider action to be taken in the prevailing circumstances. If after all diligent efforts the Force Majeure continues for an aggregate period of 120 (one hundred and twenty) days, the Owner may, at its discretion, terminate the Contract by issuing a termination notice to the Contractor and upon issue of such termination notice, the Contract Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith.

5.3.9. VARIATION / CHANGE OR ALTERATION IN THE WORKS

- 5.3.9.1. The Owner shall have the following rights
- (i) The Owner / Engineer-In-Charge shall, by a written order ("**Variation Order**"), have the right during the performance of the Contract to order the Contractor to make any change, modification, addition or deletion to, in or from the Works, Specifications, designs, Drawings or Contract Documents including any additions, substitutions, deletions and / or rescheduling to all or any of the part of the Works under the Contract Documents ("**Variation**").
 - (ii) Notwithstanding the aforesaid, no change required to be made on account of any default, failure or neglect of the Contractor in the performance of its

obligations under the Contract Documents (including any default in the Specifications, designs, Drawings or Contract Documents supplied by the Contractor or due to any misrepresentation, omission, failure or neglect of the Contractor), shall be deemed to be a Variation, and the Contractor shall be bound to carry out alterations in accordance with the instructions given by the Owner / Engineer-In-Charge without any adjustment of the Contract Price or the Time Schedule.

- (iii) The Owner may, by issue of a Variation Order: (A) increase or decrease the quantity of any Work included in the Contract or omit any such Work or change the character or quality or kind of any such Work; (B) change the levels, lines, position and dimensions of any part of the Works; (C) execute or cause to be executed through the Contractor any additional Work of any kind necessary for completion of the Works; (D) change any specified sequence or timing of construction of any part of the Works.

5.3.9.2. The Contractor shall not vary or alter any of the Works, except in accordance with a Variation Order from the Owner.

5.3.9.3. The time for carrying out and implementing such Variation in the Scope of Works, Specifications, designs, Drawings or Contract Documents shall be extended subject to the Owner's prior written consent and in accordance with procedure mentioned in Clause 5.4 subject to Clause 5.5 below.

5.3.9.4. If the Owner proposes a Variation, it shall send to the Contractor a **"Request for Change Proposal"**, requiring the Contractor to prepare and furnish to the Owner as soon as reasonably practicable a **"Variation Proposal"**, which shall include the following:

- (a) brief description of the Variation;
- (b) effect on the progress of Works and schedule for completion;
- (c) estimated cost of the Variation; and
- (d) effect on any other provision of the Contract Agreement.

5.3.9.5. Upon receipt of the Variation Proposal, the Owner and the Contractor shall mutually agree upon all matters therein contained including agreement on rates (in the manner provided under Clause 5.6 below). Thereafter, the Owner shall, if it intends to proceed with the Variation, issue the Contractor with a Variation Order.

5.3.9.6. The rates for such Variation shall be worked out in accordance with the following provisions:

- (a) All Variations shall be valued at the rates and prices set out in the Contract if the same shall be applicable. If the Contract does not contain any rates or prices applicable to the Variations, the rates and prices in the Contract shall be used as the basis for valuation so far as may be reasonable, if the varied item can be derived from a quoted item. If the Variation cannot be derived from any of the quoted item, the rates shall be based on market rates of materials delivered at Site plus reasonable wastage plus labour plus 15% percentage to cover overheads, profits and Taxes as applicable. Until such time as rates or prices are agreed or fixed by the Owner, the Owner may instruct the Contractor to proceed with the Variation basis provisional rates or prices as determined by the Owner to enable on-account payment to be included in the running bills and the Contractor shall immediately proceed with effecting the Variations covered by such order and shall not suspend or delay execution of the Variation

pending finalisation of rates or prices by the Owner. For the avoidance of doubt it is clarified that the Contractor cannot claim any extra amount / rate due to non-finalisation of rates in time.

- (b) It should be as defined in the relevant clause under the heading “Extra Item” in Special Conditions of Contract.

5.3.9.7. The Contractor agrees that there may be substantial Variation, either plus or minus, in the quantities of the items of Work. Contractor shall take due consideration of this. No claims for loss or escalation on the grounds of increase / decrease in the quantities indicated in the schedule of quantities under the Tender will be permitted under this Contract.

5.3.9.8. The opinion of the Owner / Engineer-In-Charge as to current market rates of materials and the quantum of labour involved per unit of measurement shall be final and binding on the Contractor.

5.3.10. EXTENSION OF COMPLETION / TIME SCHEDULE

5.3.10.1. Grounds for Extension of Time

- a) The Contractor shall be entitled to an extension of time to the schedule for completion as set out in **Annexure [.] Time Schedule**, under discretion of EIC in the following cases, except if such delays are attributable to the Contractor (including the Contractor’s staff, labour and the Sub-Contractor’s labour and staff):
 - (i) any Variation directed by the Owner by way of a Variation Order issued in accordance with Clause 5 above, if such Variation Order allows extension;
 - (ii) any material default or failure on the part of the Owner in performing its obligations under the Contract;
 - (iii) occurrence of Force Majeure as provided in Clause 4 above;
 - (iv) any instruction of the Owner to suspend whole or part of the Works for reasons not attributable to the Contractor.
 - (v) by reason of proceedings or disputes with the owners / tenants of adjoining parcels of land or public authorities arising otherwise than as a result of the Contractor’s (including the Contractor’s staff, labour and the Sub-Contractor’s labour and staff) acts, omissions or defaults.
 - (vi) by reason of civil commotion, state-wide or industry wide strike of workmen or lock-out affecting any of the building trades other than involving the staff and labour of the Contractor (or Sub-Contractor).
- b) In case of a claim for the reasons listed under Clause 6.1(a) above, the Contractor shall be entitled to an extension of time for such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor (such extension referred to as “**Extension of Time**”).
- c) The Contractor shall submit to the Owner, a written notice of a claim for an Extension of Time, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commen

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- d) of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Owner shall grant the Extension of Time to the Contractor for such period of time as may be considered reasonable and fair, in the Owner's opinion.
- e) The Contractor shall not be entitled to any financial compensation or compensation in any form in respect of any extension of time granted by the Owner.
- f) The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.
- g) Notwithstanding anything to the contrary, it is agreed between the Parties that non-availability of raw materials for the Works by the Contractor shall not be a ground for Extension of Time.

