

**BRIHANMUMBAI MUNICIPAL CORPORATION
MUMBAI SEWAGE DISPOSAL PROJECT**



**UPGRADATION OF GHATKOPAR INFLUENT
PUMPING STATION & CARRYING CAPACITY OF
RISING MAIN TO DESIGN PFF CAPACITY OF 699
MLD**

BID NO. 7200037194

VOLUME I

**INSTRUCTIONS TO TENDERERS AND
GENERAL CONDITIONS OF CONTRACT**

OCTOBER 2022

EMPLOYER

**Brihanmumbai Municipal Corporation
Municipal Head Office Building,
Mahapalika Marg, Fort, Mumbai
India.**

CONSULTANT

**Tata Consulting Engineers Limited,
15th Floor, Empire Tower, Thane-
Belapur Road, Airoli, Navi Mumbai
400 708 India.**

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VOLUME – I

**INSTRUCTIONS TO TENDERERS AND GENERAL CONDITIONS
OF CONTRACT**

1. TENDER NOTICE

BRIHANMUMBAI MUNICIPAL CORPORATION**(MUMBAI SEWAGE DISPOSAL PROJECT)****Department: Chief Engineer (MSDP)****e-TENDER NOTICE****No. ChE/MSDP/6716 Dt 07/10/2022**

1. The Municipal Commissioner of Brihan Mumbai invites the online tenders on item rate basis in three packet system (**Packets A, B & C**) having requisite experience and financial & organizational competence for “**Upgradation of Ghatkopar Influent Pumping Station & Carrying Capacity of Rising Main to Design PFF Capacity of 699 MLD**” The tender copy can be downloaded from BMC’s portal <https://portal.mcgm.gov.in>. The details of the e-tender is as follows:

e – Tender	Name of the Work	Earnest money Deposit (Rs.)	e-Tender Document Price	Contract period
Bid No. 7200037194	Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD	Rs. 1.64 crore (Rs. ONE CRORE SIXTY FOUR LAKHS ONLY)	Rs.10400 + 18% GST	30 months for construction and commissioning (inclusive of monsoon period) and further 36 months for Operation & Maintenance

2. The **Eligibility Criteria** for intending tenderers (Single Entity/ Joint Venture) is given below:

Sr. No	Requirements	Single Entity	Joint Venture	
			Both Parties Combined	Each Party
A	General Criterion			
A.1	The tenderer shall be single entity or Joint Venture. They, as independent entities shall be in existence for last 5 years. Authorized change in name & style shall be considered.	Must meet requirement		Must meet requirement
A.2	The firms shall have valid ISO-9001 Certification.	Must meet requirement		Must meet requirement
B	Financial Criteria			
B.1	Submission of audited financial statements, for the last 10 (TEN) financial years subject to A.1 above.	Must meet requirement		Must meet requirement
B.2	Minimum average annual turnover for the last 3 (THREE) years (2020-21, 2019-20, 2018-19), shall not be less than Rs. 49 Crore An escalation rate of 10% per annum can be applied to annual turnover of previous years (refer Note No. 1) to arrive at current year turnover value.	Must meet requirement	Must meet requirement	
B.3	Assessed Available Bid Capacity (ABC) ABC to be greater than INR 164 Crore. $ABC = A * N * 2 - B$ where A = Average annual value of works executed during the last ten years (subject to A.1 above) N = Number of years prescribed for completion of the works (2.5 years) for which the Tenders are invited; and B = Value at current price level of the existing commitments and on-going works to be executed over the next 2.5 years;	Must meet requirement	Must meet requirement	Lead Member must meet Fifty percent (50%) of the requirement

