

Signature :-  
Subject :- AN - DIVYANG SURI, ST - DELHI, CID 2.5.4.17 - DIRECTOR, SC - SUPPLY CHAIN M  
ANAGRAM ENERGY EFFICIENT SERVICES LIMITED  
User ID :- divyang.suri

NTT/BID

India/1L/212208027 Date:06.08.2021

Document No.: **CESL/06/2021-22/E3W/Pan**

SECTION - 2 (ITB)

Page 31 of 31



## SECTION-3

### GENERAL CONDITIONS OF CONTRACT (GCC)



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

GENERAL CONDITIONS CONTRACT (GCC)		
S.NO	DESCRIPTION	PAGE NO.
<b>A.</b>	<b>Contract and Interpretation</b>	
	1. Definitions	1
	2. Contract Document	2
	3. Interpretation	3
	4. Notices	5
	5. Governing Law	5
	6. Settlement of Disputes	5
<b>B.</b>	<b>Subject Matter of Contract</b>	
	7. Scope of Facilities	7
	8. Time for Commencement and completion	10
	9. Implementing Partner's Responsibilities	10
	10. CESL's Responsibilities	10
<b>C.</b>	<b>Payment</b>	
	11. Contract Price	11
	12. Terms of Payment	11
	13. Securities	11
	14. Taxes and Duties	12
<b>D.</b>	<b>Intellectual Property</b>	
	15. Copyright	16
	16. Confidential Information	13
<b>E.</b>	<b>Work Execution</b>	
	17. Representatives	14



	18. Work Program	15
	19. Subcontracting	16
	20. Design and Engineering	16
	21. Procurement	17
	22. Installation	19
	23. Test and Inspection	21
	24. Completion of the facilities	23
	25. Commissioning, Guarantee Test and Operational Acceptance	24
<b>F.</b>	<b>Guarantees and Liabilities</b>	
	26. Completion Time and Guarantee	25
	27. Defect Liability	25
	28. Functional Guarantees	26
	29. Patent Indemnity	27
	30. Limitation of Liability	27
<b>G.</b>	<b>Risk Distribution</b>	28
	31. Transfer of Ownership	28
	32. Care of Facilities	28
	33. Loss of or Damage to property; Accident or Injury to Workers; Indemnification	29 30
	34. Insurance	32
	35. Unforeseen Conditions	32
	36. Change in Law and Regulations	32
	37. Force Majeure	33
	38. War Risks	
<b>H.</b>	<b>Change in Contract Elements</b>	
	39. Change in the Facilities	34
		36



	40. Extension of Time for Completion	<b>36</b>
	41. Suspension	<b>41</b>
	42. Termination	<b>41</b>
	43. Assignment	<b>41</b>
	44. Bankruptcy	<b>41</b>
	45. Contractor Performance & Feedback and Evaluation System	<b>41</b>
	46. Fraud Prevention Policy	<b>41</b>



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

## A. Contract and Interpretation

### 1. Definitions

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

“Contract” means the Contract Agreement entered into between the CESL and the Implementing Partner, 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 Article. 1.1 (Contract Documents) of the Form of Contract Agreement (including any amendments thereto).

“GCC” means the General Conditions of Contract hereof.

“SCC” means the Special Conditions of Contract.

“Day” means calendar day of the Gregorian calendar.

“Month” means calendar month of the Gregorian calendar.

“Employer” means CESL, New Delhi/Noida and includes the legal successors or permitted assigns of the CESL.

“Project Manager” means the person appointed by the CESL in the manner provided in GCC Sub-Clause 17.1 (Project Manager) hereof and named as such in the SCC to perform the duties delegated by the CESL.

“Contractor or Implementing Partner” means the person(s) whose bid to perform the Contract has been accepted by the CESL and is named as such in the Contract Agreement, and includes the legal successors or permitted assigns of the Implementing Partner.

“Contractor or Implementing Partner’s Representative” means any person nominated by the Implementing Partner and approved by the CESL in the manner provided in GCC Sub-Clause 17.2 (Implementing Partner’s Representative and Construction Manager) hereof to perform the duties delegated by the Implementing Partner.

“Sub Contractor or Sub Implementing Partner,” 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 Implementing Partner, and includes its legal successors or permitted assigns.

“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 CESL and the Implementing Partner referred to him or her by the parties pursuant to GCC Sub-Clause 6.1 (Adjudicator) hereof.

