

Contents

A. CONTRACT AND INTERPRETATION.....	32
1. Definitions and Abbreviations	32
2. Use of Contract Documents & Information.....	35
3. Interpretation	35
4. Notices	37
5. Governing Laws	37
6. Settlement of Disputes.....	37
B. Subject Matter of Contract:.....	38
7. Scope of Facility.....	38
8. Contractor’s responsibility	39
9. Employer’s responsibility.....	40
C. Payments.....	41
10. Contract Price.....	41
11. Terms of Payment	41
12. Bank Guarantees	41
13. Taxes and Duties.....	43
D. Intellectual Property	43
14. Copyright & Patent.....	43
15. Confidential Information	43
16. Geological discoveries	44
17. Representatives.....	44
18. Project Implementation	46
19. Subcontracting	47
20. Design and Engineering.....	47
21. Procurement	49
22. Materials and Workmanship	50
23. Installation.....	50
24. Inspection & Testing.....	52
25. Authorized Test Centre’s for test certificates.....	53
26. Commissioning and Completion of the Facilities.....	53
27. Guarantee Test and Operational Acceptance.....	54
28. Inter-changeability	56

29.	Power to Vary or Omit Work	56
30.	Negligence.....	57
31.	Statutory Responsibility.....	57
32.	Insolvency.....	57
33.	Delay in Execution or Failure to Supply	58
34.	Liquidated Damages	58
35.	Defect Liability	58
36.	Termination by default and Breach of Contract	60
37.	Breach & Cancellation of the Contract	60
38.	Force Majeure	61
39.	Insurance.....	62
40.	Statutory Acts, Rules and Standards.....	63
41.	Hazardous Material	63
42.	Stoppage of Work.....	63
43.	Hindrance Register	63
44.	Manuals.....	63
45.	Delivery of Equipment.....	64
46.	Liabilities during Transit.....	64
47.	Deduction from Contract Price.....	64
48.	Warranty / Guarantee	64
49.	Final Bill/ Final Due Payment	65
50.	Operation and Maintenance	65
51.	Risk Purchase.....	66
52.	Unforeseen/ Differing site Conditions	66
53.	Change in Laws and Regulations	67
54.	Extension of Time for Completion	68
55.	Care of Facilities	68
56.	Contractor Performance & Feedback and Evaluation System	69
57.	Documents constituting the Contract	69
58.	Fraud Prevention Policy.....	69

A. CONTRACT AND INTERPRETATION

1. Definitions and Abbreviations

The following words and expressions shall have the meanings hereby assigned to them:

“Adjudicator” means the person or persons named as such in the SCC to make a decision on or to settle any dispute or difference between the Employer and the Contractor.

“Applicable Law” means any statute, law, regulation, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration having the force of law in the Republic of India and the State Government, by any Government Authority or instrumentality thereof, whether in effect as of the date of this Contract or thereafter.

“Affected Party” means Employer or the Contractor whose performance has been affected by an event of Force Majeure.

“Bid” shall mean the Techno Commercial and the Financial Proposal submitted by the Bidder along with all documents/credentials/attachments annexure etc., in response to this IFB, in accordance with the terms and conditions hereof.

“Bidder” shall mean Bidding Company submitting the Bid including its successors, executors and permitted assigns.

“CEA” shall mean Central Electricity Authority.

“Chartered Accountant” shall mean a person practicing in India or a firm whereof all the partners practicing in India as a Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949;

“Commissioning” A project shall be considered commissioned if all equipment as per rated capacity has been installed and energy has flown into grid.

“Completion of facilities” means that the Facilities (or a specific part thereof where specific parts are specified in the SCC) have been completed operationally and structurally and put in a tight and clean condition, and that all work in respect of Pre-commissioning of the Facilities or such specific part thereof has been completed; and Commissioning has been attained as per Technical Specifications.

“Contract” means the Contract Agreement entered into between the Employer and the Contractor, together with the Contract Documents referred to therein; they shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.

“Contract Documents” means the documents listed in the Form of Contract Agreement.

“Contract Value” means the firm value of the quoted price by the successful bidder specified in its financial proposal as the sum of individual contract value of supply, erection, civil works and O&M under different work packages specified in the financial proposal, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract including taxes, duties levies etc., as applicable.

“Contractor” means the Bidder whose bid to perform the Contract has been accepted by the Employer and is named as such in the Contract Agreement, and includes the legal successors or permitted assigns of the Contractor.

“Contractor’s Equipment” means all plant, facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Facilities that are to be provided by the Contractor, but does not include Plant and Equipment, or other things intended to form or forming part of the Facilities.

“Contractor’s Representative” means any person nominated by the Contractor and approved by the Employer to perform the duties delegated by the Contractor.

“Day” means calendar day of the Gregorian calendar.

“Month” means calendar month of the Gregorian calendar.

“Defect Liability Period” means the period of twenty four (24) months from the date of completion of the Facilities or a part thereof, during which the Contractor must repair any defect identified by the Project Manager / Engineer In charge after commissioning of the plant. All the expenses to repair the defects shall be borne by the contractor and no additional cost charged to the Employer.

“Effective Date” means the date of issue of LOI/ NTP/ Date mentioned in contract agreement from which the Time for Completion shall be determined.

“Employer” means ASCL, Aligarh and includes the legal successors or permitted assigns of the Employer and also its authorized representative.

“Facilities” means the Plant and Equipment to be supplied and installed, as well as all the Installation Services including all infrastructure as mention in scope of works mentioned in detail under Section V: Technical Specification of this IFB, to be carried out by the Contractor under the Contract.

“Final Acceptance” means acceptance of Facilities by the Employer at the end of O&M period, as stated in this RFP, from the date of Commissioning or demonstration of minimum annual CUF whichever comes later which certifies the Contractor’s fulfilment of the Contract in respect of Functional and Plant Performance Guarantees of the Facilities.

“GCC” means the General Conditions of Contract hereof.

“GHI” means Global Horizontal Irradiance

“GSS” means grid sub-station.

“Guarantee Test(s)” means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Technical Specifications.

“IEC” means International Electro-technical Commission

“Installation Services” means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Contractor under the Contract; e.g., transportation and provision of marine or other similar insurance (s), inspection, expediting, site preparation works (including the provision and use of Contractor’s Equipment and the supply of all use structural and construction materials required), installation including civil and allied works etc., testing, pre-commissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training of Employer’s Personnel etc.

"kWh" means Kilo-Watt-hour.

"kWp" means Kilo-Watt Peak.

"kW" means Kilo-Watt.

“LOI” means Letter of Intent.

“MW” means Mega-Watt.

"MWp" means Mega-Watt Peak.

“NIT” means Notice inviting Tender.

“NTP” means Notice to Proceed.

“O&M” means Comprehensive Operation and Maintenance of the Facilities

“Operational Acceptance” means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor’s fulfilment of the Contract in respect of Functional and Plant Performance Guarantees of the Facilities. O&M period shall commence after Operational Acceptance of the Facilities by the Employer.

“Plant and Equipment” means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the spare parts), but does not include Contractor’s Equipment.

“PR” means Performance Ratio.

“Pre-commissioning” means the testing, checking and other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning.

“Project Manager/Engineer-in-Charge (EIC)” means the person appointed by the Employer to perform the duties delegated by the Employer.

“RFP” means Request for Proposal.

“SCC” means the Special Conditions of Contract.

“Site” means the area and other places upon which the Facilities are to be installed, and such other area or places as may be specified in the Contract as forming part of the Site.

“Subcontractor,” including vendors, means any person to whom execution of any part of the Facilities, including preparation of any design or supply of any Plant and Equipment, is sub-contracted directly or indirectly by the Contractor, and includes its legal successors or permitted assigns.

“Tax” means the GST/ duties/ levies/ octroi etc. as applicable and put in force by the state Government / central Government/ Local Bodies/ Statutory bodies etc. from time to time.

“Time for Completion” means the time within which Completion of the Facilities as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) is to be attained in accordance with the stipulations in the SCC and the relevant provisions of the Contract.

“TS” means Technical Specifications

2. Use of Contract Documents & Information

- 2.1. All documents, as mentioned in the GCC Clause 57, forming part of the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory. The Contract shall be read as a whole.
- 2.2. The Contract (s) will be signed in three (3) originals and the Contractor shall be provided with one signed original and the rest will be retained by the Employer.
- 2.3. The Contractor shall provide/ submit, free of cost to the Employer all the engineering data, drawings and descriptive materials with the bid, in at least two (2) copies to form a part of the Contract immediately after LOI.
- 2.4. The Contractor shall not, without the Employer’s prior written consent, disclose the Contract or any provision thereof or any specification, plan, drawing, pattern therewith to any person other than person employed by the Contractor in Performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend strictly for purpose of Performance only.
- 2.5. The Contractor shall not, without Employer’s prior written consent, make use of any document or information except for purpose of performing the Contract. Any document other than the Contract itself, shall remain the property of the Employer.

3. Interpretation

3.1. Language

The bid prepared by the Bidder and all correspondence and documents related to the bid exchanged between the Bidder and the Employer shall be written in English language, provided that any printed literature furnished by the Bidder may be written in another language, as long as such literature is accompanied by a translation of its pertinent passages in English language in which case, for purposes of interpretation of the bid, the translation shall govern.

3.2. Singular and Plural

The singular shall include the plural and the plural the singular, except where the context otherwise requires.

3.3. Headings

The headings and marginal notes in the General Conditions of Contract are included for ease of reference, and shall neither constitute a part of the Contract nor affect its interpretation.

3.4. Persons

Words importing persons or parties shall include firms, corporations and government entities.

3.5. Entire Agreement

The Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract. The various documents forming the Contract are to be taken as mutually explanatory.

3.6. Amendment

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party hereto.

3.7. Independent Contractor

3.7.1. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties hereto.

3.7.2. Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Sub contractors engaged by the Contractor in connection with the Performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Employer. Nothing contained in the Contract or in any subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Sub-contractors and the Employer.

3.7.3. Under no circumstances the sub-contractor shall claim or shall put any binding to the Employer and at all times the sub-contractor must be managed by the Contractor. The Employer shall not be responsible for any claims at any time by the Contractor in relation to the sub-contractor.

3.8. Non-Waiver

3.8.1. Subject to GCC Clause 3.9.2 below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

3.8.2. Any waiver of a party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

3.9. Severability

3.9.1. If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

3.9.2. It is stated that each paragraph, clause, sub-clause, schedule or annexure of this contract shall be deemed severable & in the event of the unenforceability of any

paragraph, clause sub-clause, schedule or the remaining part of the paragraph, clause, sub-clause, schedule annexure & rest of the contract shall continue to be in full force & effect

3.10. Country of Origin

"Origin" means the place where the materials, equipment and other supplies for the facilities are mined, grown, produced or manufactured and from which the services are provided.

4. Notices

4.1. Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, airmail post, special courier, facsimile or e-mail to the address of the relevant party by the authorized representative of the party set out in contract coordination procedure to be finalized and mutually agreed for the execution of the contract and all the communication pertaining to project shall be in accordance with the procedure with the following provisions.

4.1.1. Any notice sent shall be confirmed within two (2) days after receipt.

4.1.2. Any notice sent by facsimile or e-mail shall be deemed to have been delivered on date of its dispatch and personal delivery deemed to have been delivered on date of delivery.

4.1.3. Either party may change its postal, cable, telex, facsimile or e-mail address or addresses for receipt of such notices by ten (10) days' notice to the other party in writing.

4.2. Notices shall be deemed to include any approvals, consents, instructions, orders and certificates to be given under the Contract.

5. Governing Laws

5.1. The Contract shall be governed by and interpreted in accordance with laws in force in India. The Courts of Aligarh shall have exclusive jurisdiction in all matters arising under the Contract.

5.2. The contract must be interpreted and read under the influence of Indian Contracts Act, 1872 and all amendments as on date.