Sr. No	Requirements	Single Entity	Joint Venture	
			Both Parties Combined	Each Party
C	Technical Criteria			
C.1	<p>The firm should have experience of similar works (refer C.2), either fully completed or substantially completed* (i.e. 90% of the contract value) after 1st January 2012 in India as per following:</p> <p>a. One similar completed work costing not less than the amount equal to Rs. 64 Crores. OR</p> <p>b. Two similar completed works each costing not less than the amount equal to Rs.40 Crores. OR</p> <p>c. Three similar completed works each costing not less than the amount equal to Rs.32 Crores.</p> <p>The value of completed works shall be brought to current costing level by enhancing the actual value of work by compound rate 10% per annum (Refer Note No. 2); calculated from the date of completion to the date of issue of tender.</p> <p>* 'substantially completed' (i.e. 90% of the Contract value) means R.A. bills paid under the contract up to 90% of the contract value”</p>	Must meet requirements		Lead Member must meet Hundred percent (100%) of the requirement
C.2	<p>Relevant experience in the similar completed works in “Construction, Supply, Installation, Testing and Commissioning of Waste Water/Storm water/Water Pumping Station works along with Pumping Mains Piping Work, either individual plant capacity / cumulative plant capacity in single work order each, within India, after 1st April 2012 ”</p> <p>a. At least one work with minimum 280 MLD capacity OR</p> <p>b. At least two works with minimum 175 MLD capacity each OR</p> <p>c. At least three works with minimum 140 MLD capacity each</p>	Must meet requirements		Lead Member must meet Hundred percent (100%) of the requirement

- Notes:**
1. Updation of annual turnover (B.2) to the annual turnover of the tender year to be done at the rate of 10% per year compounded annually as follows:

FY 2018-19: 1.33	FY 2020-21: 1.10
FY 2019-20: 1.21	FY 2021-22: 1.00

The last 3 years applicable for a bidder who has the 2021-22 financial statements ready as per the tender requirements shall be from 2019-20 to 2021-22. For others, the 3 years applicable shall be considered as 2018-19 to 2020-21.
 2. Updation of contract value (C.1) and Average annual value of construction works ('A' mentioned in B.3) to the price level of the tender year to be done at the rate of 10% per year compounded annually as follows:

FY 2012-13: 2.35	FY 2016-17: 1.60
FY 2013-14: 2.13	FY 2017-18: 1.46
FY 2014-15: 1.94	FY 2018-19: 1.33
FY 2015-16: 1.76	FY 2019-20: 1.21
	FY 2020-21: 1.10
	FY 2021-22: 1.00

The last 10 years applicable for a bidder who has the 2021-22 financial statements ready as per the tender requirements shall be from 2012-13 to 2021-22. For others, the 10 years applicable shall be considered as 2011-12 to 2020-21.
 3. For reference project to be eligible for submission in support of the experience requirement subject to technical criteria C, the tenderer shall either have
 - Undertaken the project as single entity or
 - Undertaken the project as a partner in Joint Venture
 - i) The partner may claim the value of a project executed based upon their pro rata share holding within the Joint Venture
 - ii) Only the lead partner with highest shareholding in a Joint Venture will qualify for claiming the plant's capacity
 4. Copies of purchase order & Taking over Certificate (of the works on which the bidder desires to get qualified) from the client, not below the rank of Executive Engineer, shall be enclosed along with the tender to substantiate the same. And also details of clients who may be contacted for further information on all these contracts.

The Bidders who does not fulfil this criterion shall be disqualified and their Packet B and Packet C shall not be opened.

3. For purchasing the Tender documents, the Tenderers will have to get registered with BMC for the e-tendering process and obtain login credentials to participate in the online Tender process. The details of the same are available on BMC's portal (<http://portal.mcgm.gov.in>), under e-procurement tab.
4. For registration enrolment for digital signature certificates and user manual, please refer to respective links provided in e-tendering tab. Vendors can get digital signature from any one of the Certifying Authorities (CA) licensed by the controller of certifying authorities namely Safe crypt, IDRBT, National Informatics Center, CUSTOMS, MTNL, GSFC and e-Mudhra CA.
5. Tender documents shall be downloaded from BMC's portal as per schedule at Sr. No. 13 after online payment of Rs.10,400/- plus applicable GST by e-tendering process from approved banks through bank gateway under section "Payment of Tender Fees".
6. Tenders must be accompanied by Tender Security/EMD (Earnest Money Deposit) of Rs. 1.64 Crores (Rs. ONE CRORE SIXTY FOUR LAKHS ONLY) which shall be paid online through M.C.G.M. payment gateway. Contracting firms registered with the Brihanmumbai Municipal Corporation and those who have paid a Standing Deposit shall also have to pay a fresh Tender Security/EMD for this Tender.
7. e-tenders shall be uploaded as per schedule at Sr. No. 13. Two Hard copies of the e-tender documents shall be submitted within two (2) working days (during Employer's office working hours) after opening of Packet A in sealed envelopes and delivered to the Chief Engineer at the address mentioned in Sr. No.12 during the office hours.
8. Packet A Tender Security and Qualification Submission of the Tender will be opened as per schedule at Sr. No. 13 in the presence of Tenderers' authorized representatives who choose to attend. Packet A shall contain all duly certified documents in accordance with ITT and as per e-tendering process.
9. Packet B, Technical submission will be opened on BMC's above mentioned portal in the office of The Chief Engineer (MSDP) at the address mentioned below at Sr. No. 12 and as per schedule at Sr. No. 13 (& will be continued on the next working day, if required) in the presence of Tenderers' authorized representatives who choose to attend. The Price Packet (i.e Online Packet C and folder named as 'C) of the responsive bidders will be opened after the technical evaluation, as per schedule at Sr. No.13. In the event of the specified date of opening of the Tender being declared as a holiday for the BMC, the Tender shall be opened on the next working day. Tenderers should note that timing of submission/opening of the tender shall be considered as per BMC web time only.
10. A Pre-bid meeting with the prospective Tenderers will be held as per schedule at Sr. No. 14. A maximum of two representatives from each prospective Tenderer may attend the meeting.
11. The BMC reserves the right to cancel the e-tenders before submission/opening of e-tenders, to postpone the e-tenders submission/opening dates and to accept/reject any or all e-tenders without assigning any reason thereof at any stage.
12. Interested Tenderers may obtain further information from the Chief Engineer (MSDP) on working days between the hours of 11:00 and 16:00, excluding all the Saturdays, Sunday and public holidays, at the office of the Contact Person i.e.