5.3.10.2. Extension of Time

If extension is allowed under the terms of this Contract, the Contractor shall give notice to the Owner at least 3 (three) months before the completion date as per detail of Clause of Special Conditions of Contract under heading "Extension Of Time Completion", stating the occurrence and nature of such event, the length or anticipated length of the delay, the steps taken by the Contractor to keep the delay as minimal as possible.

5.3.10.3. GRANT OF EXTENSION

As soon as reasonably practicable and on receipt of the notice, the Owner shall grant the Contractor, from time to time in writing prospectively, such extension to the relevant Completion Time / schedule for completion as shall be fair and reasonable. The decision of the Owner regarding the Extension of Time shall be final and binding on the Contractor.

5.3.10.4. LIQUIDATED DAMAGES

- 5.3.10.4.1 Without prejudice to any other rights or remedies available to the Owner under the Contract or in law, if Contractor, for any reason other than Force Majeure, suspension of work by Owner not due to the Contractor's fault or Variation, not due to the Contractor's default and for which a Variation Order has been issued in accordance with Clause 5.1, fails to achieve the targets specified in the approved Programme Schedule by their due date or fails to complete the Work in accordance with the Time Schedule as set out in Annexure [·], Contractor shall be liable to pay to Owner, liquidated damages in an amount equivalent towards the rate of percentage of the Total Contract Value as specified in Purchase Order. The above liquidated damages as mentioned herein above shall, if applicable in the Contract, also be equally applicable in case of failure to achieve interim milestone, at the sole discretion of Owner and as may be specified in the Purchase Order.
- 5.3.10.4.2 Owner may, at its sole discretion, and without prejudice to its right to recover any or all of the liquidated damages by any other method of recovery, deduct the amount of such liquidated damages from any monies due or which may become due to Contractor.
- 5.3.10.4.3 The Parties agree that the liquidated damages payable by the Contractor pursuant to this Clause 8.3 shall be an agreed pre-estimation of damages, and the compensation contemplated is not by the way of penalty.
- 5.3.10.4.4 The payment or recovery of sums hereinabove shall not relieve Contractor from any of its other duties, obligations, responsibilities, and liabilities under the Contract.

5.3.10.5. NO COMPENSATION FOR ALTERATION OR RESTRICTION OF WORK

If at any time from the commencement of the Work, the Owner shall for any reason whatsoever, not require any part of the Scope of Work as specified in the Tender / Contract to be carried out, then in that event, the Engineer-In-Charge shall give notice in writing of the fact to the Contractor, who shall save and except the charges or expenses incurred by him for such alteration or restriction of Work, which charges and expenses shall be approved by the Engineer-In-Charge, have no other claim to any payment or compensation whatsoever, including on account of any profit or advantage which he might have derived from the execution of the Work in full.

5.3.10.6. OWNER NOT BOUND BY PERSONAL REPRESENTATIONS

The Contractor shall not be entitled to any increase on the schedule rates or any other right or claim whatsoever by reason of any representation, explanation or statement or alleged representation, promise or guarantees given or alleged to have been given to him by any Person other than as may be provided by the Owner in writing (including any amendments to the Agreement).

5.3.10.7. CONTRACTOR'S OFFICE AT SITE

- 5.3.10.7.1 The Contractor shall provide and maintain an office at the Site for the accommodation of the Contractor's Personnel and such office shall be open during working hours on all Working Days to receive instructions, notices or other communications.

5.3.10.7.2 The Contractor shall obtain the prior approval of the Owner and the Consultant (including with respect to the location of the office) prior to commencing any works towards establishment of the office. At any time during the Contract Period, if the Owner is of the opinion that the Contractor's office obstructs or would likely obstruct any activities, operations, or works being carried out or proposed to be carried out on the Site, whether in relation to the Works or otherwise, the Contractor shall re-locate the office to such other location, as the Owner may direct, and the costs of relocation shall be borne by the Parties, in a manner as may be mutually agreed.

5.3.10.7.3 Such office established by the Contractor shall be removed from the Site within seven (7) days on completion of all Works under the Contract, at his own cost.

5.3.10.7.4 The office established by the Contractor pursuant to this Clause 11 shall contain all necessary infrastructure to enable to the Contractor (and the Contractor's Personnel) to perform their obligations under this Contract and sufficient space to accommodate 15 people with 20-seater meeting room.

5.3.10.8. CONTRACTOR'S REPRESENTATIVE, SUBORDINATE STAFF AND THEIR CONDUCT

5.3.10.8.1 The Contractor shall designate an individual "Contractor Representative who shall be responsible on the Site on behalf of the Contractor from the commencement of the Works and during the Defects Liability Period and continue to supervise and receive instructions related to Site activities given by or on behalf of the Engineer-In-Charge / Owner. The Contractor's Representative shall give his whole time to the superintendence of the works, receive on behalf of the Contractor, directions and instructions from the EIC, the Architect or the Engineering Consultant and shall be responsible to carry out such work in accordance with such directions and instructions received. The Contractor's Representative shall be present during normal working hours at the Site except when on leave, sick or absent for reasons beyond his control. The Contractor shall obtain the approval of the Owner / Engineer-In-Charge of the person so appointed as Contractor's Representative and shall not replace or remove such person without prior written consent of the Owner / Engineer-In-Charge, which consent shall not be unreasonably withheld or delayed. Apart from the Contractor's Representative, independent floor managers would be assigned to the different floors for supervision and co-ordination of works throughout the execution of the Project.