6. Settlement of Disputes

6.1. Dispute resolution

6.1.1. Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 6.1.3 and 6.1.4 I.

6.1.2. The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

6.1.3. In the event of any Dispute between the Parties, either Party may call upon an officer

of the Authority, not below the rank of CEO, as the case may be, or such other person as the Parties may mutually agree upon (the "Conciliator") to conciliate and assist the Parties in arriving at an amicable settlement thereof. Conciliator need to arrive a decision within 120 days or extended date agreed by both the parties

6.1.4. Any Dispute which is not resolved amicably by conciliation, as provided in Clause 6.1.3, shall be finally decided by a civil court of applicable jurisdiction by way of civil suit and not by arbitration.

6.1.5. Deleted

6.1.6. Deleted.

6.2. Deleted

6.3.

Not with standing any reference to the dispute herein,

6.3.1. The parties shall continue to perform their respective obligations under the Contract unless they otherwise agree.

6.3.2. The Employer shall pay the Contractor any payment due to the Contractor.

B. Subject Matter of Contract:

7. Scope of Facility

7.1. Unless otherwise expressly limited in the Technical Specifications, the Contractor's obligations cover the provision of all Plant and Equipment including spares and the Performance of all services required for the design, the manufacture (including procurement, quality assurance, construction, installation, associated civil, structural and other construction works, Pre-commissioning and delivery) of the Plant and Equipment and the installation, commissioning, completion of facilities and carrying out guarantee tests for the Facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the Technical Specifications. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labour, materials, equipment, spare parts (as specified in GCC Sub-Clause 7.3 below) and accessories; Contractor's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, loading, unloading and hauling to, from and at the Site); insurance and storage, except for those supplies, works and services that will be provided or performed by the Employer, as set forth in GCC Clause 9.

7.2. The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.

7.3. Bidder is requested to provide the list of all the spares required to maintain the facility for O&M period. Contractor agrees to supply such spare parts, as recommended or otherwise required for the effective and hassle free operation and maintenance of the Facilities. However, the contractor, with its previous experience, is to provide a list of spares including

specifications, supplier details and indicative price, as recommended by him and OEM. The contractor shall keep and maintain the inventory of such spares for the hassle free operation during the complete O&M period without additional cost to Employer. Also, at the end of penultimate year of the O&M contract, contractor shall supply a list of all recommended spares as per the operational requirement of the plant and with reference to the mean time between failures (MTBF), along with detailed specifications, supplier details and tentative cost for future purchase. The price of such spare parts shall include the breakup of taxes and duties as applicable towards purchase and supply of spare parts. Employer, at its discretion, will purchase the spare as required for future operation.

8. Contractor's responsibility

- 8.1. The Contractor shall design, procure, manufacture (including associated purchases and/or subcontracting), install, commission and complete the Facilities, carry out the Guarantee tests with due care and diligence in accordance with the Contract including the O&M for the prescribed period.
- 8.2. The contractor shall pay fees for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located for the plant establishment, which such authorities or undertakings require the Employer to obtain them in the Employer's name, are necessary for the execution of the Contract (they include those required for the Performance by both the Contractor and the Employer of their respective obligations under the Contract), including those specified in "Scope of Works and Supply by the Employer" at the Contract Agreement on providing the proper demand note letter. However, such demand notes must be provided to the Employer at least 7 days prior to the submission.
- 8.3. The Contractor confirms that it has entered into this Contract on the basis of proper examination of the data relating to the Facilities provided by the Employer and assessed by himself at the site location, after proper due diligence relating to the Facilities prior to bid submission. The Contractor acknowledges that any failure to obtain or acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Scope of Work.
- 8.4. The Contractor shall acquire, on behalf of Employer, in the employers' name, all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located that are necessary for the setting up of the plant mentioned under the Contract, including, but not limited to, entry permits for all imported Employer's Equipment (if any). In this regard, any document required from Employer shall be intimated at least 10 days prior to submission. Contractor has to ensure safe keeping of the documents and diligent use. It is the responsibility of the contractor to safe keep and return all the approvals, permits, licenses, certificates and other relevant document generated as a result of the setting up of project and O&M process to the Employer.
- 8.5. The Contractor shall acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located that are necessary for the Performance of the Contract, including, but not limited to, the right of way for the access to site and for evacuation of power generated and

net metering with Zero Export Policy related works as applicable, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Employer under GCC Sub-Clause 9 hereof and that are necessary for the Performance of the Contract.

- 8.6. Contractor shall also seek for any exemption applicable for the project as per the orders released from GOI time to time. In this regard, contractor shall be responsible to take all necessary certificates as a proof of exemptions on behalf of Employer. However, all the documents required from Employer, as needed for the process, will be provided by Employer. The demand of such documents shall be made to the Employer in at least 10 days advance.
- 8.7. The Contractor shall comply with all laws in force at the place, where the Facilities are installed and where the Installation Services are carried out. The laws will include all national, provincial, municipal or other laws that affect the Performance of the Contract and binding upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Sub-Clause 9.1 hereof.
- 8.8. Any plant, material, spares & spares inventory and services that will be incorporated in or be required for the facilities and other supplies shall have their origin as defined under GCC Clause 3.11 (Country of Origin)
- 8.9. Unless otherwise specified in the Contract or agreed upon by the Employer and the Contractor, the Contractor shall provide/ deploy sufficient, properly qualified operating and maintenance personnel; shall supply and make available all raw materials, spares, other materials and facilities; and shall perform all work and services of whatsoever nature, to properly carry out Pre-commissioning, Commissioning and Guarantee Tests, all in accordance with the provisions of "Scope of Works and Supply by the Employer" to the Contract Agreement at or before the time specified in the program furnished by the Contractor under GCC Clause 18 hereof and in the manner thereupon specified or as otherwise agreed upon by the Employer and the Contractor.

9. Employer's responsibility

- 9.1. The Employer shall be responsible for acquiring and providing legal and physical possession of the Site thereto required for the proper execution of the Contract. The Employer shall give full possession or phased possession of site and accord all rights of access thereto on or before the date(s) of LOI/ NTP or as agreed in contract agreement. In case of delay in doing so, Contractor would be entitled for suitable extension of time. However, no cost compensation would be payable due to delay in possession of land (in part of full).
- 9.2. The Employer shall facilitate the contractor in obtaining all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located for the plant establishment, which such authorities or undertakings require the Employer to obtain them in the Employer's name, are necessary for the execution of the Contract (they include those required for the Performance by both the Contractor and the Employer of their respective obligations under the Contract), including

those specified in “Scope of Works and Supply by the Employer” at the Contract Agreement on providing the proper demand note letter. However, such demand notes must be provided to the Employer at least 7 days prior to the submission.

- 9.3. If requested by the Contractor and up- on Employer’s sole discretion, the Employer shall use its best endeavours to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all local, state or national government authorities or public service undertakings that such authorities or undertakings required for the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.
- 9.4. The Employer shall be responsible for the operation of the Facilities after Completion and proper hand over of the site by contractor, in accordance with GCC Clause 26 and 27. However, the Contractor, under the O&M Contract, shall be responsible for the care and custody of the facility as per GCC Clause 26.9.

C. Payments

10. Contract Price

- 10.1. The contract price mentioned under Appendix 5: Format for Financial proposal shall be firm and shall not be subject to price variation.
- 10.2. Subject to GCC Sub-Clauses 8.2 and 9.1 hereof, the Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.
- 10.3. Contract price will be, if needed, adjusted in accordance with the provisions of GCC Clause 29.

11. Terms of Payment

- 11.1. The terms of Payment shall be as specified in SCC Clause 14. The procedures to be followed in making application for and processing payments shall be those outlined in the same SCC Clause.
- 11.2. No payment made by the Employer herein shall be deemed to constitute acceptance by the Employer of the Facilities or any part(s) thereof.

12. Bank Guarantees

12.1. Issuance of Bank Guarantees

The Contractor shall provide the Bank Guarantees specified below in favor of the Employer at the times, and in the amount, manner and form specified below.

12.2. Mobilization Advance Bank Guarantee

- 12.2.1. The Contractor shall, if required, provide a Bank Guarantee in an amount of 110% to the advance mobilization payment calculated in accordance with ITB Clause 1.2.3 of this RFP, and in the currency mentioned in ITB Clause 2.9.2, with an initial validity of up to 365 days from the date of request for the Facilities in accordance with GCC Clause 26. However, in case of delay in completion of facilities under the package, the validity of the security shall be extended by the period of such delay.

- 12.2.2. The security shall be in the form of an unconditional and irrevocable bank guarantee as per the Format provided in "Appendix 12 (a): Format of Bank Guarantee for Mobilization Advance". The Mobilization Advance shall be interest bearing. The rate of interest being the SBI base rates prevailing on the 7th day prior to the Date of opening of Techno- commercial Bids. The Mobilization Advance against Bank Guarantee shall be reduced pro- rata from every Running Account Bill/ Stage Payment under the Contract based on the value of equipment/ facilities received. The total amount of mobilization advance, including the interest levied, shall deemed to be adjusted from the running bills on pro - rata basis till the commissioning of the Project as specified in SCC Clause 14. It should be clearly understood that adjustment in the value of Bank Guarantee for Mobilization Advance shall not in any way dilute the Contractor's responsibility and liabilities under the Contract including in respect of the Facilities for which the adjustment in the value of Bank Guarantee is allowed.
- 12.2.3. The Bank Guarantee submitted against the Mobilization advance shall be essentially from any of the Banks listed at "Schedule - 1: List of Banks" supplemented at SCC of the Bidding Documents
- 12.3. Performance Bank Guarantee during EPC
- 12.3.1. The Contractor shall, within fourteen (14) days of the issue of LOI, provide Bank Guarantee(s) for the due Performance of the Contract for an amount and validity mentioned under ITB Clause 1.2.3. However, in case of delay in demonstration of the Performance Test (PR test) and Operational Acceptance, the validity of all the contract Performance Bank Guarantees shall be extended by the period of such delay plus ninety days.
- 12.3.2. The Performance Bank Guarantee shall be denominated in the currency as mentioned in the ITB Clause 2.9.2 of this RFP and shall be in the form of unconditional and irrevocable bank guarantee in the prescribed Format provided in Appendix 12(c): Format of bank guarantee for Performance security during EPC under Section-VI: Forms and formats.
- 12.3.3. The Bank Guarantee submitted against the Performance Bank Guarantee shall be essentially from any of the Banks listed at "Schedule - 1: List of Banks" supplemented at SCC of the Bidding Documents.
- 12.4. Performance Bank Guarantee during O&M or "O&M Bank Guarantee"
- 12.4.1. The contractor shall, at the time of Operational Acceptance and at the end of the 30th month of O&M, provide Bank Guarantee for the due performance under the Operation and Maintenance of the plant. The value and validity of the O&M Bank Guarantee shall be as per ITB Clause 1.2.3. The Bank Guarantee must be submitted in the "Format 12(d): Format of Bank Guarantee for the Performance during O&M" specified under Section VI: Forms and Formats.
- 12.4.2. The Bank Guarantee submitted against the O&M Bank Guarantee shall be essentially from any of the Banks listed at "Schedule - 1: List of Banks" supplemented at SCC of the Bidding Documents.

13. Taxes and Duties

- 13.1. Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its Sub-contractor or their employees by all municipal, state or national government authorities in connection with the Facilities in and outside of the country where the Site is located.
- 13.2. The Contractor shall further ensure that he endorses the GR/LR/RR in the name of Employer during transit of the equipment before the delivery of equipment is taken by Employer.
- 13.3. All taxes, duties and levies on Works Contract or civil works, if any, shall be to the contractor's account and no separate claim in this regard will be entertained by the Employer.
- 13.4. GST shall be to the contractor's account and no separate claim in this regard will be entertained by the employer for EPC portion of the contract.
- 13.5. Any variation in GST after the date of techno - commercial bid opening shall be adjusted, paid/reimbursed by the employer subject to submission of requisite documentary evidence by the bidder.
- 13.6. As regards the income tax, surcharge on income tax and any other corporate tax; the employer shall not bear any tax liability whatsoever. The Contractor shall be liable and responsible for payment of such tax, if attracted under the provisions of the law present or future and employer will make deductions at source as applicable. Any kind of Cess like Building and Other Construction worker's Cess etc to be borne by the contractor.