The Chief Engineer (MSDP)
2nd Floor, Engineering Hub Building
Dr. E. Moses Road, Worli
Mumbai – 400 018.
e-mail: che.msdp@mcgm.gov.in
BMC portal: (<https://portal.mcgm.gov.in>)

13. The dates and time for uploading e-Tender & opening of the e-Tender are as under:

Event	Date	Day	Time (hrs)
The e-Tender sale will start from	11.10.2022	Tuesday	11.00
The pre-bid meeting	19.10.2022	Wednesday	11.30
The last date of e-Tender fees	28.10.2022	Friday	11.30
Submission of e-Tender	28.10.2022	Friday	16.00
Packet 'A' Opening	31.10.2022	Monday	16.00
Packet 'B' Opening	03.11.2022	Thursday	16.00
Packet 'C' Opening	11.11.2022	Friday	16.00

14. Pre-bid meeting will be held at the second floor conference hall of Engineering, Hub at Worli chaired by Chief Engineer (MSDP) at the date and time shown above (Sr.No.13).

If there are any changes in the dates, the same shall be displayed on the e-tender portal of BMC.

Sd/-

CHIEF ENGINEER
(MUMBAI SEWAGE DISPOSAL PROJECT)

2. SPECIAL INSTRUCTIONS TO BIDDERS FOR E-TENDERING

SPECIAL INSTRUCTIONS TO BIDDERS for e-Tendering

1. The e-Tendering process of BMC is enabled through its Portal '<http://portal.mcgm.gov.in>'.
2. All the tender notices including e-Tender notices will be published under 'e- Tenders' section of BMC Portal.
3. All the information documents are published under the 'e-Procurement' section of BMC Portal.
4. All interested bidders are required to be registered with BMC for e-Tendering process. Bidders not registered with BMC can apply online by clicking the link 'Vendor Registration' under the 'e-Procurement' section of BMC Portal. Bidders already registered with BMC need to contact helpdesk to extend their registration to e-Tendering process.
5. **E-TENDERING ONLINE SUBMISSION PROCESS**

5.1 General

The terminology of e-Tendering is solely depending upon policies in existence, guidelines and methodology adopted since decades. The SRM is only change in process of accepting and evaluation of tenders in addition to manual. The SAP module to be used in this E-tendering is known as Supplier Relationship Module (SRM). SRM is designed and introduced by ABM Knowledgeware Ltd. who will assist BMC in throughout the tendering process for successful implementation.

This tendering process is covered under Information Technology Act & Cyber Laws as applicable

In e-tendering process some of the terms and its definitions are to be read as under wherever it reflects in online tendering process.

Start Date read as "Sale Date"

End Date read as "Submission Date"

Supplier read as "Contractor/bidder"

Vendor read as "Contractor/bidder"

Vendor Quotation read as "Contractors Bid/Offer"

Purchaser read as "Department/BMC"

5.2 Registration Procedure

- I. Before entering in to online tendering process, the contractors should complete the registration process so as to get User ID for E-tendering links. For this, the contractors can access through Supplier registration via BMC Portal.