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5.3.10.8.2 The Contractor, on award of the Work shall name and depute a qualified engineer having sufficient experience in carrying out work of similar nature, to whom the equipment, materials, if any shall be issued and instructions for works given. Whenever in the opinion of the Engineer-In-Charge, additional properly qualified supervisory staff is considered necessary, they shall be deployed by the Contractor at the Site within [·] days of a notice being received by the Contractor in this regard, without additional charge on account thereof to Owner. The Contractor agrees and acknowledges that such Representative and subordinate staff shall provide competent and efficient supervision, over the work entrusted to them and the same shall be to the satisfaction of the Owner / Engineer-In-Charge.

5.3.10.8.3 The Contractor shall be responsible for the proper behaviour of all the Contractor's Personnel, and shall exercise a proper degree of control and supervision over them and in particular and without prejudice to the said generality, the Contractor shall be bound to prohibit and prevent any of the Contractor's Personnel from trespassing or acting in any way detrimental or prejudicial to the interest of the community or of the properties or occupiers of land and properties in the neighbourhood of the Site, and in the event of such Contractor's Personnel so trespassing, the Contractor shall be responsible thereof and relieve the Owner of all consequent claims or actions for damages or injury or any other grounds whatsoever. The decision of the Engineer-In-Charge upon any matter arising under this Clause 12.3 shall be final.

5.3.10.8.4 If and whenever any of the Contractor's Personnel shall, in the opinion of Engineer-In-Charge, be guilty of any misconduct or be incompetent or insufficiently qualified or negligent in the performance of their duties or that, in the opinion of the Owner or the Engineer-In-Charge, it is undesirable for administrative or any other reason for such Contractor's Personnel to be employed in the Works, the Contractor, if so directed by the Engineer-In-Charge, shall at once remove such Contractor's Personnel from employment and / or terminate all contractual arrangements with such Contractor's Personnel in relation to the execution of the Works (in the event such Contractor's Personnel is a Sub-Contractor of the Contractor). Any Person so removed from the Works pursuant to this Clause 12.4 shall not again be employed in connection with the Works without the prior written permission of the Engineer-In-Charge / Owner. Any person so removed from the Works shall be immediately replaced at the expense of the Contractor by a qualified and competent substitute.

5.3.10.8.5 All Contractor's Personnel entering upon the Site shall be properly identified by badges / tokens of a type acceptable to the Owner which must be worn at all times when on the Site.

5.3.10.9. ASSIGNMENT / SUB-LETTING OF WORK

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5.3.10.9.1 No part of the Contract, nor any obligation, share or interest therein, shall in any manner or degree be assigned, transferred, sub-contracted or sublet by the Contractor directly or indirectly to any Person whatsoever except as provided for in Clause 13.2, without the prior consent in writing, of the Owner. However, if such consent is given by the Owner, such consent shall not relieve the Contractor from any liability or obligation under the Contract and the Contractor shall be responsible for the acts, defaults and neglects of the assignee, Sub-Contractor(s), agents, employees or workmen as fully as if they were the acts, defaults or neglects of the Contractor or the Contractor's Personnel.

5.3.10.10. LIST OF SUB-CONTRACTORS TO BE SUPPLIED

On the first day of every month, the Contractor shall furnish to the Engineer-In-Charge for his approval a list of all Contractor's Personnel (other than its own employees and staff) and working at the Site during the previous month with particulars of the general nature of the sub-contract or Works.

5.3.10.11. SPECIALIST AGENCIES

The Contractor may entrust specialist items of Work to the agencies specialized in the specified trade. Before appointing such agencies / firms, the Contractor shall submit the names and details of such agencies / firms whom he is going to employ for approval of EIC. These details shall include the expertise, financial status, technical manpower, equipment, resources, and list of works executed and on hand of the specialist agency.

5.3.10.12. ASSIGNMENT BY THE OWNER

In addition to the right of the Owner to assign the benefits of this Contract to any third party ([without] the requirement to obtain any approval whatsoever under this Contract), the Contractor hereby consents to the creation by the Owner of a security assignment of the Contract in favour of any Financing Entity (or a trustee acting on behalf of one or more Financing Entities) and hereby undertakes to execute upon the request of the Owner such documents as may be reasonably and customarily required to give effect to any such assignment, provided that the Contractor's consent, which shall not be unreasonably withheld or delayed, shall be required for the inclusion in such documents of any terms other than a simple confirmation of the consent given above or a simple acknowledgement of a notice of an assignment pursuant to this Clause. Any stamp duty and all costs and expenses payable in respect of such documents shall be to the account of the Owner in respect of any such documents required to be signed by the Contractor.

5.3.10.13. POWER OF ENTRY AND EXPULSION OF THE CONTRACTOR

If the Contractor does not commence the Work in the manner as is provided for in the Contract Documents or if he at any time in the opinion of the Engineer-In-Charge:

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- 5.3.10.13.1 fails to carry out the Works in conformity with the Contract Documents, or
- 5.3.10.13.2 fails to carry out the Works in accordance with the Time Schedule, or
- 5.3.10.13.3 substantially suspends the whole or any part of the Work for a period of seven (7) days without prior written consent from the Engineer-In-Charge, or
- 5.3.10.13.4 fails to carry out and execute the Works in accordance with the Contract and to the satisfaction of the Engineer-In-Charge, or
- 5.3.10.13.5 fails to supply sufficient or suitable plants and equipment, temporary works, labour, materials or things, or
- 5.3.10.13.6 commits or suffers, or permits any other breach of any of the provisions of the Contract on his part to be performed or observed, or persist in any of the above mentioned breaches of the Contract for seven (7) Days, after notice in writing shall have been given to the Contractor by the Engineer-In-Charge requiring such breach to be remedied, or
- 5.3.10.13.7 if the Contractor shall abandon the Works, or