D. Intellectual Property

14. Copyright & Patent

- 14.1. The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are furnished to the Employer directly or through the Contractor by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party. The Employer shall however be free to reproduce all drawings, documents, specification and other material furnished to the Employer for the purpose of the contract including, if required, for operation and maintenance of the facilities.
- 14.2. The Contractor shall indemnify the Employer against third party claims of infringement of patent, trademark or industrial design rights arising from use of goods or any part thereof in India.

15. Confidential Information

- 15.1. The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in

- which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this GCC Clause 15.
- 15.2. The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement of Plant and Equipment, construction or such other work and services as are required for the Performance of the Contract.
- 15.3. The obligation of a party under GCC Sub-Clauses 15.1 and 15.2 above, however, shall not apply to that information which
- 15.3.1. Now or hereafter enters the public domain through no fault of that party
- 15.3.2. Can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto.
- 15.3.3. Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 15.4. The above provisions of this GCC Clause 15 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.
- 15.5. The provisions of this GCC Clause 15 shall survive termination, for whatever reason, of the Contract.
16. **Geological discoveries**
All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on the site where the services are performed, be deem to be the absolute property of the Employer. The Contractor shall take reasonable precautions to prevent the personnel or any other persons from removing or damaging any such article or thing and shall immediately upon the discovery thereof and, before removal, acquaint the Employer of such discovery any carry out, at the expense of the Employer, the Employer's orders as to the disposal of the same.
17. **Representatives**
- 17.1. **Project Manager / Engineer- In -Charge (EIC):**
If the Project Manager/ EIC is not named in the Contract, then within seven (7) days of the Effective Date, the Employer shall appoint and notify the Contractor in writing of the name of the Project Manager/ EIC. The Employer may from time to time appoint some other person as the Project Manager/ EIC in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. The Employer shall take reasonable care, unless unavoidable to see that no such appointment is made at such a time or in such a manner as to impede the progress of work on the Facilities. The Project Manager/EIC shall represent and act for the Employer at all times during the currency of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager/ EIC, except as herein otherwise provided. All notices, instructions, information and other communications

given by the Contractor to the Employer under the Contract shall be given to the Project Manager/ EIC, except as herein otherwise provided.

17.2. Contractor's Representative & Construction Manager

17.2.1. If the Contractor's Representative is not named in the Contract, then within seven (07) days of the Effective Date, the Contractor shall appoint the Contractor's Representative and shall request the Employer in writing to approve the person so appointed. If the Employer makes no objection to the appointment within seven (07) days of submission, the Contractor's Representative shall be deemed to have been approved. If the Employer objects to the appointment within seven (07) days giving the reason therefor, then the Contractor shall appoint a replacement within seven(07) days of such objection, and the foregoing provisions of this GCC Sub- Clause 17.2.1 shall apply thereto.

17.2.2. The Contractor's Representative shall represent and act for the Contractor at all times during the tenure of the Contract and shall give to the Project Manager/ EIC all the Contractor's notices, instructions, information and all other communications under the Contract.

17.2.3. All notices, instructions, information and all other communications given by the Employer or the Project Manager/ EIC to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.

17.2.4. The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in GCC Sub-Clause 17.2.1.

17.2.5. The Contractor's Representative may, subject to the approval of the Employer (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Employer and the Project Manager/EIC.

17.2.6. Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 17.2.5 shall be deemed to be an act or exercise by the Contractor's Representative.

17.2.7. Notwithstanding anything stated in GCC Sub-clause 17.1 and 17.2.1 above, for the purpose of execution of contract, the Employer and the Contractor shall finalize and agree to a Contract Co-ordination Procedure and all the communication under the Contract shall be in accordance with such Contract Co-ordination Procedure.

17.2.8. From the commencement of installation of the Facilities at the Site until Final Acceptance, the Contractor's Representative shall appoint a suitable person as the construction manager (hereinafter referred to as "the Construction Manager"). The Construction Manager shall supervise all work done at the Site by the Contractor and

shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper Performance of the Contract. Whenever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as his or her deputy.

17.2.9. The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations and safety. The Employer shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities.

17.2.10. If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 17.2.4, the Contractor shall, where required, promptly appoint a replacement.

18. Project Implementation

18.1. Work Schedule

Within fourteen (14) days after the date of Issue of NTP, the Contractor shall prepare and submit to the Project Manager/ EIC a detailed program of Performance of the Contract, made in the form of PERT Chart and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commission the Facilities. The program so submitted by the Contractor shall accord with the Time Schedule indicated in SCC and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager/EIC, but without modification in the Time for Completion given in the SCC and any extension granted in accordance with clause for extension of time, and shall submit all such revisions to the Project Manager/ EIC.

18.2. Progress Report

18.2.1. The Contractor shall monitor progress of all the activities specified in the work schedule referred in GCC Sub-Clause 18.1 above, and submit the progress report to the Project Manager as per the Contract Co-ordination procedure.

18.2.2. The progress report shall be in a form acceptable to the Project Manager/EIC and shall also indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.

18.2.3. If at any time the Contractor's actual progress falls behind the scheduled program, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager/ EIC, prepare and submit to the Project Manager/ EIC a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager/ EIC, of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion. If any extension thereof entitled under GCC Sub-Clause 54.1, or any extended period as

may otherwise be agreed upon between the Employer and the Contractor, Contractor shall submit the revised plan for completion of Facility accordingly.

18.3. Maintenance of Records of Weekly Progress Review Meeting at Site

The Contractor shall be required to attend all weekly site progress review meetings organized by the 'Project Manager/ EIC' or his authorized representative. The deliberations in the meetings shall inter-alia include the weekly program, progress of work (including details of manpower, tools and plants deployed by the Contractor vis-à-vis agreed schedule), inputs to be provided by Employer, delays, if any and recovery program, specific hindrances to work and work instructions by Employer. The minutes of the weekly meetings shall be recorded in triplicate in a numbered register available with the 'Project Manager/ EIC' or his authorized representative. These recordings shall be jointly signed by the 'Project Manager/ EIC' or his authorized representative and the Contractor and one copy of the signed records shall be handed over to the Contractor.

19. Subcontracting

19.1. The Contractor shall not, without the prior consent in writing of the Employer, assign or sublet or transfer its Contract in whole or in part, its obligations to perform under the Contract or a substantial part thereof, other than raw materials, or for any part of the work of which makers are named in the Contract, provided that any such consent shall not relieve the Contractor from any obligation, duty or responsibility under the Contract.

19.2. The Contractor shall notify the Employer in writing of all sub contracts awarded under the Contract if not already specified in his Bid. Such notification in its original Bid or later shall not relieve the Contractor from any liability or obligation under the Contract.

19.3. In case, the Contractor engages any Sub-Contractor to carry out a part of the work, the Sub-Contractor should have requisite Government License for carrying out such part of the work.

20. Design and Engineering

20.1. Specifications and Drawings

20.1.1. The Contractor shall execute the basic and detailed design and engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good and sound engineering practice.

20.1.2. The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Project Manager/ EIC or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.

20.1.3. The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Employer, by giving a notice of such disclaimer to the Project Manager/EIC.

20.2. Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date of bid submission shall apply unless otherwise specified.

20.3. Approval / Review of Technical Documents by Project Manager

The Contractor shall prepare list of documents as per technical specifications and furnish to the Project Manager for Approval of the same and Review of work schedule. Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval thereof.

- 20.3.1. Within ten (10) days after receipt by the Project Manager of any document requiring the Project Manager's approval, the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefor and the modifications that the Project Manager proposes.
- 20.3.2. The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good engineering practice.
- 20.3.3. If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager's approval. If the Project Manager approves the document subject to modification(s), the Contractor shall make the required modification(s), and upon resubmission with the required modifications the document shall be deemed to have been approved.
- 20.3.4. The procedure for submission of the documents by the Contractor and their approval by the Project Manager shall be as per the Contract Co-ordination procedure.
- 20.3.5. If any dispute or difference occurs between the Employer and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) thereto that cannot be settled between the parties within a reasonable period, then such dispute or difference may be settled in accordance with GCC Clause 6.0 (Settlement of Dispute) hereof. If such dispute or difference is referred as per GCC clause 6.0, the Project Manager shall give instructions as to whether and if so, how, Performance of the Contract is to proceed. The Contractor shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Arbitration upholds the Contractor's view on the dispute, then the Contractor shall be reimbursed by the Employer for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Arbitration shall decide, and the Time for Completion shall be extended accordingly.
- 20.3.6. The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.
- 20.3.7. The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the

Project Manager's approval thereof, pursuant to the provisions of this GCC Sub-Clause 20.3.

20.3.8. If the Project Manager requests any change in any already approved document and/or in any document based thereon, generally shall be taken care by the contractor if the change is not causing any major financial impact.

21. Procurement

21.1. Plant and Equipment

The Contractor shall procure and transport all the Plant and Equipment in an expeditious and orderly manner to the Site to achieve completion of activities as per schedule to enable commissioning of the Project by the scheduled commissioning date.

21.2. Transportation

The contractor shall ensure that all the plant and equipment required to complete the Facility at site, are procured and dispatched on FOR site basis. The Contractor shall at its own risk and expense transport all the Plant and Equipment and the Contractor's Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.

21.3. Packing and Marking

21.3.1. The Contractor shall be responsible for securely protecting and packing the plant & equipment as per prescribed standards in force to withstand the journey and ensuring safety of materials and also arrival of materials at destination in original condition and good for contemplated use. Packing case size & weight shall take into consideration the remoteness of the goods final destination and absence of heavy material handling facilities at all points in transit.

21.3.2. Packing lists of materials shall be provided in each package to facilitate checking up of the contents at the destination.

21.3.3. In order to import any items, associated with the Solar PV Power Project, from abroad or from any other state in India, Contractor shall have to arrange any clearance, permission, if required at his own risk, from any Government (Government of State & Government of India) or any Government (Government of State & Government of India) controlled organization for transportation of materials from manufacturing shop to delivery at Site. Necessary certificates, if so required, shall be issued by the Employer within reasonable time after getting written request from the Contractor along with the necessary documents substantiating necessity of such approvals. Contractor shall take necessary insurances to ensure safe transit. All packing material is the property of the Employer and shall be immediately deposited by the Contractor to the Employer's Store at project Site.

21.4. Storage of Equipment

The plant and equipment thus procured under the scope of the contract must be kept in safe custody till put under operation. All the spares, as required for the trouble free O&M of plant, must be kept under secure storage during O&M period.

22. Materials and Workmanship

- 22.1. All materials shall be of the best quality and workmanship capable of satisfactory operation under the operating and climatic conditions as may be specified. Unless otherwise specified, they shall conform in all respect to the latest edition of the relevant IS codes specifications wherever Indian specifications apply or IEC codes or equivalent internationally accepted standards.
- 22.2. The Contractor shall supply & deliver all equipment and materials for installation at site. The Contractor shall arrange for transportation, loading & unloading and safe storage of materials at project site at his own cost & risk.
- 22.3. If the Contractor offers equipment manufactured in accordance with other international well recognized standards (mentioned above), he shall, in that case, supply a copy in English of the Standard Specification adopted and shall clearly mention in what respect such standard specification differs from Indian Standard Specifications. The Plant, equipment, and materials offered by the Contractor should comply with one consistent set of Standards only to make the system compatible and work in harmony as far as possible, except if mentioned otherwise.