There are two methods for this registration: (II and III)

- II. Transfer from R3 (registered contractors with BMC) to SRM

-
- a) Contractors already registered with BMC will approach to Vendor Transfer cell.
 - b) Submit his details such as (name, vendor code, address, registered Email ID, pan card etc.) to Vendor transfer cell.
 - c) BMC authority for Vendor Transfer, transfers the Vendor to SRM application from R3 system to SRM system.
 - d) Transferred Vendor receives User ID creation link on his supplied mail Id.
 - e) Vendor creates his User ID and Password for e-tendering applications by accessing link sent to his mail ID.
- III. Online Self Registration (Temporary registration for applicant not registered with BMC)
- a) Vendor fills up Self Registration form via accessing BMC portal.
 - b) Vendor Transfer cell (same as mentioned above) accesses Supplier Registration system and accepts the Vendor request.
 - c) Accepted Vendor receives User ID creation email with Link on his supplied mail Id.
 - d) Vendor creates his User ID and Password for e-tendering application.
- IV. CONTRACTORS BIDDING: Applicant will Quote and Upload Tender Documents
- a) Access e-tender link of SRM Portal
 - b) Log in with User ID and Password
 - c) Selects desired Bid Invitation (he wants to bid)
 - d) To download tender documents contractors will have to pay online Tender fee. The same can be done by accessing Pay Tender Fees option. By this one will be able to pay Tender fee through Payment Gateway-If transaction successful, Contractors can register his interest to participate. Without Registration one cannot quote for the Bid/Tender.
 - e) Applicant will download Tender Documents from Information from purchaser tab by accessing Purchaser document folder through collaboration 'C' folder link.
 - f) Applicant will upload Packet **A** related and Packet **B** related Documents in Packet **A** and Packet **B** folder respectively by accessing these folders through "My Notes" Tab and collaboration folder link.
 - g) All the documents uploaded will have to be digitally signed and saved. Bidders can procure their digital signature from any certified CA's in India.
 - h) Bid security deposit/EMD and ASD, if applicable, should be paid online as mentioned in tender.

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- i) For Packet 'C' tenderer(s) will fill data in 'Item Data Tab' in Line Item. As it is item rate tender, bidder shall quote price inclusive all taxes & duties for each Item online in item data tab.
 - j) Applicants to check the bid, digitally signed & save and submit his Bid.
 - k) Applicants can also save his uploaded documents/commercial information without submitting the BID for future editing through 'HOLD' option.
 - l) Please note that "Hold" action does not submit the Bid.
 - m) Applicants will receive confirmation once the Bid is submitted.
 - n) Bid creator (BMC) starts Bid Opening for Packet A after reaching End Date and Time and Bid Evaluation process starts.
- 5.3 As per Three Packet system, the document for Packet **A & B** are to be uploaded by the tenderer in 'Vendor's document' online in Packet A & B. Before purchasing/downloading the tender copy, tenderer may refer to eligibility criteria mentioned in e-Tender Notice.
- 5.4 The tenderer shall pay the EMD/Bid Security through payment gateways before submission of Bid and shall upload the screenshot of receipt of payment in Packet 'A' instead of paying the EMD at any of the CFC centers in BMC Ward Offices.
- 5.5 The e-tender is available on BMC portal, <http://portal.mcgm.gov.in> as mentioned in the tender notice. The tenders duly filled in should be uploaded and submitted online on or before the end date of submission. The Packet 'A', Packet 'B' & Packet 'C' of the tenderer will be opened as per the time-table shown tender notice in the office of Chief Engineer (Mumbai Sewerage Disposal Project) at Worli.
- 5.6 The Municipal Commissioner reserves the right to reject all or any of the e-Tender(s) without assigning any reason at any stage. The dates and time for submission and opening the tenders are as shown in the Tender Notice. If there are any changes in the dates the same will be displayed on the BMC Portal. (<http://portal.mcgm.gov.in>)
6. No manual offers sent by Post/Fax or in person shall be accepted against e-tenders even if these are submitted on the firm's letter head and received in time. All such manual offers shall be considered as invalid offers and shall be rejected summarily without any consideration.
7. Affixing of digital signature at any one place in the bid document while submitting the bid shall be deemed to mean acceptance of the terms and conditions contained in the bid document as well as confirmation of the bid offered by the bidder which shall include acceptance of special directions/terms and conditions incorporated, if any.
8. All the documents and data submitted by bidder online will be digitally signed by the system by prompting for digital signature certificate. It is mandatory for the bidders willing to participate in e-Tendering to procure digital signature certificate of type class -III and Company as applicable.
9. Bidders can procure digital signature certificate from any of the Certifying Authorities (CA) in India.