“Contract Price” means the sum specified in Article 2.1 (Contract Price) of the Contract Agreement, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant



to the Contract.

“Facilities” means the Plant and Equipment to be supplied and installed, as well as all the Installation Services to be carried out by the Implementing Partner under the Contract.

“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 Implementing Partner under the Contract (including the spare parts to be supplied by the Implementing Partner under GCC Sub-Clause 7.3 here-of), but does not include Implementing Partner’s Equipment.

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

“Contractor or Implementing Partner’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 Implementing Partner, but does not include Plant and Equipment, or other things intended to form or forming part of the Facilities.

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

“Effective Date” means the date from which the Time for Completion shall be determined as stated in Article 3 (Effective Date for Determining Time for Completion) of the Form of Contract Agreement.

“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.

“Completion” 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.

“Pre-commissioning” means the testing, checking and other requirement specified in the Technical Specifications that are to be carried out by the Implementing Partner in preparation for Commissioning as provided in GCC Clause 24 (Completion) hereof.

“Commissioning” means trial/initial operation of the Facilities or any part thereof by the Implementing Partner, which operation is to be carried out by the Contractor as provided in GCC Sub-Clause 25.1 (Commissioning) hereof, for the purpose of carrying out Guarantee Test(s).

“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 in accordance with the provisions of GCC Sub Clause 25.2 (Guarantee Test) hereof.



Operational Acceptance” means the acceptance by the CESL of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Implementing Partner’s fulfilment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of GCC Clause 28 (Functional Guarantees) hereof and shall include deemed acceptance in accordance with GCC Clause 25 (Commissioning and Operational Acceptance) hereof.

Defect Liability Period” means the period of validity of the warranties given by the Implementing Partner commencing at Completion of the Facilities or a part thereof, during which the Implementing Partner is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC Clause 27 (Defect Liability) hereof.

## **2. Contract Documents**

2.1 Subject to Article 1.2 (Order of Precedence) of the Contract Agreement all documents 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 will be signed in three originals and the Implementing Partner shall be provided with one signed original and the rest will be retained by the CESL.

2.3 The Implementing Partner shall provide free of cost to the CESL all the engineering data, drawing and descriptive materials submitted with the bid, in at least five (5) copies to form a part of the Contract immediately after Notification of Award/ letter of Award.

2.4 Subsequent to signing of the Contract, the Implementing Partner at his own cost shall provide the CESL with at least five (05) true copies of Contract Agreement within thirty (30) days after signing of the Contract.

## **3. Interpretation**

### **3.1 Language**

**3.1.1** Unless the Implementing Partner is a national of the CESL’s country and the CESL and the Implementing Partner agree to use the local language, all Contract Documents, all correspondence and communications to be given, and all other documentation to be prepared and supplied under the Contract shall be written in English, and the Contract shall be construed and interpreted in accordance with that language.

**3.1.2** If any of the Contract Documents, correspondence or communications are prepared in any language other than the governing language under GCC Sub-Clause 3.1.1 above, the English translation of such documents, correspondence or communications shall prevail in matters of interpretation.

### **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 Inco terms

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties there under shall be as prescribed by Incoterms.

Inco terms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1er, 75008 Paris, France.

### 3.6 Construction of the Contract

**3.6.1** The Contracts to be entered into between the CESL and the successful bidder shall be as under :

i) First Contract: For Ex-works (India) supply of plant and equipment and accessories by bidder including mandatory spares and spares to be supplied during warranty

ii) Second Contract: for providing all services i.e. loading, inland/air/shipment transportation for delivery at site, inland/air/shipment transit insurance, unloading, storage, handling at site, installation, insurance covers other than inland transit insurance, testing, commissioning and conducting Guarantee tests in respect of all the equipments supplied under the 'First Contract' and all other services including civil works, if any, as specified in the Contract Documents including sales tax and duties as asked in price bid in section IV. It will also cover cost for Repair and Maintenance and equipments and/or additional warranty, where ever asked for ,supplied under the 'First Contract' and all other services including civil works, if any, as specified in the Contract Documents. All items in second contract must be quoted including service tax.

iii) Third Contract: For providing all services including Awareness programme for public/stake holders/workshops/printing brochure and other materials, Survey cost, Monitoring and verification cost, scrap disposal cost, arrangement of office at both sites and Statuary agencies cost including service tax.