23. Installation

23.1. Tools & Tackles

The Contractor shall provide technically suitable tools and tackles for installation & erection of Plant & Machineries conforming to relevant BIS safety and technical standards for proper execution of work. The Employer, in no way, shall be responsible for supply of any tools and tackles for implementation of the work and also to carry out operation & maintenance activities.

23.2. Setting up/Supervision/Labour

23.2.1. Bench Mark:

The Contractor shall be responsible for the true and proper setting-up of the Facilities in relation to bench marks, reference marks which are mutually agreed upon by the contractor and employer. If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the satisfaction of the Project Manager.

23.2.2. Contractor's Supervision:

The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

23.2.3. Labour:

The Contractor shall provide and employ on Site in the installation of the Facilities such skilled, semi- skilled and unskilled labor as is necessary for proper and timely execution of the Contract. The Contractor is encouraged to use local labor that has the necessary skills. Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation, first aid facility and catering of all labor, local or expatriate, required for the execution of the Contract and for all payments in connection therewith. The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labour and personnel to be employed by contractor on the Site. The Contractor shall at all times during the progress of the Contract use its best endeavours to prevent any unlawful, riotous or disorderly conduct or behaviour by or amongst its employees and the labour of its Subcontractors. The Contractor shall, in all dealings with its labour and the labour of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor.

23.3. Contractor's Equipment

- 23.3.1. All equipment brought by the Contractor onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Project Manager's consent that such Contractor's Equipment is no longer required for the execution of the Contract.
- 23.3.2. Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor onto the Site.

23.4. Site Regulations and Safety

The Contractor shall have to provide necessary and adequate safety measures including personal protective equipment and precautions to avoid any accident, which may cause damage to any equipment / material or injury to workmen. The contractor, if required, will provide necessary safety training to workmen. The Employer shall not be responsible for any such accidents. Also, contractor shall engage sufficient security guards to protect Facility from any theft and unauthorized access to Site.

23.5. Site Clearance

23.5.1. Site Clearance in Course of Performance

In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, packaging material, rubbish & debris and temporary installations from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.

23.5.2. Site Clearance after Completion

After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, packaging material, rubbish & debris and temporary works & installations of any kind from the Site, and shall leave the Site and Facilities clean and safe.

23.5.3. Disposal of Scrap

The Contractor shall with the agreement of the Employer promptly remove from the site any 'Scrap' generated during Performance of any activities at site in pursuance of the Contract. The term 'Scrap' shall refer to scrap/ waste/ remnants arising out of the unpacking of equipment, construction debris, breakage of modules, fabrication of structural steel work and piping work at the project site in the course of execution of the contract and shall also include any wastage of cables during the termination process while installing the cables. The disposal of such Scrap shall vest with the Contractor for the items supplied by the Contractor and issued by Employer under this contract for installation and construction without any additional cost to the Employer. The removal of scrap shall be subject to the Contractor producing the necessary clearance from the relevant authorities (Custom, Excise etc.), if required by the law, in respect of disposal of the scrap. The liability for the payment of the applicable taxes/duties shall be that of the Contractor. The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal/disposal of scrap. The Indemnity Bond shall be furnished by contractor as per Format enclosed as Appendix 17 of Section- VI: Forms and Formats. Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the scrap to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer.

23.5.4. Watch &Ward and Lighting

The Contractor shall provide and maintain at its own expense all lighting, fencing, watch and ward wherever necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

24. Inspection & Testing

- 24.1. The Employer or its authorized representative shall have, at all time, access to the Contractor's premises and also shall have the power, at all times, to inspect and examine the materials and workmanship of project work during its manufacture, shop assembly and testing. If part of the plant is required to be manufactured in the premises other than the Contractor's, the necessary permission for inspection shall be obtained by the Contractor from the Employer or his duly authorized representative.
- 24.2. The Employer shall have the right to serve notice in writing to the Contractor on any grounds of objections, which he may have in respect of the work. The Contractor has to forthwith take necessary actions to remove the cause to the complete satisfaction of the Employer

otherwise, the Employer at its liberty may reject all or any component of plant or workmanship connected with such work.

- 24.3. The Contractor shall issue request letter to the Employer or its authorized representative for testing of any component of the plant, which is ready for testing at least 07 days in advance from the date of actual date of testing at the premises of the Contractor or elsewhere. However, the Employer at its own discretion may waive the inspection and testing in writing under very special circumstances. In such case, the Contractor may proceed with the tests which shall be deemed to have been made in the Employer presence, and it shall forthwith forward two sets of duly certified copies of test results and certificates to the Employer for approval. The Contractor, on receipt of written acceptance from the Employer, may dispatch the equipment for erection & installation.
- 24.4. For all tests to be carried out, whether in the premises of the Contractor or any Sub-Contractor, the Contractor, shall provide labor, materials, electricity, fuel, water, stores, apparatus and instruments etc. free of charge as may reasonably be demanded to carry out such tests of the plant in accordance with the Contract. The Contractor shall provide all facilities to the Employer or its authorized representative to accomplish such testing.
- 24.5. The Employer or his authorized representative shall have the right to carry out inward inspection of the items on delivery at Site and if the items have been found to be not in line with the approved specifications, shall have the liberty to reject the same.
- 24.6. If Employer desires, testing of any component(s) of the plant be carried out by an independent agency. The inspection fee, if any, shall be paid by the employer. However, the contractor shall render all necessary help to Employer whenever required free of charge.
- 24.7. The Contractor has to provide the necessary testing reports to the Employer as and when required.
- 24.8. Neither the waiving of inspection nor acceptance after inspection by the Employer shall, in anyway, absolve the Contractor of the responsibility of supplying the plant and equipment strictly in accordance with specification and drawings etc.

25. Authorized Test Centre's for test certificates

The PV modules/ inverters/ cables and other Balance of system equipment deployed in the solar PV power plant shall have valid test certificates for their qualification as per above specified IEC/ IS Standards by one of the NABL Accredited Test Centers in India. In case of module types/ equipment for which such Test facilities may not exist in India, test certificates from reputed ILAC Member body accredited Labs in abroad (with proof of accreditation) will be acceptable.

26. Commissioning and Completion of the Facilities

- 26.1. As soon as installation of the Facilities has, in the opinion of the Contractor, been complete as specified in the Technical Specifications, excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer (Project Manager/ EIC) in writing to witness the pre- commissioning of the facility.
- 26.2. As soon as all works in respect of Pre-commissioning are completed and, in the opinion of the Contractor, the Facilities is ready for Commissioning, the Contractor shall so notify the

- Project Manager in writing. The Contractor shall commence Commissioning of the facilities as per the GCC Sub - Clause 26.3.
- 26.3. Commissioning of the Facilities shall be completed by the Contractor as per procedures detailed in the Technical Specifications and in the presence of the Project Manager or the representatives of the employer.
- 26.4. If the Project Manager notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies, and shall repeat the procedure described in GCC Sub- Clause 26.2.
- 26.5. If the Project Manager is satisfied that the Facilities have reached Completion, the Project Manager shall, within seven (7) days after receipt of the Contractor's repeat notice, issue a Completion Certificate stating that the Facilities have reached Completion as at the date of the Contractor's repeat notice.
- 26.6. If the Project Manager is not so satisfied, then it shall notify the Contractor in writing of any defects and/or deficiencies within seven (7) days after receipt of the Contractor's repeat notice, and the above procedure shall be repeated.
- 26.7. If the Project Manager fails to issue the Completion Certificate and fails to inform the Contractor of any defects and/or deficiencies within fourteen (14) days after receipt of the Contractor's notice under GCC Sub-Clause 26.2 or within seven (7) days after receipt of the Contractor's repeated notice under GCC Sub-Clause 26.3, or if the Employer makes use of the Facilities, then the Facilities shall be deemed to have reached Completion as of the date of the Contractor's notice or repeated notice, or as of the Employer's use of the Facilities, as the case may be.
- 26.8. As soon as possible after Completion, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Employer will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.
- 26.9. Upon Completion, commissioning and successful demonstration of the PR test, the contractor shall be responsible for the care and custody of the Facilities, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof for the agreed duration of operation and maintenance as stipulated and mutually agreed terms and conditions.
27. Guarantee Test and Operational Acceptance
- 27.1. Functional Guarantees
- 27.1.1. The Contractor guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees specified under Technical Specifications, subject to and upon the conditions therein specified.
- 27.1.2. If, for reasons attributable to the Contractor, the guaranteed level of the Functional Guarantees specified under Technical Specifications are not met either in whole or in part, the Contractor shall, within a mutually agreed time, at its cost and expense make such changes, modifications and/ or additions to the Plant or any part thereof as may be necessary to meet such Guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall seek the Employer's consent to repeat the Guarantee Test. If the level of the specified

Functional Guarantee parameters, as demonstrated even during repeat of the Guarantee Test(s), are outside the acceptable shortfall limit, the Employer may at its option, either

- Reject the Equipment and advise immediate replacement to suit the provisions of Technical Specification without any additional cost or;
- Reject the Equipment and recover the payments already made, or;
- Terminate the Contract and recover the payments already made, or;
- Accept the equipment after levy of liquidated damages in accordance with the provisions specified.

27.2. Plant Performance Guarantee Test

The plant Performance Guarantee (as mentioned in TS) Test shall be conducted by the Contractor after Commissioning of the Facilities to ascertain whether the Facilities or the relevant part(s) can attain the Functional Guarantees specified in the Contract Documents. The Contractor's and Project Manager's advisory personnel shall attend the Guarantee Test. The Employer shall promptly provide the Contractor with such information as the Contractor may reasonably require in relation to the conduct and results of the Guarantee Test (and any repeats thereof). The detailed procedure for Performance Guarantee Test shall be carried out as per procedure laid down in Section V - Technical Specifications.

27.3. Operational Acceptance

27.3.1. Operational Acceptance shall occur in respect of the Facilities when:

- The Plant Performance Guarantee Test (PR Test) in accordance with the procedure specified in Section V - Technical Specifications has been successfully completed and the Functional Guarantees are met; or
- The Contractor has paid the liquidated damages, if any, specified in GCC Clause 34 hereof;

27.3.2. At any time after any of the events set out in GCC Sub- Clause 27.3.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Bidding Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as at the date of such notice.

27.3.3. The Project Manager shall, after consultation with the Employer, and within thirty (30) days after receipt of the Contractor's notice, issue an Operational Acceptance Certificate.

27.3.4. If within thirty (30) days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities shall be deemed to have been accepted as at the date of the Contractor's said notice.

27.3.5. Subsequent to Operational Acceptance of the Facilities by the Employer and within 10 days of the commencement of the O&M period, the Contractor shall furnish an Indemnity Bond as per Appendix 18 of Section VI: Forms and Formats which is to be executed by the contractor for the plant handed over by Employer for performance of its O&M Contract (Entire Solar Photo Voltaic Plant).

27.4. Final Acceptance

27.4.1. Final Acceptance shall occur in respect of the Facilities when:

- The plant have achieved the Operational acceptance and served the O&M for the period stipulated under the contract agreement; and
- All the contractors' liabilities under the O&M contract have been satisfied; and
- Contractor has provided the list of recommended spares with detailed specification, source and price for further procurement; and
- The Contractor has paid the liquidated damages, if any, as specified in SCC Clause 25 thereto;

27.4.2. At any time after the events set out in GCC Sub - Clause 27.4.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of Final Acceptance Certificate in the form provided in the Bidding Documents or in another form acceptable to the Employer in respect of the Facilities or the part thereof specified in such notice as at the date of such notice.

27.4.3. The Project Manager shall, after consultation with the Employer, and within thirty (30) days after receipt of the Contractor's notice, issue Final Acceptance Certificate.

27.4.4. If within thirty (30) days after receipt of the Contractor's notice, the Project Manager fails to issue the Final Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Final Acceptance Certificate, the Facilities shall be deemed to have been accepted as at the date of the Contractor's said notice.