10. The browser settings required for digitally signing the uploaded documents are listed in the document 'Browser Settings' in e-Procurement section.
11. In order to participate in an e-Tender, the registered bidders need to follow the steps given below.
 - a) Open the e-Tendering application by clicking the link available in 'e-Tendering' section of BMC Portal.
 - b) Download the 'Browser Settings' document and carry out the necessary settings and root certificates installation as mentioned in the document. It is to be noted that the computer user should have administrative rights to the computer to be able to work with e-Tendering application.
 - c) Login to the application with your credentials and follow the instructions given in the document 'User Manual for Vendors – Bidding Process' which is available in the 'e-Tender' section of BMC Portal.
 - d) Make payment of tender fee online and the same can be done by accessing 'Pay Tender Fees' option. By this one will be able to pay Tender fee through Payment Gateway. If the transaction is successful, the bidder can register his interest to participate. Without Registration one cannot quote for the Bid/Tender. Download all the documents by clicking the links Folder "Purchaser's Documents", which includes the bid documents along with other relevant information documents.
 - e) Pay EMD as per the instructions given in the Tender Notice and/or Bid Document and upload the online generated receipt in Packet A.
 - f) Upload the tender (bid) documents as specified in the Sr. No. 12 below of this document, in the same folder named "Bidder's Documents". System will prompt for digital signature certificate while uploading these documents.
 - g) The bidder shall download the technical schedules, tender form, deviation schedule & other documents where the information is to be filled in, take out the print, fill up the required information and sign, scan the schedules and upload the same in the folder named "Bidder's Documents".
 - h) Download all the documents uploaded by bidder to verify/ensure that the documents are uploaded properly.
 - i) Submit the Commercial bid (Online Packet C) by filling in the values in the BOQ provided (on the screen). The break up of cost shall be uploaded in Folder named as 'C'. All the inputs given on this screen need to be digitally signed and saved.
 - j) The eligibility requirement (Packet A), the technical bid (Packet B) and commercial bid (Packet C & folder named as 'C') shall be submitted online on and before the date and time mentioned for submission of bids. If not uploaded, the bidder will be disqualified from the bidding process.
 - k) The bids can be modified till the end date and time for bid submission. However, if a new version of a document is to be uploaded, please ensure to delete the old version. Bid creator (BMC) starts Bid Opening for Packet A after reaching End Date and Time and Bid Evaluation process starts.

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- l) Ensure that your bid is submitted by verifying the 'Bid Status' of the bid in the initial bids listing screen as 'Bid submitted'.
12. Bidders are requested to submit and upload the e-tenders in time on or before the stipulated day so as to avoid rush at the closing hours. BMC will not be responsible for poor connectivity of network/internet services/connectivity of servers/snag in system/breakdown of network/or any other interruptions. If any online information uploaded but not received by Bid creator (BMC) within stipulated time limit, BMC shall not be held responsible at any cost and such bids cannot be validated. In case of any difficulties faced while uploading data by the bidder in online process, it should be referred to e-mail ID's given on BMC Portal, under e- tendering tab. Bidders trying to submit the bid at the last moment just before due date and due time and failing to do so due to system problem at their end, internet problems, User ID locking problems etc. shall note that no complaints in this regard shall be entertained. It is the responsibility of the bidders to maintain their computers, which are used for submitting their bids, free of viruses, all types of malwares etc. by installing appropriate anti-virus software and regularly updating the same with virus signatures etc. Bidders should scan all the required original documents before uploading the same.
13. Two Hard copies of the e-tender documents shall be submitted within two (2) working days (during Employer's office working hours) after opening of Packet A in sealed envelopes and delivered to the Chief Engineer at the address mentioned below during the office hours. In the event of any discrepancy between them, the e-Tender shall prevail. **Hard copy of Packet C & Folder 'C' shall not be submitted.**
14. Any online intimation/information asked to be submitted by Bidders or sent to Bidders, if not received or bounced back at the receiving end due to any problem in server or connectivity, BMC shall not be held responsible. Intimations about any additional documents will be informed to Bidders by e-mail on their mail ID. The bidders should also send information in reply e-mail followed by hard copy to respective office where the bid is being scrutinized.
15. Following documents shall be uploaded by the bidders in the folder named "Bidder's Documents" in the online e-Tender.
- (I) The e-Packet 'A' shall contain the following-**
- a) On online payment of EMD, an online receipt will be generated. Scanned/ soft copy of the receipt shall be submitted in Packet A.
 - b) All documentary evidences related with Eligibility Criteria related with Financial & Technical Criteria mentioned in e-Tender Notice.
 - c) In case of Indian bidders scanned copy of 'PAN' document and photographs of the individuals, owners, Karta of Hindu undivided family, firms, private limited companies, registered co-operative societies, partners of partnership firms and at least two Directors, if number of Directors are more than two in case of Private Limited Companies, as the case may be. However, in case of Public Limited Companies, Semi Government Undertakings, Government Undertakings, no 'PAN' documents will be insisted.