All the above Contracts will contain a cross-fall breach clause specifying that breach of one Contract will constitute breach of the other Contracts which will confer a right on the Employer to terminate the other Contracts also at the risk and the cost of the contractor /Implementing Partner for the Project, for which awards have been made.

In case, value of second contract viz transportation, insurance is lower or the supply cost includes transportation, insurance etc than three contract may be merged in two contract.

Arbitration: 1. Appointing authority for adjudicator: MD, CESL

2. The place of arbitration shall be: New Delhi

Prices are to be quoted as Firm during currency of contract. No price adjustment is allowed.

General:

1. In case of investment partner, A project manager is to be deputed from their side for co-ordinating activities.



2. Word Implementing Partner for any Project used in General Conditions of contract includes persons of Investment partner, executing and implementing agencies etc
3. Notification of award means Letter of Intent and Letter of award

3.6.2 The award of separate Contracts shall not in any way dilute the responsibility of the Implementing Partner for the successful completion of the Facilities as per Contract Documents and a breach in one Contract shall automatically be construed as a breach of the other Contract(s) which will confer a right on the CESL to terminate the other Contract(s) also at the risk and the cost of the Implementing Partner.

### **3.7 Entire Agreement**

Subject to GCC Sub-Clause 16.4 hereof, the Contract constitutes the entire agreement between the CESL and Implementing Partner 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.

### **3.8 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 here to.

### **3.9 Independent Contractor or Implementing Partner**

The Implementing Partner shall be an independent Implementing Partner performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties here to.

Subject to the provisions of the Contract, the Contractor or Implementing Partner shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Sub Contractor or Sub Implementing Partners engaged by the Implementing Partner in connection with the performance of the Contract shall be under the complete control of the Implementing Partner and shall not be deemed to be employees of the CESL, and nothing contained in the Contract or in any subcontract awarded by the Implementing Partner shall be construed to create any contractual relationship between any such employees, representatives or Sub Contractor or Sub Implementing Partners and the CESL.

### **3.10 Joint Venture or Consortium**

If the Implementing Partner is a joint venture or consortium of two or more firms, all such firms shall be jointly and severally bound to the CESL for the fulfilment of the provisions of the Contract and shall designate one of such firms to act as a leader with authority to bind the joint venture or consortium. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the CESL.

### **3.11 Non-Waiver**

3.11.1 Subject to GCC Sub-Clause 3.11.2 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.

3.11.2 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.

### 3.12 Severability

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.

### 3.13 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, cable, telegraph, telex, facsimile or Electronic Data Interchange (EDI) to the address of the relevant party set out in the Contract Coordination Procedure to be finalised pursuant to GCC Sub-Clause 17.2.3.1, with the following provisions.

4.1.1 Any notice sent by cable, telegraph, facsimile or shall be confirmed within two (2) days after despatch by notice sent by airmail/ post or special courier, except as otherwise specified in the Contract.

4.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after despatch. In proving the fact of despatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and conveyed to the postal authorities or courier service for transmission by airmail or special courier.

4.1.3 Any notice delivered personally or sent by telegraph, facsimile shall be deemed to have been delivered on date of its despatch.

4.1.4 Either party may change its postal, cable, telex, facsimile or EDI address or addressee 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, instruction orders and certificates to be given under the Contract.

## 5. Governing Law

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

## 6. Settlement of Disputes



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

## 6.1 Adjudicator

6.1.1 If any dispute of any kind whatsoever shall arise between the CESL and the Implementing Partner in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Facilities—whether during the progress of the Facilities or after their completion and whether before or after the termination, abandonment or breach of the Contract—the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, then the dispute shall be referred in writing by either party to the Adjudicator, with a copy to the other party.

6.1.2 The Adjudicator shall give its decision in writing to both parties within twenty-eight (28) days of a dispute being referred to it. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the CESL or the Implementing Partner within fifty-six (56) days of such reference, the decision shall become final and binding upon the CESL and the Implementing Partner. Any decision that has become final and binding shall be implemented by the parties forthwith.