5.3.10.13.8 if the Contractor during the continuance of the Contract shall become bankrupt, make any arrangement or composition with his creditors, or permit any execution to be levied or go into liquidation whether compulsory or voluntary, not being merely a voluntary liquidation for the purpose of amalgamation or reconstruction. In any such case, the Owner shall have the power to enter the Site, expel the Contractor and take over the Works and take possession of the materials, temporary works, tools, plants and equipment and such other stock thereon, and to complete the Works by either by itself (including through the authorised representative of the Owner) or such other Person ("Third Party Contractor") as the Owner in his absolute discretion may think proper to employ and for the purpose aforesaid to use or authorise the use of any materials temporary works, plants and equipment and stock as aforesaid. In the event such materials, temporary works, tools, plants and equipment are procured by the Contractor from any third party, any expenses, losses or charges suffered by the third party on account of taking over of such materials, temporary works, tools, plants and equipment by the Owner shall be borne by the Contractor and the Contractor agrees to indemnify the Owner in this regard. The Owner shall be entitled to retain possession of such materials, temporary works, tools, plants and equipment at all times after taking over and till the Works have been completed by such Person as appointed by the Owner pursuant to this Clause 14.8. Further, on such taking over of the Works by the Owner, the Contractor shall be entitled to receive payment or allowance, as may be certified in writing by the Engineer-In-Charge to be due and payable only for the portion of Works completed. Any costs and expenses incurred by the Owner by reason of his taking possession of the Works or of the Works being completed by itself or through the Third Party Contractor, shall be deducted from any money which may be due for work done by the Contractor under the Contract and not paid for. Any deficiency in regard to the same shall forthwith be made good and paid to the Owner by the Contractor.

5.3.10.14. CONTRACTOR'S RESPONSIBILITY

The Contractor shall have to execute the Work in such place and condition where other agencies engaged by the Owner for other works including site grading, filling, and levelling, electrical and mechanical engineering works are also being carried out. No claim shall be entertained due to Work being executed in the above circumstances.

- 5.3.10.14.1 The Contractor shall execute and maintain the Works with due care and diligence and shall provide all materials, labour including supervision thereof, constructional plant, temporary works, transport and all other things, whether of temporary or permanent nature, required for the proper execution and maintenance of the Works.
- 5.3.10.14.2 The Contractor shall execute the whole and every part of the Works in the most substantial and workmanlike manner, both as regards materials and labour and otherwise in every respect in strict accordance with the Specifications and Good Industry Practice. The Contractor shall conform exactly, fully and faithfully to the designs, Drawings and instructions relating to the Work, in writing.
- 5.3.10.14.3 Before commencing any item of Work, the Contractor shall co-relate all relevant drawings and information and satisfy themselves that the information available thereof is complete, unambiguous and without any discrepancies. The Contractor shall be responsible for any errors in the execution of the Works and / or damage caused due to any discrepancy in the Drawings and other documents, which was overlooked by the Contractor and / or their Sub-Contractor and is not brought to the notice of the EIC.
- 5.3.10.14.4 Contractor shall thoroughly study all the Drawings in advance on receipt of the same and in case of any discrepancies and detailing required pertaining to the drawing, Contractor shall immediately notify the EIC. Any revision in Drawing or detailing issued in response of such query shall not be considered as any change in Drawing.
- 5.3.10.14.5 Levels, dimensions and other information shown on the Drawings are believed to be correct. The Contractor shall, however, verify them for themselves and no claim or allowance whatsoever shall be entertained on account of any errors or omissions in the levels, dimensions or any other deviations from those shown in the drawings. Written dimensions to be followed. No scaling shall be permitted.

5.3.10.14.6 Any loss or damage caused by negligence of the Contractor to the materials, whether procured by the Contractor or the Owner, shall be to the account of the Contractor.

5.3.10.14.7 Any loss or damage caused by the Contractor and the Contractor's Personnel to the structure and / or services of the building including any damage caused to the curtain walls and glass panes shall be to Contractor's account and would be recovered from them through deductions from their Running Account Bill.

5.3.10.14.8 The Contractor shall submit an organization chart, specific to the Project, qualification of the Contractor's Personnel including number of skilled and unskilled people that the Contractor would be employing to this Project and the single point of contact / person responsible for the overall Project, safety, billing and procurement, detailed procurement schedule accompanied by a Project Schedule Gantt / PERT chart along with the Tender.

5.3.10.15. Details of Construction Not Specifically Mentioned and Minor Changes

Rates quoted shall be deemed to allow for all constructional details which may not have been specifically described in the BOQ under this Contract, shown on the Drawings or given in the Specifications, but are essential for the execution of the Work and performance by the Contractor of its obligations under the Contract. Details of constructions not specifically shown in Drawings or Specifications shall be furnished to the Contractor or by the Contractor during the execution of the Work. In case of any difference of opinion between the Contractor and Architect, the EIC shall determine as to whether or not the item involved constituted a constructional detail or additional works and their decision shall be final and binding.

5.3.10.15.1 URGENT REPAIRS

If, by any reason of any accident, or failure, or other event occurring, either during the execution of the Works or during the Defects Liability Period, any remedial or other work or repair shall, in the opinion of the EIC, be urgently necessary for the safety of the Works, and the Contractor is unable or unwilling to do such work or repair, in such event the Owner may employ such other persons to carry out such work or repairs as the EIC may consider necessary. The Owner shall recover the costs and expenses incurred for carrying out such work or repairs from the Contractor or may be deduct such costs and expenses from any amount due or payable or which may become due or payable to the Contractor.

5.3.10.15.2 The Contractor shall take full responsibility for the care of Works, materials and plant for incorporation therein and shall take all necessary precautions to prevent loss or damage and to minimize loss or damage to the greatest extent possible that may happen to the Works, material and plant, from the commencement date until the date of issue of Final Completion Certificate, when the responsibility for the said care shall pass to the Owner. Provided that the Contractor shall take full responsibility for the care of any outstanding Works and materials and plant for incorporation therein which he undertakes to finish during the Defects Liability Period until such outstanding Works have been completed.