27.4.5. The O&M contract period may further be extended for minimum period of 5 years as per mutually agreed terms and conditions. The contractor is allowed to submit his intent at the time of Final acceptance.

28. Inter-changeability

All the parts shall be made accurately to applicable Standards and specification so as to facilitate replacement and repairs. All corresponding parts of similar apparatus shall be inter-changeable.

29. Power to Vary or Omit Work

29.1. No alterations, amendments, omissions, additions, subtractions, or variations of the work (hereinafter referred to as "variation") under the contract shall be made by the Contractor except as directed by the Employer.

29.2. If any suggested variations would, in the opinion of the Contractor, if carried out would prevent it from fulfilling any of its obligations or guarantees under the Contract, it shall notify the Employer thereof in writing and the Employer shall decide forthwith whether or not the same shall be carried out and if Employer confirms its instruction, the Contractor shall carryout the work as per the instructions.

29.3. The differences in cost, if any, occasioned by such variations, shall be added to or deducted from the specific Contract Price i.e., Supply, Erection and Civil Works, as the case may be.

29.4. In the event of the Employer requiring any variations; reasonable and proper notice shall be given to the Contractor as well, to enable it to make arrangements accordingly, and in cases where goods or materials are already prepared/ procured, or any designs, drawings or

patterns made or work done that require to be altered, a reasonable sum in respect thereof shall be allowed by the Employer.

- 29.5. In every case in which the contractor shall receive instructions from the Employer for carrying out any work, which either then or later, will in the opinion of the Contractor involve a claim for additional payment, the Contractor shall as soon as reasonably possible, not later than 15 days after the receipt of such instructions, inform in writing to the Employer of such claim for additional payment.
- 29.6. The quantity of earthwork with soil for land development after dewatering is to be assessed as per the actual site requirement. The bidder has to assess the earthwork and associated work involved and make his bid judiciously. No extra claim on account for the same shall be admissible under any circumstances.
- 29.7. In any case, if the Bidder deviates from the design or specification as defined in the RFP document, the Bidder has to submit the deviation sheet along with the Bid.

30. Negligence

- 30.1. If the Contractor neglects to manufacture or supply or construct the plant and equipment with due diligence and with expeditiousness or refuses or neglects to comply with any reasonable order given to it in writing by the Employer or contravenes any provisions of the Contract, the Employer may give (7) seven days' notice in writing to the Contractor, to make good the failure, neglect or contravention complained of. If the Contractor fails to comply with the notice within reasonable time depending on the nature of affected work, which is evaluated by the Project Manager from the date of serving thereof, in the event of failure, neglect or contravention capable of being made good within that time, then in such case, if the Employer thinks fit it may get the work done at the risk and cost of the contractor
- 30.2. If the cost of executing the work as aforesaid shall exceed the balance due to the Contractor and the Contractor fails to make good such deficiency, the Employer shall take action in the manner it may consider deemed fit in terms of the Contract.

31. Statutory Responsibility

The Contractor shall comply with all applicable laws or ordinances, codes, approved standards, rules, and regulations and shall procure and maintain their validity along with all necessary Municipal, Panchayat and Government permits & licenses etc. at its own cost.

32. Insolvency

The Employer may at any time, by notice in writing, summarily terminate the Contract without compensation to the Contractor in the following events:

If the Contractor being an individual or a firm or any partner thereof shall at any time, be adjudged insolvent or shall have a receiver appointed from administration against it or shall take any proceeding for compensation under any Insolvency Act for the time being in force or make any conveyance or assignment with its creditors or suspend payment or if the firm be dissolved under Partnership Act, or court or a Receiver, Liquidator or manager on behalf of the Debenture holder is appointed or circumstances have arisen which entitle the Court or debenture holder to appoint a Receiver, Liquidator or Manager.

33. Delay in Execution or Failure to Supply

- 33.1. Any delay in completion of the work, shall attract liquidated damage, for late completion as per Liquidated Damage GCC Clause 34.
- 33.2. If the Contractor fails to deliver the plant or fails to start the work within specified time frame after signing of Contract Agreement or leave the work Site after partial execution of the work, Employer shall have the right to get the work done through any other agency at the risk and cost of the Contractor. Further to this, Employer may, without prejudice to the right of the Employer to recover damages for breach of trust of the Contract, may impose liquidity damages on the contractor as per GCC Clause 34.

34. Liquidated Damages

- 34.1. The project is scheduled to be commissioned within the period specified in SCC from the date of issue of LOI/ NTP.
- 34.2. In case the Contractor fails to achieve successful commissioning of plant by the due date indicated in schedule as mentioned in SCC Clause 8, the Employer shall levy Liquidated Damages on the Contractor in the following lines:
- a) For first 45 days: @ 0.10% of the Contract Value of the remaining work per day of delay, as assessed in accordance with the certified payments subtracted from the total contract value.
 - b) For delay beyond 45 days mentioned at (a) above and up to 90 days from the scheduled commissioning date, LD shall be levied @ 0.1% of the total Contract Value per day. However, total amount on account of LD shall be limited to maximum of 10% (ten percent) of the total contract value.
- 34.3. The project is to be commissioned within the stipulated time period mentioned at SCC. In case of delay for more than the maximum time period allowed (including LD), the Employer after due assessment may initiate the appropriate action including cancellation and getting the work completed by other suitable agency at the risk and cost of the contractor. For calculation of liquidated damages, the month shall be considered consisting of 30 days and date of LOI/ NTP as reference date

35. Defect Liability

- 35.1. The Contractor must warrant that the Facilities shall be free from defects in the design, engineering, materials and workmanship of the Plant and Equipment supplied and of the work executed.
- 35.2. If it shall appear to the Project Manager that any supplies have been executed with unsound, imperfect or unskilled workmanship, or with materials of any inferior description, or that any materials or articles provided by the Contractor for the execution of Contractor are unsound or otherwise not in accordance with the Contract, the Contractor shall on demand in writing inform the Project Manager or its authorized representative specifying the item, materials or articles complained of, notwithstanding that the same may have been inadvertently passed, certified and paid for. The Contractor shall forthwith rectify or remove and replace that item so specified and provide other proper and suitable materials or articles at its own charge and cost, and in the event of failure to do so within a period to be specified by the Project Manager in its demand aforesaid, the Project Manager may on expiry of notice

period rectify or remove and re-execute the time or remove and replace with others, the materials or articles complained of as the case may be at the risk and expense in all respects of the Contractor. The decisions of the Project Manager in this regard shall be final and binding.

35.3. The Contractor shall also be undertaking the operation and maintenance of the Facility and consequently shall be required to rectify any defects that emerge during the operation of the Facilities for the entire term of this Contract.

35.4. The Defect Liability Period shall be of twenty four (24) months from the date of completion of the Facilities, during which the Contractor must repair any defect identified by the Project Manager/ EIC after commissioning of the plant. All the expenses to repair the defects shall be borne by the contractor and no additional cost charged to the Employer (“Defects Liability Period”).

35.5. If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant and Equipment supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good (as the Contractor shall, at its discretion, determine) such defect as well as any damage to the Facilities caused by such defect.

35.6. Furthermore, without prejudice to the generality of the foregoing, it is clarified that the Contractor shall also be responsible for the repair, replacement or making good of any defect, or of any damage to the Facilities arising out of or resulting from any of the following causes:

- Improper operation or maintenance of the Facilities by the Contractor during operation and maintenance of the Facility; and
- Operation of the Facilities outside specifications of the Facilities.

35.7. The Employer shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Employer shall afford all reasonable opportunity for the Contractor to inspect any such defect.

35.8. The Employer shall provide the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this Clause 35 (Defect Liability). The Contractor may, with the consent of the Employer, remove any Plant and Equipment or any part of the Facilities that are defective from the Site, if the nature of the defect and/or any damage to the Facilities caused by the defect is such that repairs cannot be expeditiously carried out at the Site.

35.9. If the repair, replacement or making good is of such a nature that it may affect the efficiency of the Facilities or any part thereof, the Employer may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests.

35.10. If such part fails the tests, the Contractor shall carry out further repair, replacement or making good (as the case may be) until that part of the Facilities passes such tests. The tests, in character, shall in any case be not inferior to what has already been agreed upon by the Employer and the Contractor for the original equipment/part of the Facilities.

- 35.11. If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than seven (7) days), the Employer may, following a notice to the Contractor, proceed to do such work, and the costs incurred by the Employer in connection therewith shall be paid to the Employer by the Contractor or may be deducted by the Employer from any monies due to the Contractor or claimed under the Performance Guarantee, without prejudice to other rights, which the Employer may have against the Contractor in respect of such defects.
- 35.12. If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons. Upon correction of the defects in the Facilities or any part thereof by repair/replacement, such repair/replacement shall have the defect liability period of twenty four (24) months from such replacement.
- 35.13. In addition, the Contractor shall also provide an extended warranty for any such component of the Facilities and for the period of time. Such obligation shall be in addition to the defect liability specified under Clause 35.2.
36. **Termination by default and Breach of Contract**
Employer may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Contractor, terminate the Contract in whole or in part:
- 36.1. If the Contractor fails to deliver or execute any or all of the goods within the time period(s) under the Contract or any extension thereof granted by the Employer pursuant to the clause for Delay in Execution or Failure to Supply or, if the Contractor fails to perform any other obligations(s) under the Contract.
- 36.2. In the event the Employer terminates the contract in whole or in part, pursuant to above, the Employer may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered, the Contractor shall be liable to the Employer for any excess costs for such similar goods. However, the Contractor shall continue the Performance of the Contract to the extent not terminated.
- 36.3. In case of termination of the Contract due to breach of contract, the Contractor may be debarred from participation in future tenders by Employer, through a communication in writing for a period to be specified therein.
- 36.4. In case the termination of contract in accordance with GCC Clause 32 thereto.
37. **Breach & Cancellation of the Contract**
- 37.1. In case of non-Performance, in any form or change of the covenant and conditions of the Contract by the Contractor, Employer shall have the power to annul, rescind, cancel or terminate the order and upon its notifying in writing to the Contractor that it has so done, this Contract shall absolutely determine. The decision of the Employer in this regard shall be final and binding.
- 37.2. The following conditions shall contribute to the breach of contract:

- If the Contractor fails to deliver any or all of the Goods within the period(s) specified in the Contract; or
- If the Contractor fails to perform any of their obligations(s) under the Contract, and
- If the Contractor, in either of the above circumstances does not rectify his failure within a period of 30 (Thirty) days (or such longer period as the Employer may authorize in writing) after receipt of the default notice from the Employer

38. Force Majeure

38.1. A 'Force Majeure' means any event or circumstance or combination of events those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

- Act of God, including, but not limited to lightning, fire not caused by contractors' negligence and explosion (to the extent originating from a source external to the site), earthquake (above 7.0 magnitude on Richter Scale), volcanic eruption, landslide, unprecedented flood, cyclone, typhoon or tornado;
- Any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action, quarantine;
- Radioactive contamination or ionizing radiation originating from a source in India or resulting from another Force Majeure Event mentioned above.

38.2. Force Majeure Exclusions

Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

- Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;
- Delay in the performance of any contractor, sub-contractor or their agents;
- Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
- Strikes at the facilities of the Contractor / Affected Party;
- Insufficiency of finances or funds or the agreement becoming onerous to perform; and
- Non-performance caused by, or connected with, the Affected Party's:
 - Negligent or intentional acts, errors or omissions;
 - Failure to comply with an Indian Law; or
 - Breach of, or default under this Contract Agreement.
- Normal rainy seasons and monsoon

38.3. In the event of either party being rendered unable by Force Majeure to perform any obligation required to be performed by them under this Contract, relative obligation of the party affected by such Force Majeure shall be treated as suspended during the period which the Force Majeure clause last.