6.1.3 Should the Adjudicator resign or die, or should the CESL and the Implementing Partner agree that the Adjudicator is not fulfilling its functions in accordance with the provisions of the Contract; another retired Judge of High Court/Supreme Court of India shall be jointly appointed by the CESL and the Implementing Partner as adjudicator under the Contract. Failing agreement between the two within twenty eight (28) days, the new retired judge of High Court/Supreme Court of India shall be appointed as the Adjudicator under the Contract at the request of either party by the Appointing Authority specified in the SCC. The adjudicator shall be paid fee plus reasonable expenditures incurred in the execution of its duties as adjudicator under the contract. This cost shall be divided equally between the CESL and the Implementing Partner.

## 6.2 Arbitration

6.2.1 If either the CESL or the Implementing Partner is dissatisfied with the Adjudicator's decision, or if the Adjudicator fails to give a decision within twenty-eight (28) days of a dispute being referred to it, then either the CESL or the Implementing Partner may, within fifty-six (56) days of such reference, give notice to the other party, with a copy for information to the Adjudicator, of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

6.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Sub-Clause 6.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after completion of the Facilities.

### **In case the Contractor is a Public Sector Enterprise or a Government Department**

6.2.3 In case the Contractor is a Public Sector Enterprise or a Government Department, the dispute shall be referred for resolution in Permanent Machinery for Arbitration(PMA) of the Department of Public Enterprise, Government of India. Such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall



be decided by the Law Secretary or the Special Secretary/Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

**In case the Contractor is not a Public Sector Enterprise or a Government Department**

6.2.4 In all other cases, any dispute submitted by a party to arbitration shall be heard by an arbitration panel composed of three arbitrators, in accordance with the provisions set forth below.

6.2.5 The Employer and the Contractor shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the two arbitrators do not succeed in appointing a third arbitrator within twenty-eight (28) days after the latter of the two arbitrators has been appointed, the third arbitrator shall, at the request of either party, be appointed by the Appointing Authority for arbitrator designated in the SCC.

6.2.6 If one party fails to appoint its arbitrator within forty-two (42) days after the other party has named its arbitrator, the party which has named an arbitrator may request the Appointing Authority to appoint the second arbitrator.

6.2.7 If for any reason an arbitrator is unable to perform its function, the mandate of the Arbitrator shall terminate in accordance with the provisions of applicable laws as mentioned in GCC Clause 5(Governing Law) and a substitute shall be appointed in the same manner as the original arbitrator.

6.2.8 Arbitration proceedings shall be conducted in accordance with The Arbitration and Conciliation Act, 1996 and its subsequent thereof. The venue of arbitration shall be New Delhi.

6.2.9 The decision of a majority of the arbitrators (or of the third arbitrator chairing the arbitration panel, if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction as decree of the court. The parties thereby waive any objections to or claims of immunity from such enforcement.

6.2.10 The arbitrator(s) shall give reasoned award.

Notwithstanding any reference to the Adjudicator or arbitration herein,

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

the Employer shall pay the Contractor any monies due to the Contractor.

**B. Subject Matter of Contract**

**7. Scope of Facilities**

7.1 Unless otherwise expressly limited in the Technical Specifications, the Implementing Partner's obligations cover the provision of all Plant and Equipment and the performance of all Installation



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

Services required for the design, the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Recommissioning and delivery) of the Plant and Equipment and the installation, completion, commissioning and performance testing of 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; Implementing Partner's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, unloading and hauling to, from and at the Site); and storage, except for those supplies, works and services that will be provided or performed by the CESL, as set forth in Appendix 6 (Scope of Works and Supply by the CESL) to the Contract Agreement.

7.2 The Contractor or Implementing Partner 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 In addition to the supply of Mandatory Spare Parts if asked and warranty spares included in the Contract, the Implementing Partner agrees to supply spare parts required for the operation and maintenance of the Facilities. However, the identity, specifications and quantities of such spare parts and the terms and conditions relating to the supply thereof are to be agreed between the CESL and the Implementing Partner, and the price of such if asked spare parts shall be that given in Price Schedule which shall be added to the Contract Price. The price of such spare parts shall include the purchase price there for and other costs and expenses (including the Implementing Partner's fees) relating to the supply of spare parts. The prices of spares covered under the Price Schedule shall be kept valid for a period as specified in SCC.

7.3.1 The Contractor / Implementing Partner agrees that the spare parts recommended by him for 3 years operation and quoted in price Schedule shall be supplied by him at the same terms and conditions as are otherwise applicable to this Contract. Further, the Implementing Partner also agrees to supply spare parts required for the operation and maintenance of the Facilities as per provision of subsequent paragraphs of this Sub-Clause.