5.3.10.15.3 No part of the Works shall be covered up or put out of view without the approval of the Owner and the Contractor shall afford full opportunity for the Owner to examine and measure any such part of the Works which is about to be covered unto or put out of view and to examine foundations before any part of the works is placed thereon. The Contractor shall give a reasonable notice to the Owner whenever such part of the Works or foundations is or are ready or about to be ready for examination and the Owner shall, without unreasonable delay unless he considers it unnecessary and advises the Contractor accordingly, attend for the purpose of examining and measuring such part of the Works or foundations. Where the Works involved more than one stage / process, the Contractor shall give notice when each stage / process is ready to enable inspection by the Owner's representative.

5.3.10.16. **NOTICES:** All notices, requests, demands, consents, certificates, waivers, decisions, instructions and orders or other communications required to be given by either Party to the other pursuant to the Contract shall be in English and shall be served by sending the same by facsimile transmission courier, or by electronic mail (with a confirmation copy by registered courier or by hand delivery in case of major issues relating to the Contract, such as dispute resolution, claims and termination) to the other Party, or by hand delivery at the address below or such other address as each Party may communicate to the other Party in writing:

5.3.10.17. **Serving of Notices**

Any notice sent by facsimile transmission shall be deemed to have been served at the time of receipt, provided that a positive transmission report from the sender's machine shall be conclusive evidence of receipt in the absence of evidence to the contrary. Any notice sent on a public holiday in India, be deemed to have been served on the first Working Day after the date of the notice.

5.3.10.17.1 **Other Communications**

All other communications pertaining to the Contract shall be made between the Contractor and the Owner's representative or other representatives nominated by the Owner or the Owner's representative from time to time in

respect of such categories of communication and subject to such limits of authority as may be agreed as part of the project co-ordination procedures or as may be notified by the Owner from time to time.

5.3.10.18. RIGHTS OF VARIOUS INTERESTS

5.3.10.18.1 The Owner reserves the right to distribute the Work between more than one contractor. The Contractor shall cooperate and afford other contractors reasonable opportunity for access to the Works for the carriage and storage of materials and execution of their works and coordinate with such contractors to ensure that the Work of the Contractor and the other contractor(s) does not suffer.

5.3.10.18.2 Wherever any work being done by any department of the Owner or by other contractors employed by the Owner is contingent upon Work covered by this Contract, the respective rights of the various Persons involved shall be determined by the Engineer-In-Charge to secure the completion of the various portions of all works in general harmony.

5.3.10.19. RIGHT OF OWNER TO DETERMINE / TERMINATE CONTRACT

5.3.10.19.1 Upon the occurrence of any of the following events:

- (i) the Contractor, despite having been notified by the Owner of any default under this Contract including failure to perform the Work, ensuring supply of sufficient Contractor's Personnel, suitable materials or equipment, or failure to adhere to the Time Schedule, fails to cure or rectify such default within [.] days;
- (ii) the Contractor disregards any Applicable Laws or directions of any Governmental Authority, in the performance of its obligations under this Contract;
- (iii) the Contractor disregards the authority or instructions of the Owner, Owner's representative, Engineer-In-Charge which authority and instructions are as per the provisions of this Contract;
- (iv) the Contractor fails to render and perform all the Works in accordance with all the terms and conditions of the Contract;
- (v) the Engineer-In-Charge gives notice to the Contractor that failure to correct a particular defect is a fundamental breach and the Contractor fails to rectify the same within [.] days of a notice being issued;

the Owner may, by a seven (7) days written notice and without prejudice to any other remedy if provided for under the Contract, terminate the services of Contractor, enter the Site, expel the Contractor (and the Contractor's

Personnel) therefrom and take possession of the Work and of all Contractor's tools, appliances, construction equipment and machinery at the Site and use the same to the full extent and in the manner as they could be used by Contractor and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and finish the Work as Owner may deem expedient but without releasing the Contractor from all its obligations or liabilities which have accrued as at the date of termination of the Contract and without affecting the rights and powers conferred by the Contract on the Owner.

5.3.10.19.2 In such case, Owner shall be entitled to encash performance guarantee, or any other security deposit bank guarantee submitted by the Contractor and utilize the amounts to compensate against the losses, cost and damages as mentioned below.

5.3.10.19.3 In such case, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, loss of business profit and damages sustained by Owner rising out of or resulting from completing the Work, such excess shall be paid to Contractor. If such claims, costs, losses and damages exceed such unpaid balance, the Contractor shall pay the difference to Owner. Such unpaid balance of the Contract Price, claims, costs, losses and damages incurred by Owner shall be reviewed, certified and approved by the by Engineer-In-Charge. If such amounts exceeds the sum which would have been payable to the Contractor on due completion by him, then the Contractor shall, upon demand, pay to the Owner the amount of such excess and it shall be deemed a debt due by the Contractor to the Owner and shall be recoverable accordingly. The Owner shall have option to sell the Contractor's equipment, temporary works, unused materials and other assets of the Contractor at Site and adjust the proceeds in satisfaction of the demand made on the Contractor.

5.3.10.19.4 On such termination, the Contractor shall be paid (without duplication of any items):

- (i) for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination;
- (ii) for expenses sustained prior to the effective date of termination in performing services and furnishing labour, materials or equipment as required by the Contract Documents in connection with uncompleted Work and as certified by the EIC to have been reasonably done and as long as the Owner gets benefit of such expenses sustained; plus fair and reasonable sums for overhead and profit on such expenses to be decided by the Engineer-In-Charge, for reasonable expenses directly attributed to termination;

5.3.10.19.5 Immediate Termination of Contract

The Owner shall, upon occurrence of any or all of the following events, be entitled at any time to terminate the contract forthwith without stating any reason whatsoever:

- (i) If the Contractor has abandoned the Contract without assigning any reasons, including demobilization of man and machinery without prior written consent of the Owner or Engineer-In-Charge;
- (ii) The insolvency, dissolution or liquidated of the Contractor, or the filing of a petition in bankruptcy or commencement of insolvency resolution process by or against the Contractor, or the adjudication of Contractor as bankrupt, or any general assignment by Contractor for the benefit of its creditors, or the application for, or consent to, the appointment of any receiver, trustee, custodian or similar officer by Contractor.