- 38.4. Upon occurrence of such causes, the party alleging that it has been rendered unable as aforesaid, thereby, shall notify the other party in writing by registered notice within 48 (forty eight) hours of the alleged beginning thereof giving full particulars and satisfactory evidence in support of its claim. Further, within 7 (seven) days, the Contractor will furnish a detailed Contingency Plan to overcome the effects of the incident and bring the project on its schedule after cessation of the effect of Force Majeure.
- 38.5. The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.
- 38.6. Time for Performance of the relative obligation suspended by the force majeure shall stand extended by the period for which such Force Majeure clause lasts.
- 38.7. If works are suspended by Force Majeure conditions lasting for more than two months, the Employer shall have the option of cancelling this Contract in whole or part thereof, at its discretion.
- 38.8. The Contractor will not be entitled to claim any compensation for Force Majeure conditions and shall take appropriate steps to insure its men and materials utilized by it under the Contract.
39. Insurance
- 39.1. During the Contract period, i.e., during Construction, all insurance related expenses shall be borne by the Contractor. The goods supplied under the Contract shall be fully insured against the loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in such a manner that Employer shall not incur any financial loss, as long as the plant continues to remain under the custody of the Contractor. Contractor has to provide a seamless insurance for the contract duration.
- 39.2. In case of any loss or damage or pilferage or theft or fire accident or combination of the said incidents etc. under the coverage of insurance, the Contractor shall lodge the claim as per rules of insurance. Any FIR required to be lodged to local Police Station shall be the responsibility of the Contractor.
- 39.3. The Contractor shall arrange to supply/ rectify/ recover the materials even if the claim is unsettled for timely completion of the project. The final financial settlement with the insurance company shall rest upon the Contractor.
- 39.4. In case of any delay of the project attributable to the Contractor, the Contractor himself in consultation with Employer should take the extension of insurance. Any financial implications shall, however, be borne by the Contractor.
- 39.5. The Contractor should arrange for providing insurance coverage to its workmen under Workmen's Compensation Act or similar Rules and Acts as applicable during execution of work for covering risk against any mishap to its workmen. The Contractor shall also undertake a Third Party Insurance. The Employer will not be responsible for any such loss or mishap.
- 39.6. All other insurance like In - transit insurance (Marine/ Cargo/ others as applicable), Contractor All Risk, Erection All Risk, workmen compensation , third party liability, insurance against theft and acts of GOD and others as required for the Construction and O&M of the

plant and to indemnify the Employer/ equipment/ material and resources shall be borne by the Contractor. Fire insurance is to be arranged by the Contractor up to the years of O&M of the Contract.

- 39.7. Employer shall be named as co - insured under all insurance policies taken out by the contractor pursuant to GCC Clause 39, except for the workmen compensation, third party liability and Employer's liability insurances. Also, Contractors' sub - contractor shall be named as co - insured under all insurances taken out by the contractor pursuant to GCC Clause 39 except for Cargo insurance, workmen compensation insurance and Employer's liability insurance. All insurers' rights of subrogation against such co - insured for losses or claims arising out of the performance of the contract shall be waived under such policies.
- 39.8. All the insurance cover taken for the construction and O&M period shall be seamless in nature.
- 39.9. The insurance are to be suitably taken for the activity/ act which is required to cover all the risks associated to the activity / act. The contractor shall be responsible to take suitable insurance till the completion of the O&M contract and indemnify the Employer from all associated risks whatsoever.
40. **Statutory Acts, Rules and Standards**
The work shall be executed in conformity with the relevant standard of Bureau of Indian Specification (or equivalent International Standard), Indian Electricity Act 2003, Indian Electricity Rules 2005 (as amended up to date), Explosive Act 1948, Petroleum Act 1934, National Building Code, Hazardous Waste Management Rules 2009, e - waste (Management & Handling) rules 2011 and relevant Rules/ acts in vogue at the time of execution including operation & maintenance period.
41. **Hazardous Material**
Any hazardous material used during construction or used as part of the plant has to be taken back by the supplier for recycling or dumping purpose after its operating / working life, so that it may not affect the environment or any living being. Bidder(s) have to comply with State Pollution Board regulation.
42. **Stoppage of Work**
Employer shall not be responsible and not liable to pay any compensation due to stoppage of work as a reaction from local public due to any undue action on the part of the Contractor causing annoyance to local people.
43. **Hindrance Register**
The Contractor may also maintain a Hindrance Register where reasons for delay/ fault may be recorded from time to time and at the time of occurrence of the hindrance and get it duly certified by the Project Manager or his authorized representative.
44. **Manuals**
The Contractor shall supply all necessary erection and commissioning manuals, O&M manuals etc. as and when required. Six sets of test results, manuals etc. shall be submitted by the Contractor on completion of the work to the employer.

45. Delivery of Equipment

- 45.1. The Contractor shall deliver the equipment of the plant and machineries in accordance with the terms of the Contract at the time(s) to the place(s) and in the manner specified in the Contract. The Contractor shall comply with instructions that may be given by the Employer from time to time regarding the transit of the plant and material.
- 45.2. Notification of delivery or dispatch in regard to each and every consignment shall be made to the Employer immediately after dispatch or delivery from the manufacturing works. The Contractor shall supply to the consignee Invoice in triplicate and packing account of all stores delivered or dispatched by him.
- 45.3. In case of any occurrence of loss or damage in transit, it shall be the liability of the Contractor to initiate or pursue the claim with insurance company. It should take immediate steps to repair the damaged apparatus or replacement thereto.

46. Liabilities during Transit

All the supplies mentioned/ required under this RFP shall be FOR destination basis. The Contractor shall be responsible for loss, damages or depreciation to goods or of plant, equipment, and machineries up to delivery at Site. The replacement of the affected item shall also be carried out by the contractor to meet the performance of the contract within the specified time.

47. Deduction from Contract Price

- 47.1. All costs, claims, damages or expenses, which the Employer may have paid for which the Contractor is liable, will be deducted by the Employer from deposited Performance Bank Guarantee (s) or from any money due or which become due to him under this Contract or any contract are being executed elsewhere with the Employer.
- 47.2. Any sum of money due and payable to the Contractor, as per the Contract Agreement, may be appropriated by the Employer and set off against any claim of the Employer, for the payment of a sum of money arising out of or under any other contract made by the Contractor with the Employer. It is an agreed term of the Contract that the sum of money, withheld or obtained under this clause by the Employer, will be kept withheld or retained as such by the Employer or till the claim arising out of in the same Contract is either mutually settled or determined by the arbitrator, or by competent court, as the case may be, and that the Contractor shall have no claim for interest or damages whatsoever on this account or any other account in respect of any sum of money withheld or retained under this clause and duly notified as such to the Contractor.
- 47.3. The generation LD is to be recovered from the payment due. If the LD is greater than the payment due, then O&M performance BG will be encashed for balance amount. It will be the responsibility of the contractor to have the desired performance BG for O&M to be made available at the end of every year till the completion.

48. Warranty / Guarantee

- 48.1. PV modules used in grid connected Rooftop Solar Power Plants must be warranted for peak output wattage, which should not be less than 90% at the end of 10 years and 80% at the end of 25 years.

- 48.2. Deleted.
- 48.3. The mechanical structures, electrical works and overall workmanship of the grid connected Solar Power Plant must be warranted for a minimum of 10 years.
- 48.4. The Contractor must ensure that the goods supplied under the Contract are new, unused and of most recent or current models and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.
- 48.5. The warranty / guarantee period shall be as follows:
- 48.5.1. Solar PV Modules & Flotation Device/Floats: Modules shall be warranted for a minimum period of 25 years in the Bidder's detailed Warranty / Guarantee certificate. Flotation Device/Floats shall be warranted for a minimum period of 25 years in the Bidder's detailed Warranty / Guarantee certificate
- 48.5.2. Power Conditioning Units (PCU)/ Inverters: PCUs shall be warranted for the minimum period of 10 years or guarantee period provided by the OEM, whichever is higher.
- 48.5.3. Transformers, associated switch gear and others: Bidder must furnish in detail its warranties / guarantees for these items.
- 48.6. During the period of Warranty / Guarantee the Contractor shall remain liable to replace any defective parts, that becomes defective in the plant, of its own manufacture or that of its sub-Contractors, under the conditions provided for by the Contract under and arising solely from faulty design, materials or workmanship, provided such defective parts are not repairable at Site. After replacement, the defective parts shall be returned to the Contractors works at the expense of the Contractor unless otherwise arranged.
- 48.7. At the end of guarantee period, the Contractor's liability shall cease. In respect of goods not covered by the GCC Sub Clause 48.5, the Employer shall be entitled to the benefit of such guarantee given to the Contractor by the original Contractor or manufacturer of such goods.
- 48.8. During the Operation & Maintenance and guarantee period, the Contractor shall be responsible for any defects in the work due to faulty workmanship or due to use of sub-standard materials in the work. Any defects in the work during the guarantee period shall therefore, be rectified by the Contractor without any extra cost to the Employer within a reasonable time as may be considered from the date of receipt of such intimation from the Employer failing which the Employer reserves the right to take up rectification work at the risk and cost of the Contractor.
- 48.9. If any extended warranty/guarantee is required beyond the warranty/guarantee period as parts of terms and conditions of the bid, the same has to be arranged by the bidder at their cost, if necessary.
49. **Final Bill/ Final Due Payment**
The final bill relating to the EPC Contract or its parts viz. Supply, Erection and Civil Works contract, shall be prepared only after the Guaranteed Performance of the plant has been observed. It will include the adjustments of all claims against the Contractor by the Employer and awarded in its favor by the adjudicator or arbitrator, as the case may be, up to the date of preparation of the final bill.
50. **Operation and Maintenance**
50.1. The Operation and Maintenance shall be comprehensive. The maintenance service provided shall ensure project functioning of the Solar PV system as a whole and Power Evacuation

System to the extent covered in the Contract. All preventive / routine maintenance and breakdown / corrective maintenance required for ensuring maximum uptime shall have to be provided. Accordingly, the Comprehensive Operation & Maintenance shall have two distinct components as described below:

50.1.1. Preventive / Routine Maintenance:

This shall be done by the Contractor regularly and shall include activities such as cleaning and checking the health of the Solar PV system, cleaning of module surface, tightening of all electrical connections, and any other activity including the associated civil works, as mentioned in TS Clause 3, wear and tear that may be required for proper functioning of the Solar PV system as a whole. Necessary maintenance activities, Preventive and Routine for Transformers and associated switch gears and transmission line also shall be included.

50.1.2. Breakdown / Corrective maintenance:

Whenever a fault occurs, the Contractor has to attend to rectify the fault & the fault must be rectified within the 48 hours from the time of occurrence of fault, failing which the Contractor will be liable for additional liquidated damages as per reference to the generation parameters accumulated in similar/ associated equipment of the plant (for eg. if a block consists of 4 inverters and one inverter is down for more than 48 hours, then the generation for faulty inverter shall be calculated as the average of accumulated generation for the other 3 inverters over the 48 hours duration of fault as the deemed generation) and the LD shall be levied on the deemed generation, 1.5 times of the prevailing tariff. The contractor must maintain all the records pertaining to all such faults and necessary measures taken.

50.2. The date of Comprehensive Operation & Maintenance Contract period shall begin on the date of Successful demonstration of guaranteed PR i.e., Operational acceptance. However, operation of the Power Plant means operation of system as per bid and workmanship in order to keep the project trouble free covering the guarantee period.

51. Risk Purchase

If the Contractor fails, on receipt of the LOI, to take up the work within a reasonable period or leave the work Site after partial execution of the work, the Employer shall have the liberty to get the work done through other agency at the Contractor's own risk and additional cost if any has to be borne by the Contractor. If the situation, so warrants, to compel the Employer to cancel the LOI placed on the Contractor, the Contractor shall be liable to compensate the loss or damage, which the Employer may sustain due to reasons of failure on Contractor's part to execute the work in time.