7.3.1.1 All the spares for the equipment under the Contract will strictly conform to the Specification and other relevant documents and will be identical to the corresponding main equipment/components supplied under the Contract and shall be fully interchangeable.

7.3.1.2 All the mandatory spares covered under the Contract shall be produced along with the main equipment as a continuous operation and the delivery of the spares will be effected along with the main equipment in a phased manner and the delivery would be completed by the respective dates for the various categories of equipment as per the agreed network. In case of recommended spares the above will be applicable provided the orders for the recommended spares have been placed with the Implementing Partner prior to commencement of manufacture of the main equipment.



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466



7.3.1.3 The Implementing Partner will provide the CESL with the manufacturing drawings, catalogues, assembly drawings and any other document required by the CESL so as to enable the CESL to identify the recommended spares. Such details will be furnished to the CESL as soon as they are prepared but in any case not later than six months prior to commencement of manufacture of the corresponding main equipment.

7.3.1.4 To enable the CESL to finalise the requirement of recommended spares which are ordered subsequent to placement of order for main equipment/plant, in addition to necessary technical details, catalogue and such other information brought-out herein above, the Implementing Partner will also provide a justification in support of reasonableness of the quoted prices of spares which will, inter-alia, include documentary evidence that the prices quoted by the Implementing Partner to the CESL are not higher than those charged by him from other customers in the same period.

7.3.1.5 In addition to the spares recommended by the Implementing Partner, if the CESL further identifies certain items of spares, the Implementing Partner will submit the prices and delivery quotation for such spares within thirty (30) days of receipt of such request with a validity period of six (6) months for consideration by the CESL and placement of order for additional spares if the CESL so desires.

7.3.1.6 The quality plan and the inspection requirement finalised for the main equipment will also be applicable to the corresponding spares.

7.3.1.7 The Contractor or Implementing Partner will provide the CESL with all the addresses and particulars of his sub-suppliers while placing the order on vendors for items/components/equipment covered under the Contract and will further ensure with his vendors that the CESL, if so desires, will have the right to place order for spares directly on them on mutually agreed terms based on offers of such vendors.

7.3.1.8 The Contractor or Implementing Partner shall guarantee the long term availability of spares to the CESL for the full life of the equipment covered under the Contract. The Implementing Partner shall guarantee that before going out of production of spare parts of the equipment covered under the Contract, he shall give the CESL at least 2 years advance notice so that the latter may order his bulk requirement of spares, if it so desires. The same provision will also be applicable to Sub-Implementing Partners. Further, in case of discontinuance of manufacture of any spares by the Contractor and/or his Sub- Contractor or Implementing Partner, Implementing Partner will provide the CESL, two years in advance, with full manufacturing drawings, material specification and technical information including information on alternative equivalent makes required by the CESL for the purpose of manufacture/procurement of such items.

7.3.1.9 The prices of all future requirements of item of spares beyond 3 years operational requirement will be derived from the corresponding ex-works price at which the order for such spares have been placed by CESL as a part of mandatory spares or recommended spares, or from the rates of mandatory spares or recommended spares as quoted by/ negotiated with the Implementing Partner. Ex-works order price of future spares shall be computed in accordance with the price adjustment provisions covered under the main Contract excepting that the base indices will be counted from the scheduled date of Commissioning of the last equipment under the main project and there will be no ceiling on the amount of variation in the prices. The above option for procuring future recommended spares by the CESL shall remain valid for the period of 5 years from the date of Commissioning of the equipment.



7.3.1.10 The Implementing Partner will indicate in advance the delivery period of the items of spares, which the CESL may procure in accordance with above sub-clause. In case of emergency requirements of spares, the Contractor would make every effort to expedite the manufacture and delivery of such spares on the basis of mutually agreed time schedule.

7.3.1.11 In case the Implementing Partner fails to supply the mandatory, recommended or long term spares in the terms stipulated above, the CESL shall be entitled to purchase the same from the alternate sources at the risk and the cost of the Implementing Partner and recover from the Implementing Partner, the excess amount paid by the CESL over the rates worked on the above basis. In the event of such risk purchase by the CESL, the purchases will be as per the Works and Procurement Policy of the EESL prevalent at the time of such purchases and the CESL at his option may include a representative from the Implementing Partner in finalising the purchases.