5.3.10.19.5.1 The Contractor agrees and acknowledges that in the event of any termination, suspension or taking over of the whole or part of the Works by the Owner in accordance with the terms of this Contract, compensation in money shall be adequate remedy and if required by the Owner, the Contractor shall leave the Site (and shall ensure all the Contractor's Personnel vacate the Site), and hand over possession of the same along with the ancillary units, plants and equipment tools, materials and other construction plants brought in by the Contractor during the execution of the Works.

5.3.10.19.5.2 Upon the occurrence of any one of the following events:

- If there is hold for long duration by any Governmental Authority, beyond the period of suspension as provided in the Contract;
- If there is any kind of non approval for any reason whatsoever by any Governmental Authority, resulting into stoppage or hold for long duration beyond the period of suspension as provided in the Contract;
- If Owner doesn't want to execute the work due to any change of policy or implementation of existing policy by any Governmental Authority;
- If there is any change of relevant business scenario due to which Owner doesn't find it profitable to execute the Project; and
- If there is any long term paucity of fund to run the Project;

In such case, the Owner may, by a prior written notice of 30 (thirty) days, terminate the contract. Contractor shall vacate the Site (and shall ensure all the Contractor's Personnel vacate the Site) and remove all of his

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plants, machineries and unused material, temporary infrastructure, etc. and hand over the site in clean condition. Contractor shall be entitled to receive payment against their work done value under BOQ items and for the other work as per provision in the Contract in their Final Bill. No payment or claim due to such termination in the form of any type of compensation or on account of any loss on profit, etc. shall be payable.

5.3.10.20. PATENTS AND ROYALTIES

The Contractor, if licensed under any patent covering equipment, machinery, materials or compositions of matter to be used or supplied or methods and process to be practiced or employed in the performance of this Contract, agrees to pay all royalties and licence fees which may be due with respect thereto. If any equipment, machineries, materials composition of matters, to be used or supplied or methods and processes to be practiced or employed in the performance of this Contract, is covered by a patent under which the Contractor is not licensed then the Contractor, before supplying or using the equipment, machineries, materials, composition method or processes, shall obtain such licenses and pay such royalties and licence fees as may be necessary for performance of this Contract. In the event the Contractor fails to pay any such royalty or obtain any such licence, any suit for infringement of such patents which is brought against the Contractor or the Owner as a result of such failure, shall be defended by the Contractor at his own expense and the Contractor shall bear and pay any damages and costs relating to or arising out of and / or awarded in such suit and Contractor shall indemnify Owner for all claims, losses, damages, what so ever arising from such claims. The Contractor shall promptly notify the Owner if the Contractor has acquired knowledge of any patent under which a suit for infringement could be reasonably brought because of the use by the Owner of any equipment, machineries, materials, process, and methods to be supplied hereunder. The Contractor agrees to and does hereby grant to Owner, together with the right to extend the same to any of the subsidiaries of the Owner as irrevocable, royalty-free licence to use, any invention made by the Contractor or the Contractor's Personnel in or as a result of the performance of the Work under the contract.

5.3.10.21. LIENS

If, at any time, there should be evidence of any lien or claim for which the Owner might have become liable and which is chargeable to the Contractor, the Owner shall have the right to retain out of any payment then due or thereafter to become due, an amount sufficient to completely indemnify the Owner against such lien or claim; and if such lien or claim be valid, the Owner may pay and discharge the same and deduct the amount so paid from any money which may be or may become due and payable to the Contractor. If any lien or claim remain unsettled after all payments are made, the Contractor shall refund or pay to the Owner all moneys that the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable expenses.

5.3.10.22. SETTLEMENT OF DISPUTES

- (a) If a dispute of any kind whatsoever arises between the Owner and the Contractor in connection with, or arising out of, the Contract or the execution of the Works, whether during the execution of the Works or after their completion and whether before or after repudiation termination of the Contract, including any dispute as to any opinion, instruction, determination, certificate or valuation of the Engineer-In-Charge, the matter in dispute shall, in the first place, be referred by the disputing party in writing to the Engineer-In-Charge, with a copy of the same to the non-disputing party. No later than the thirty (30) days from the date of receipt of such reference, the Engineer-In-Charge shall give notice of his decision to the Owner and the Contractor. Such reference and decision shall state that it is made pursuant to this Clause 20.1.
- (b) During the period when the dispute and difference arose and the time taken by the Engineer-In-Charge to decide and communicate its decision to the Owner and the Contractor and thereafter unless the Contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the Works with all due diligence and the Contractor and the Owner give effect forthwith to every such decision of the Engineer-In-Charge, unless and until the same shall be revised, as hereinafter provided, in an amicable settlement or an arbitral award.
- (c) In the event the Owner or the Contractor is dissatisfied with any decision of the Engineer-In-Charge, or if the Engineer-In-Charge fails to give notice of his decision on or before the thirtieth (30th) day from the day on which he received the reference, then either the Owner or the Contractor may, on or before the twenty fifth day (25) after the day on which he received notice of such decision, or on or before the twenty fifth (25th) day from the day on which the said period of thirty (30) days expired, as the case may be, give notice to the other party, with a copy for information to the Engineer-In-Charge, of his intention to refer the dispute to arbitration and commencement of arbitration, as in the manner hereinafter provided. Subject to Sub-Clause under heading "Arbitration", it is hereby agreed that no such arbitration in respect thereof may be commenced unless such notice is given.
- (d) If the Engineer-In-Charge has given notice of his decision as to a matter in dispute to the Owner and the Contractor and no notice of intention to commence arbitration as to such dispute has been given by either party, the Owner or the Contractor on or before the twenty fifth (25th) day after the day on which the parties received notice as to such decision from the Engineer-In-Charge, the said decision shall become final and binding upon the Owner and the Contractor.