52. Unforeseen/ Differing site Conditions

52.1. If, during the execution of the Contract, the Contractor shall encounter on the Site any physical conditions (other than climatic conditions) or artificial obstructions that could not have been reasonably foreseen prior to the date of the Contract Agreement by an experienced contractor on the basis of reasonable examination of the data relating to the Facilities, and on the basis of information that it could have obtained from a visual inspection of the Site (if access thereto was available) or other data readily available to it relating to the Facilities, and if the Contractor determines that it will in consequence of such conditions or obstructions incur additional cost and expense or require additional time to perform its

obligations under the Contract that would not have been required if such physical conditions or artificial obstructions had not been encountered, the Contractor shall promptly, and before performing additional work or using additional Plant and Equipment or Contractor's Equipment, notify the Project Manager in writing of

- The physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen

The additional work and/or Plant and Equipment and/ or Contractor's Equipment required, including the steps which the Contractor will or proposes to take to overcome such conditions or obstructions

- The extent of the anticipated delay
- The additional cost and expense that the Contractor is likely to incur and the breakup of the same.

On receiving any notice from the Contractor under this GCC Sub- Clause 52.1, the Project Manager shall consult and decide upon the actions to be taken to overcome the physical conditions or artificial obstructions encountered. Following such consultations, the Project Manager shall instruct the Contractor of the actions to be taken.

52.2. Any reasonable additional cost and expense incurred by the Contractor in following the instructions from the Project Manager to overcome such physical conditions or artificial obstructions referred to in GCC Sub-Clause 52.1 shall be paid by the Employer to the Contractor as an addition to the Contract Price.

52.3. If the Contractor is delayed or impeded in the Performance of the Contract because of any such physical conditions or artificial obstructions referred to in GCC Sub-Clause 52.1, the Time for Completion shall be extended in accordance with GCC Clause 54.

53. [Change in Laws and Regulations](#)

If, prior to the date of Bid submission, in the country where the Site is located, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Contractor and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the Performance of any of its obligations under the Contract. However, these adjustments would be restricted to direct transactions between the Employer and the Contractor/assignee of Foreign Contractor (if applicable). This adjustment shall not be applicable on procurement of raw materials, intermediary components etc. by the Contractor and shall also not be applicable on bought out items dispatched directly from sub- vendor works to site. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable.

54. Extension of Time for Completion

- 54.1. The Time(s) for Completion specified in the SCC shall be extended if the Contractor is delayed or impeded in the Performance of any of its obligations under the Contract by reason of any of the following:
- 54.1.1. Any occurrence of Force Majeure as provided in GCC Clause 38 (Force Majeure), unforeseen/ differed site conditions as provided in GCC Clause 52 (Unforeseen/ differed site Conditions).
 - 54.1.2. Any changes in laws and regulations as provided in GCC Clause 53 (Change in Laws and Regulations) or by 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.
 - 54.1.3. No cost compensation will be payable during the extension of time (whatsoever the reason). Only time extension will be allowed.
- 54.2. Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Employer and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Employer's estimate of a fair and reasonable time extension, then the matter will be settled in accordance with the provisions of GCC Sub-Clause 6.1 (Adjudicator).
- 54.3. The Contractor shall at all times use its reasonable efforts to minimize any delay in the Performance of its obligations under the Contract.
- 54.4. The Contractor shall be required to attend all weekly site progress review meetings organized by the 'Project Manager' or his authorized representative. The deliberations in the meetings shall include the weekly program, progress of work (including details of manpower, tools and plants deployed by the Contractor vis-à-vis agreed schedule), inputs to be provided by Employer, delays, if any and recovery program, specific hindrances to work and work instructions by Employer. The minutes of the weekly meetings shall be recorded in triplicate in a numbered register available with the 'Project Manager' or his authorized representative. These recordings shall be jointly signed by the 'Project Manager' or his authorized representative and the Contractor and one copy of the signed records shall be handed over to the Contractor.

55. Care of Facilities

The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities pursuant to GCC Clause 18 or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to GCC Clause 35 (Defect Liability).

56. Contractor Performance & Feedback and Evaluation System

The Employer has in place an established 'Contractor Performance and Feedback System' against which the Contractor's Performance during the execution of Contract shall be evaluated on a continuous basis at regular intervals. In case, the Performance of the Contractor is found unsatisfactory on any of the following four parameters, the Contractor shall be considered ineligible for participating in future tenders for a period as may be decided by the Employer:

- Financial Status
- Project Execution and Project Management Capability
- Engineering & QA Capability
- Claims & Disputes

57. Documents constituting the Contract

The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read construed as an integral part of the contract:

- a) Contract Agreement
- b) Letter of Intent / Notice to proceed
- c) Special Conditions of Contract
- d) General Conditions of Contract
- e) Technical Specifications and Drawings
- f) The Bid and Price schedules submitted by the contractor

58. Fraud Prevention Policy

The Contractor along with their Associate/Collaborator/Sub-contractors/Sub-vendors/Consultants/Service Providers shall observe the highest standard of ethics and shall not indulge or allow anybody else working in their organization to indulge in fraudulent activities during execution of the Contract. The Contractor shall immediately apprise the Employer about any fraud or suspected fraud as soon as it comes to their notice.

Design, Supply, Installation, Commissioning and Maintenance for a period of 5 years of Rooftop Solar PV Power Plants of different capacities under Net Metering with Zero Export Policy in Aligarh City on turnkey basis along with associated electrical & civil works under implementation of smart city mission.

Section IV- Special Conditions of Contract

Section - IV

Special Conditions of Contract

Contents

1. Project description	70
2. Project Site	70
3. Appointing Authority	70
4. Project Manager/ Engineer in - Charge	70
5. Scope of Works	70
6. Training of Employer's Personnel	70
7. Performance Guarantee	70
8. Project Time lines:.....	71
9. Mode of Execution	71
10. Programme of Work	71
11. Starting of Work.....	72
12. Completion Schedule	72
13. Site Inspection & Basis of Bid.....	72
14. Terms of Payment.....	72
15. Price Escalation	75
16. Taxes and Duties:	75
17. Procurement of Materials.....	76
18. Notice of Operation	76
19. Rejection of Materials.....	76
20. Construction Power & Water Supply	76
21. Labour Engagement	77
22. Handing Over -Taking Over	77
23. Liquidated Damages.....	77
24. Liquidated Damages (LD) for PR and CUF deviations	77
25. Miscellaneous	78

1. Project description

Setting up a 168 KWp Rooftop Solar Power Plant along with associated evacuation and net metering related works under smart city mission in Aligarh.

2. Project Site

Project site shall be at Aligarh. Details of the Project Site is mentioned under Section V: Technical Specifications and Annexure 1: Details of site.

3. Appointing Authority

Appointing Authority of Adjudicator and arbitrator shall be as per directives of Aligarh district Court.

4. Project Manager/ Engineer in - Charge

Project Manager/ Engineer in - Charge will be appointed and will be intimated after award of the contract.

5. Scope of Works

The detailed scope of works under this contract shall be referred at Section V: Technical Specifications.

6. Training of Employer's Personnel

On successful commissioning of the plant, the Bidder shall provide training on Plant operations and maintenance to a team of 5 - 10 personnel (Engineers and Technician/ Operators) as nominated by Employer.

7. Performance Guarantee

7.1. The plant performance will be evaluated through Performance Ratio (PR) test as per the formulas and procedures mentioned under TS Clause 7.

7.2. The minimum acceptable PR of the plant is 75% against installed rated capacity at STC.

7.3. As the PR of the Plant is dependent on the quality of plant equipment and optimum design of the plant, the bidders shall demonstrate the PR of 75% as per the procedure mentioned at TS Clause 7 for Operational Acceptance of the plant.

7.4. The initial acceptance of the plant will be evaluated during commissioning by measuring PR for continuous 7 days. However, contractor must demonstrate the PR for a period of 30 days as per the PR test procedure specified in TS Clause 7.

7.5. Deleted.

7.6. During O&M contract, the plant performance will be evaluated based on annual average PR. Second year onwards linear degradation of the module output (i.e., 0.75% per year) shall be considered for the calculation.

7.7. During the O&M period, the bidders need to maintain 99% uptime of the plant. Any repair, replacement, overhauling, etc. are to be performed during night times so that no generation loss will be there in day time. On account of uptime less than 99% except the grid outages, as certified by the competent authority, shall attract no separate LD. GCC Clause 50.1.2 shall be read in addition to the breakdown maintenance.

7.8. Bidders are expected to make their own study of solar radiation profile and other related parameters of the area & make sound commercial judgment about the Performance Ratio. It

shall be the responsibility of the Bidder to access the corresponding solar insolation values and related factors of solar plant along with expected grid availability. The Bidder should access all related factors about the selected Site for the Project before giving commitments of PR of the proposed Project. METENORM Radiation Data shall be referred for the PR calculation. (Annual Average GHI: 5.2 kWh/m²/day).

7.9. Deleted.

7.10. The Contractor shall be responsible for achieving PR. For any shortfall in achieving PR, compensation shall be recovered from the Contractor as per SCC Clause 25.

8. Project Time lines:

The time lines for execution of the contract is 210 days from the date of agreement and as per the indicative milestones mentioned below.

Timelines for Scope of work		
S. No.	Stage	Reference from D
1	Date of Agreement /Letter of Award/Commencement Date	Zero Date (D)
2	Site Development Work	D+45
3	Approval of Major drawings	D+60
4	Completion of Civil work	D+100
5	Completion of supply of major equipment like SPV Modules (including structure for the above), Power Conditioning Units, etc.	D+120
6	Installation of all major equipment	D+150
7	Interconnection of all major equipment and completion of installation	D+165
8	Completion, testing and commissioning of Solar PV power plant	D+180
9	Operational Acceptance entire capacity(PR test demonstration)	D+210

9. Mode of Execution

The entire work shall be executed on turnkey basis. Any item(s) not included in the schedule but essentially required for completion of the work shall have to be carried out/ supplied without any extra cost. Such works, not listed in the schedule of works but elaborately described to perform or to facilitate particular operation(s) required for completion of the project shall deemed to have been included in the scope of this work and the Contractor shall supply, install the same without any extra cost.

10. Programme of Work

The Contractor shall submit the detailed programme of work within 15 days from the date of receipt of Letter of Intent. The programme shall include a Bar/ Gantt chart indicating there in the starting position and completion date of each of the major items of work.

11. Starting of Work

The Contractor shall be required to start the work within 30 (Thirty) days from the date of issue of LOI / NTP and shall thereof, report to the Employer accordingly.

12. Completion Schedule

- 12.1. The Contractor shall inform the Employer through advance information at least 30 days in advance in written notice, and a final notice 7days in advance to enable the Employer inform the commissioning committee of the date on which it intends to synchronize the Power Project to the Grid System.
- 12.2. The Contractor shall prepare the completion schedule accordingly and in conformity with provisions of technical specifications and carry out the work as per this schedule subject to "Force Majeure" conditions. The Contractor shall mobilize resources keeping in view, the above scheduled completion period.

13. Site Inspection & Basis of Bid

The volume and quantity of work indicated in schedule of works may vary. The Contractor should visit and make his own assessment of the Site before quoting rate. After taking in to consideration all aspects of the site and according to site condition etc., the Contractor should quote for the works. No extra claim will be entertained at post bidding stage. The design of the MMS & other civil structures shall have to be approved by the Employer. In case of any defects arising in the building during guarantee period, the Contractor shall have to rectify the same at its own cost.

14. Terms of Payment

Payments shall be released against each component of Price Bid in the following manner after submission by the contractor and acceptance of Security cum Performance Bank Guarantee by Employer and signing of Agreement as per provisions of bidding document.