7.3.1.11 It is expressly understood that the final settlement between the parties in terms of relevant clauses of the Contract Documents shall not relieve the Implementing Partner of any of his obligations under the provision of long term availability of spares and such provisions shall continue to be enforced till the expiry of 5 years period reckoned from the scheduled date of Commissioning of the Plant and Equipment unless otherwise discharged expressly in writing by the CESL. Further, the provisions pertaining to long term availability of spares shall be extended beyond 5 years applicability period mentioned hereinabove if so desired by the CESL and at the mutually acceptable escalation formula.

7.3.1.13 The Implementing Partner shall warrant that all spares supplied will be new and in accordance with the Contract Documents and will be free from defects in design, material and workmanship and shall further guarantee as under:

- (i) For 3 years operational spares (both mandatory and recommended)
  - a) For any item of spares ordered or to be ordered by the CESL for 3 years operational requirement of the plant which are manufactured as a continuous operation together with the corresponding main equipment/component, the Defect Liability Period will be twelve (12) months from the scheduled date of commercial operation of main equipment/ plant under the Contract. 'Commercial Operation' shall mean the conditions of operation in which the complete equipment covered under the Contract is officially declared by the CESL to be available for continuous operation at different loads up to and including rated capacity. Such declaration by the CESL, however, shall not relieve or prejudice the Implementing Partner any of his obligations under the Contract. In case of any failure in the original component/equipment's due to faulty designs, materials and workmanship, the corresponding spare parts, if any, supplied will be replaced without any extra cost to the CESL unless a joint examination and analysis by the CESL and the Implementing Partner of such spare parts prove that the defect found in the original part that failed, can safely be assumed not to be present in spare parts. Such replaced spare parts will have the same Defect Liability as applicable to the replacement made for the defective original part/component provided that such replacement for the original equipment and the spare replaced are again manufactured together. The discarded spare parts will become the property of the Implementing Partner as soon as they have been replaced by the Implementing Partner.





- b) For the item of spares ordered or to be ordered by the CESL for 3 years operational requirement of the plant, which with the written approval of the CESL, are not manufactured as a continuous operation will be warranted for 7000 hrs of trouble free operation if used within a period of eighteen (18) months reckoned from the date of delivery at site. However, if such spare parts are put to use after eighteen (18) months of the delivery at Site then the guarantee of such spares will stand valid till the expiry of thirty six (36) months from the scheduled date of Commissioning of equipment/plant covered under the contract or 7000 hrs of trouble free operation after such spares are put in service, whichever is earlier.
- c) For long term requirement

For item of spares that may be ordered by the CESL to cover requirements beyond 3 years of Initial Operation of the plant, the warranty will be till the expiry of 7000 hrs of trouble free operation if used within a period of eighteen (18) months from the date of delivery at site. For item of spares that may be used after eighteen (18) months from the date of delivery at site, the warranty period will be 12 months from the date they are put to use or 7000 hrs of trouble free operation, whichever is earlier. In any case the defect liability of spares will expire at the end of forty eight (48) months from the date of their receipt at site.

- (ii) The Defect Liability of spares covered in para (b) & (c) above, that are not used within 18 months from the respective date of the delivery at Site will, however, be subject to condition that all such spares being stored/maintained/preserved in accordance with Implementing Partner's standard recommended practice, if any, and the same has been furnished to the CESL.

## 8. Time for Commencement and Completion

8.1 The Implementing Partner shall commence work on the Facilities from the date of Notification of Award and without prejudice to GCC Sub-Clause 26.2 hereof, the Implementing Partner shall thereafter proceed with the Facilities in accordance with the time schedule specified in Appendix 4 (Time Schedule) to the Contract Agreement or / and as mentioned in special conditions of contract.

8.2 The Implementing Partner shall attain Completion of the Facilities (or of a part where a separate time for Completion of such part is specified in the Contract) within the time stated in the SCC or within such extended time to which the Implementing Partner shall be entitled under GCC Clause 40 (Extension of Time for Completion) hereof.

## 9. Contractor or Implementing Partner's Responsibilities

9.1 The Contractor or Implementing Partner shall design, manufacture (including associated purchases and/or subcontracting), install and complete the Facilities with due care and diligence in accordance with the Contract.