5.3.10.23. Amicable Settlement

Where notice of intention to commence arbitration as to the dispute has been given in accordance with Sub-Clause (c) of Clause 20.1 the parties shall attempt to settle

such dispute amicably before the commencement of arbitration. Provided that, unless the parties otherwise agree, arbitration may be commenced on or after the thirtieth (30th) day from the day on which notice of intention to commence arbitration of such dispute was given, even if no attempt at amicable settlement thereof has been made.

5.3.10.24. Arbitration

- (a) If either the Owner or the Contractor or both do not agree to the decision of the Engineer-In-Charge wholly or in part relating to any dispute referred to Engineer-In-Charge, the same shall be finally referred to arbitration and be settled in accordance with the Arbitration and Conciliation Act, 1996.
- (b) Each party shall be entitled to nominate one arbitrator each and the two arbitrators shall jointly nominate a third presiding arbitrator. The arbitrators shall give a reasoned award. The parties agree that any arbitration award shall be final and binding upon the parties.
- (c) The place of arbitration shall be in Bangalore and the language of arbitration shall be English.
- (d) The cost of arbitration shall be shared equally between both the parties.
- (e) It is clarified that the Owner shall be entitled to retain any sum or portion of the Contract Price which has become due and payable, for any unfinished works or any subject matter under arbitration. Both Parties shall continue to perform their respective obligations under the Contract during the pendency of the arbitration proceedings, unless the Contract has been terminated or has come to an end.

5.3.10.25. During the period when a matter / dispute is referred to the decision of the Engineer-In-Charge, in the execution of the Works under the Contract, and if thereafter the matter is referred to Arbitration, the Contractor shall be bound by interim or final decision taken by the Engineer-In-Charge and continue to perform its obligations under this Contract, unless the same is stayed, modified or reversed by any interim or final award / order of the arbitrators.

5.3.10.26. Failure To Comply with Engineer-In-Charge Decision

Where neither the Owner nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated herein above and the related decision of Engineer-In-Charge has become final and binding, either Party may, if the other Party fails to comply with such decision, and without prejudice to any other rights it may have, refer the failure to arbitration.

5.3.10.27. NOTICES

- (a) Service of Notices on Contractor:

Any notice to be given to the Contractor under the terms of the Contract shall be served by sending the same by registered post to the address provided under Clause 16 above.

(b) Service of Notices on Owner:

Any notice to be given to the Owner under the terms of the Contract shall be served by sending the same by registered post to or leaving the same at the Owner's last known address (or in the event of the Owner being a Company to or at its registered Office).

5.3.10.28. CHANGE IN CONSTITUTION

If, there is a change in the constitution of the Contractor firm, after or prior to the award of the Contract and if prior approval is not obtained, the Contractor shall have been deemed to have been assigned and Owner reserves the right to determine the Contract and the same consequence shall follow as if the Contract was determined on the Contractor's default.

5.3.10.29. NON-WAIVER

Any failure on the part of the Owner to insist upon strict performance of any terms or conditions of this Contract or failure or delay to exercise any rights or remedies provided herein or by law or failure to properly notify Contractor in the event of breach, or the acceptance of or payment for any goods or Works hereunder, or the review or failure to review designs shall not release Contractor from any of the warranties or obligations of this Contract and shall not be deemed a waiver of any right of Owner to insist upon strict performance hereof or any of its rights or remedies as to any prior or subsequent default hereunder, nor shall any termination of work under this Contract by Owner operate as a waiver of any of the terms hereof.

5.3.10.30. LANGUAGE

All documents, instructions, catalogues, brochures, pamphlets, design data, operation and maintenance manuals, communications shall be in English language.

5.3.10.31. JURISDICTION

The Contract shall be governed, construed and interpreted in accordance with the laws of India and in the event of any litigation the courts in Bangalore shall have exclusive jurisdiction.

5.3.10.32. SECRECY

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5.3.10.32.1 All information gathered under this Contract by the Contractor, all reports and recommendations relating to this Contract shall be treated as confidential by the Contractor and the Contractor shall ensure that such reports and recommendations are treated as confidential by the Contractor's Personnel and shall not, without the prior written approval of Owner be made available to any person or party other than the EIC, the Architect, Engineering Consultant or any concerned Government Authority.

5.3.10.32.2 The Contractor shall take all necessary steps to ensure secrecy of information obtained in the course of the execution of the contract, which would or might be directly or indirectly of use to any business competitors of the Owner.

5.3.10.32.3 No photographs of the Owner's Works Site including the works to be carried out by the Contractor shall be taken by the Contractor, his employees or representative, without the prior written consent of the Owner, which consent shall not be unreasonable withheld or delayed.

5.3.10.33. LIMITATION OF LIABILITY AND EXCLUSION OF DAMAGES

Owner will be not liable for any indirect, or incidental or consequential damages of any type, including lost profits, or lost data, arising out of or in connection with this Contract or the services, even if it has been advised by the Contractor of the possibility of the damage and even if Contractor asserts or establishes a failure of essential purpose of any limited remedy provided in this Contract. The total liability of Owner shall not exceed the amount paid to Contractor in the twelve months (12) preceding the event causing such liability under this Contract.

5.3.10.34. BUSINESS ETHICS AND ANTI-CORRUPTION COMPLIANCES

In performing its duties and obligations under the Agreement, the Contractor hereby confirms, covenants and assures as follows:

(a) The Contractor shall ensure that all Persons (including the Contractor's Personnel) engaged in provided the Services under the Contract Documents and all its directors, officers and employees are in strict compliance with the provisions of all Anti-Corruption Laws and the Contractor shall maintain and enforce policies and procedures for: (i) preventing and assessing the risk of breaching Anti-Corruption Laws; and (ii) reviewing and monitoring any such risk.