- 14.1. In accordance with the provisions of GCC Clause 11 (Terms of Payment), the Employer shall pay the Contractor in the following manner and at the following times:
 - 14.1.1. For Supply of Plant and Equipment including PV Modules, Inverter and BOS up to site (FOR basis) including transportation and insurance along with mandatory spares
 - i. 60% of the total price of supplies of Plant and Equipment shall be paid against delivery of supplies on pro-rata basis against receipt of material at site under the Contract.
 - ii. 30% of the total price of supplies of Plant and Equipment shall be paid on Operational Acceptance of the Facility pursuant to successful Guarantee Tests and demonstration of PR and submission of all as - built documentation.
 - iii. 10% of the total price of supplies of Plant and Equipment shall be paid on demonstration of PR for the successful first year of operation.
 - 14.1.2. For Erection, Testing and Commissioning
 - i. 60% of the total price of Erection, Testing and Commissioning shall be paid on pro-rata basis on completion of installation of equipment on certification by the

Engineer-In-Charge/ Project Manager for the quantum of work completed after successful clearance of quality check points involved in the quantum of work billed.

- ii. 30% of the total price of Erection, Testing and Commissioning shall be paid on Operational Acceptance of the Facility pursuant to successful Guarantee Tests and demonstration of PR.
- iii. 10% of the total price of Erection, Testing and Commissioning shall be paid on demonstration of PR for the successful first year of operation.

14.1.3. For Civil, Evacuation and Net Metering related Works

- i. 60% of the total price of Civil, Evacuation and Net Metering related Works shall be paid progressively on certification by the Project Manager/ Engineer In - Charge for the quantum of work completed/ Milestones achieved after successful clearance of quality check points involved in the quantum of work / Milestones billed.
- ii. 30% of the total price of Civil, Evacuation and Net Metering related Works shall be paid on completion of all the civil works including finishing and debris removal.
- iii. 10% of the total price of Civil, Evacuation and Net Metering related Works shall be paid on demonstration of PR for the successful first year of operation.

14.1.4. Operation & Maintenance

On successful Operation and Maintenance of the Rooftop Solar Power Plant on quarterly basis at the end of every quarter for each year till 05 years. The O&M of the plant starts after Operational Acceptance.

1. Year 1: OM -1
2. Year 2: OM -2
3. Year 3: OM -3
4. Year 4: OM -4
5. Year 5: OM -5

14.2. Recovery of interest bearing Mobilization advance:

Recovery of the mobilization advance and interest component on the advance amount shall be adjusted from the bills of the contractor in equal instalments from the progressive payments released to the Contractor. The amount of interest to be recovered from a particular bill shall be calculated at SBI base rate (per annum) prevailing on the date of request on the value of advance corresponding to the percentage of total progressive payment being released. The period for which the interest is to be calculated shall be reckoned from the date of release of the advance payment to the actual date of release of the said progressive payment. The interest on the advance payment shall stand fully recovered on release of all the progressive payments. If the amount payable under any interim bill is not sufficient to cover all deductions to be made for interest on the advance payment and other sums

deductible therefrom, the balance outstanding shall be recovered from the next payments immediately falling due from the BG submitted by the bidder against mobilization advance will be returned to the contractor after adjustment of mobilization advance in full including interest thereof.

14.3. Notes:

- i. All the transactions shall be made directly between the Employer and the Contractor. Hence for every consignment, the consignee must be in the name of "ASCL, Aligarh".
- ii. The bidder shall furnish a detailed break-up, including bill of materials, for the Price Component of all the packages which shall be mutually discussed and finalized with the Employer "before signing of Contract Agreement matching with the price quoted by the successful bidder". Progressive payment for Erection works will be made against monthly bills based on certification by the Project Manager/ Engineer In - Charge for the work completed.
- iii. The release of first progressive payment for Civil, Evacuation and Net Metering related Works shall also be subject to submission of documentary evidence by the Contractor towards having taken the insurance policy (ies) in terms of relevant provisions of GCC Clause 39 (Insurance) and acceptance of same by the Project Manager/ Engineer-In-Charge.
- iv. Contract Value (CV):
The firm sum quoted by the Successful Bidder in its Financial Proposal is the sum of individual contract values for Design, supply, erection, civil, evacuation and net metering related works under different work packages as mentioned below:
 - a) Supply Contract Value: Total value mentioned against the Supply package mentioned at SCC clause 14.1.1 and Bill of Quantities.
 - b) Erection Contract Value: Total value mentioned under the Erection Testing and commissioning works package mentioned at SCC clause 14.1.2 and Bill of Quantities.
 - c) Civil, Evacuation and Net Metering related Works Contract Value: Total value mentioned under the Civil, Evacuation and Net Metering related Works package mentioned at SCC Clause 14.1.3 and Bill of quantities.
 - d) O&M Contract Value: Total value mentioned under the Operation & Maintenance works mentioned at SCC clause 14.1.4 and Bill of Quantities

Contractor need to execute the work in Lump sum basis which includes design, procurement, installation, commissioning and Operation & Maintenance.

14.4. Mobilisation Advance : NA

14.5. "OM" indicates the O&M Contract Value quoted by the Successful Bidder for each individual year in its Financial Proposal.

14.6. The Employer will withhold / deduct /under this Contract, and or to any additions or deductions provided for in this Contract, the statutory deductions as per provisions of the

laws in force before making payments. Accordingly the Contractor shall submit Bills / Invoices after incorporating and in compliance of the following:

- 14.6.1. All payments shall be made in Indian Rupees, unless otherwise specified in the Contract Agreement. All payment shall be made on the basis of actual measurement for the quantified items as per schedule of works and approved by Project Manager/ EIC within 30 days of submission of certified invoice by the contractor.
 - 14.6.2. The Contractor shall submit the bill / invoice for the work executed showing separately Taxes and any other statutory levies in the bill / invoice.
 - 14.6.3. All taxes and deductions shall be applicable as per prevailing income tax and other statutory rules and provisions in force. Employer will not issue C - Form etc. in order to get tax concession. Bidders are requested to take in account while quoting their bids.
- 14.7. The Contractor, while raising Bills / Invoices shall raise separate Bills / Invoices against individual contracts with reference to the LOI/ Contract number and indicating applicable taxes / duties on the contract. Bills / Invoices for more than one contract package shall not be clubbed together.

15. Price Escalation

No Price escalation is allowed. The rate(s) quoted against the work shall remain firm during the entire Contract period. Any change in Forex rate shall also not be considered for price variation.

16. Taxes and Duties:

- 16.1. Proper tax invoices, raised against the different work packages viz. Supply, Erection, Civil, evacuation and net metering related works must be submitted mentioning the tax component clearly and separately.
- 16.2. Bidder will quote the rates of taxes & duties based on the concessional rate or exemption in the same (as applicable) that can be availed by the bidder on its own. Statutory variations in the tax shall be permitted as under:
 - A. Statutory variations during original contractual completion period:
 - i. If any increase takes place in taxes and duties due to statutory variation, then Employer shall consider the same on production of documentary evidences and Tax Invoices.
 - ii. If any decrease takes place in taxes and duties due to statutory variation, the same shall be passed on to Employer and Employer shall consider the reduced rate of taxes and duties while making the payment.
 - B. Statutory variations beyond original contractual completion period:
 - i. If reasons for extension of contractual completion period is attributable solely to Employer, the provisions of (A) above shall apply.
 - ii. If reasons for extension of contractual completion period is attributable to Bidder, then:
 - a) Increase in taxes and duties due to statutory variation, shall not be admissible. However, taxes and duties at the rate prevailing original contract completion period will be payable.

- b) If any decrease takes place in taxes and duties due to statutory variation, the same shall be passed on to Employer or Employer shall consider the reduced rate of taxes and duties while making the payment.
- C. Variation on account of foreign exchange rate will not be payable. Also, no statutory variation shall be payable on the input items i.e., raw materials etc.
- D. No statutory variation shall be admissible if the excise duty becomes payable because of exceeding the prescribed limits for turnover of the Bidder.
- E. Notwithstanding anything contained in this document at any other place, all the taxes on account of bought out items or any other transaction between the Contractor and his sub-Contractor/supplier, will be to the account of the Contractor. Employer will not be liable for any other taxes on this account.

17. Procurement of Materials

The Contractor shall procure all necessary material required for the project work and arrange to store them properly. Test certificate in accordance with the specifications are to be furnished by the Contractor to the Employer for approval in respect of the materials procured by the Contractor. Contractor shall furnish all the documents related including GR/LR/RR along with the supplier invoices as a proof of the purchase along with the bill / invoice raised by the contractor.

18. Notice of Operation

The Contractor shall not carry out important operation without the consent in writing of the Employer or his representative. For carrying out such important activity, the Contractor shall intimate to the Employer at least 72 hours before starting of the job.

19. Rejection of Materials

The Project Manager's decision in regard to the quality of the material and workmanship will be final. The Contractor at its own cost and risk without any compensation shall immediately remove any material rejected by the Project Manager from the Site of work.

20. Construction Power & Water Supply

- 21.1. The Contractor has to arrange Construction Power and water at the site for construction purpose at its own cost.
- 21.2. The Employer shall not provide facility for storage of material, and accommodation for labours at site. The Contractor shall make his own arrangement for the above. The site handed over to the contractor must be used optimally. The contractor can identify the suitable location for storage of materials within the site. However, the site cannot be used for the labor colony. The contractor shall arrange on his own suitable area for such establishment. It is also necessary to take necessary approval from the concerned authority before any such establishment. In this case, any transportation facility, if required, is the responsibility of the contractor.

21. Labour Engagement

The Contractor shall be responsible to provide all wages and allied benefits to its labours engaged for execution of the project work and also to carry out Operation & Maintenance service.

The Contractor shall remain liable to the authorities concerned for compliance of the respective existing rules and regulations of the government for this purpose and shall remain liable for any contravention thereof. m

The contractor is encouraged to use local manpower as per the local statutory (labour) requirement, if any.

22. Handing Over -Taking Over

The work shall be taken over by the Employer upon successful completion of all tasks to be performed at Site(s) on equipment supplied, installed, erected and commissioned by the Contractor in accordance with provision of RFP. During handing over complete project work, the Contractor shall submit the following for considering final payment:

- 23.1. All as- Built Drawings and documents as per the contract coordination procedure set out for the successful completion of the project.
- 23.2. Detailed Engineering Document with detailed specification, schematic drawing, circuit drawing, cable routing plans and test results, manuals for all deliverable items, Operation, Maintenance & Safety Instruction Manual and other information about the project.
- 23.3. Bill of material.
- 23.4. Inventory of recommended and mandatory spares at project Site.
- 23.5. Immediately after taking over of complete facilities (s), the same will be handed over to the Contractor for Operation & Maintenance for a period of as mentioned in the bidding document.

23. Liquidated Damages

Liquidity damages for the delay in construction of the plant shall be as per the GCC Clause 34.

24. Liquidated Damages (LD) for PR and CUF deviations

- 25.1. During the Operational Acceptance any shortfall in the Performance Ratio (PR) as determined through the PR Test Procedure specified in Clause 7 of Section V: Technical Specification, will attract imposition of liquidated damages. For every 0.01 shortfall in PR below 0.75 by the bidder, a LD of 1% of the total Contract Value shall be levied. In case the Plant PR result is 0.05 below 0.75, i.e., 0.70 or lower, the total performance bank guarantee submitted by the bidder will be encashed. In case the Performance guarantee has already been encashed on any account, the balance due amount, if any, will be recovered from the Final Instalment of the EPC payable at the end of the first year (as per the Terms of Payment specified in Clause 14 of SCC)
- 25.2. In case of any defect in the system after commissioning resulting in shortfall of generation, the Contractor shall repair it within 48 hours. Otherwise LD shall be charged for shortfall in generated units (based on the previous generation reports) beyond 48 hours, 1.5 times as per the prevailing tariff, with the cumulative LD to the extent of maximum 10% of the total