(b) Without limiting the above, the Contractor hereby represents, warrants and covenants that, (a) the Contractor has read, is fully aware of and understands the provisions of the Anti-Corruption Laws; (b) the Contractor has and shall comply with the Anti-Corruption Laws, and has and will cause its representatives to comply with the Anti-Corruption Laws, in connection with the Contract Documents and the transactions and activities contemplated hereby; and (c) the Contractor agrees not to take, or permit to be taken, directly or indirectly, through any representative or otherwise, any actions which would subject itself or the other

Party, or any of their respective shareholders or Affiliates, or any of their respective officers, directors or employees, to any civil or criminal penalties or loss of benefits pursuant to the Anti-Corruption Laws.

- (c) The Contractor shall not directly or indirectly offer, pay, promise to pay or authorize the payment of, or permit any representative to directly or indirectly offer, pay, promise to pay or authorize the payment of, any money or thing of value, such as providing gifts or entertainment, to any officer, employee or representative of any Governmental Authority, agency, legislature, court, political party, government-owned company or public international organization (a **"Governmental Official"**) for the purpose of (i) influencing any act or decision of any Governmental Official, or (ii) inducing such Governmental Official to do or omit to do any act in violation of the lawful duty of such official, or (iii) inducing such Governmental Official to use his or her influence with a government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality in order, in the case of (i), (ii) or (iii), to assist the other Party, its representatives, or any of their respective Affiliates in obtaining or retaining business, or directing business to such person, or assisting such person in obtaining any advantage.
- (d) Notwithstanding anything to the contrary herein, in the event of a breach by the Contractor of its representations, warranties, and covenants in this Clause 28, the Owner may, by written notice to the Contractor, terminate the Agreement with immediate effect and the Agreement shall thereupon terminate with no further obligation, other than those that arose prior to the date of termination under this Clause 28, or that otherwise survive the termination of the Agreement.

SUB-SECTION- IV

5.4. PERFORMANCE OF WORK

All the Works shall be executed in strict conformity with the provisions of the Contract Documents and with such explanatory detailed Drawings, Specifications and instructions as may be furnished from time to time to the Contractor by the Engineer-In-Charge, whether expressly mentioned in the Contract Documents or otherwise. The Contractor shall be responsible for ensuring that Works throughout are executed in accordance with Good Industry Practice, the Specifications set out in the Contract Documents and to the entire satisfaction of the Engineer-In-Charge.

5.4.1. COORDINATION AND INSPECTION OF WORK

- i. The coordination and inspection of the day-to-day work and operations of the Contractor under the Contract shall be as per direction of Engineer-In-Charge or his authorised representative. The written instructions regarding any additional job shall normally be passed by the Engineer-In-Charge or his authorised representative. A work order book shall be maintained by the Contractor in which the aforesaid written instructions shall be entered. These shall be signed by the Contractor or the Contractor's Representative by way of acknowledgement within 12 hours of the instructions.
- ii. On and from commencement of Work, and from time to time, the Contractor shall confer with other contractors, sub- contractors, and persons engaged on separate contracts in connection with the Work, and with the Project Manager for the purpose of coordination and execution of the various phases of Work. The Contractor shall ascertain from the other contractors, sub-contractors and persons engaged in separate contracts, in connection with the Works, the extent of all chasing, cutting and forming of all openings, holes and grooves as may be required to accommodate the various services.
- iii. The Contractor shall ascertain the routes of all services and the position of all floor and wall outlets, traps, etc. in connection with the installation of plant, services and arrange for the construction of Work accordingly. The breaking and cutting of the completed work must not be done unless specifically authorized in writing by the Site Manager. Generally, all breaking shall be by the Contractor for civil / interior work and no work shall be done over broken or patched work without first ascertaining that the broken surface is adequately prepared and reinforced to receive and hold further work.

5.4.2. CO-OPERATION WITH OTHER CONTRACTORS

- i. The Contractor during the execution of the Works shall co-ordinate and provide all opportunities and access to the Site to other contractor(s) and agencies who may be employed by the Owner and to the personnel of such contractor(s) and agencies. The Contractor shall work in harmony with such

contractor(s) and agencies to ensure completion of Works in accordance with the approved Programme Schedule.

- ii. In respect of the work of such other contractors and agencies, where the commencement or progress of such work of any other contractor(s) or agency is dependent upon the completion of particular portions of the Contractor's Works or generally upon the Contractor maintaining progress in accordance with the approved co-coordinated programme, it shall be the responsibility of the Contractor to complete such portions to ensure such progress and timely completion of the works.
In the event of any differences / disputes between the Contractor and the other contractors, and agencies, the same shall be referred to the Engineer-In-Charge, whose decision shall be final and binding on the Contractor and other contractors and agencies.
- iii. The Contractor shall have to co-ordinate with agencies which are appointed by Owner for activities like water proofing, post tensioning, electrical works, plumbing and firefighting and for that agreed co-ordination charges shall be paid, unless and otherwise agreed upon earlier.
- iv. The Contractor shall co-operate with other contractors, Engineer In-charge, Architect and Engineering Consultant and freely exchange with them such technical information as necessary for the proper execution of the works.
- v. The Contractor shall, in accordance with the directions of the Project Manager / Site Manager, afford all reasonable opportunities to other contractors and their workmen and to the workmen of Owner who may be employed in the execution of the works not included in the Contract, for carrying out their work.
- vi. All operations necessary for the execution of Works shall be carried out so as not to interfere unnecessarily or improperly with the execution of works by other contractors. Execution of Works under this Contract shall be co-ordinated with the work of other contractors where it would interfere with their work or working. The Site Manager and the concerned Contractor shall be informed well in time for effective coordination and proper execution of Works.

5.4.3. WORK IN MONSOON AND DEWATERING

- 5.4.3.1. The completion of the work may entail working during the entire year including the monsoon season as well. The Contractor must maintain an adequate labour force as may be required for the job and plan and execute the construction and erection according to the approved Programme Schedule. No extra rate shall be considered for Work executed during the monsoon season.