- d) Scanned copy of Company Registration Certificate.
- e) GST Registration certificate
- f) Scanned copy of latest Partnership Deed, in case of Partnership firms.
- g) Scanned copy of duly registered Power of Attorney, wherever applicable.
- h) Valid e-mail ID's of the bidders.
- i) Scanned copy of documents showing the existence of firm for last 5 years. Authorized change in name & style shall be considered.
- j) Scanned copy of valid ISO-9001 Certification.
- k) Duly filled scanned copy of Details of financial data as per Schedule E – Annual Turnover and Schedule J – Financial Standing as mentioned. in Volume IV - Schedules
- l) Duly filled scanned copy of Project wise experience records of similar works over last 10 years as per Schedule F – Experience as mentioned in Volume IV – Schedules
- m) Duly filled scanned copy of Details of works in hand and works bid for as on the date of submission of the bid as per Schedule F – Experience as mentioned in Volume IV - Schedules
- n) Duly filled and scanned copy of Details of site management technical personnel with tenderer who are proposed for this contract as per Schedule I - in Volume IV - Schedules.
- o) Duly filled and scanned copy of Schedule K - Litigation History as mentioned in Volume IV – Schedules
- p) Duly filled and scanned copy of Schedule L - Deviations from Specifications (if any) mentioned in Volume IV - Schedules
- q) Details of construction equipment in possession of the tenderer and the equipment proposed to be deployed at site
- r) Valid Registration Certificate in Mechanical & Electrical category, if any.
- s) Duly filled scanned copy of Undertaking cum Indemnity Bond on Rs. 500/- stamp paper regarding the declaration of penal action on the tenderer, in the prescribed format.
- t) The successful bidder shall submit valid registration certificate under E.S.I.C., Act 1948, if the tenderer has more than 10 employees / persons on his establishment (in case of production by use of energy) and 20 employees/persons on his establishment (in case of production without use of energy) to BMC as and when demanded. In case of less employees/persons mentioned above then the successful bidder has to submit an undertaking to that effect on Rs. 500 stamp paper as per circular u/no. CA/FRD/I/65 of 30.03.2013.
- u) The successful bidder shall submit valid registration certificate under E.P.F. &M.P., Act 1952, if tenderer has more than 20 employees/persons on his establishment, to BMC as and when demanded. In case if the successful bidder

has less employees/persons mentioned above then the successful bidder has to submit an undertaking to that effect on Rs. 500 stamp paper as per circular u/no. CA/FRD/I/44 of 04.01.2013.

- v) Valid Bank Solvency (Rs. 1.5 Crore issued by the bank from the approved list of banks not prior to six months of due date of tender)

Bidders may note that Municipal Commissioner shall reject the bid if the bidder submits the conditional tender, stipulates hedging condition/own conditions and also stipulates the validity period less than what is stated in the tender.

If required, the content of the scanned soft copies of the documents uploaded in Packet “A” & Packet “B” will be compared with the ORIGINAL copies of the document uploaded by bidders in e-tender.

Note:

The bidder should furnish e-mail ID’s of the firm for communication

If the additional information sent by BMC by e-mail on the bidder’s e-mail ID as provided by them in the information in bid is not delivered OR in return reply e-mail of additional information is not received to BMC in stipulated time, in such lapses BMC shall not be responsible and it will be treated as Non-compliance of additional information by the Bidders.

(II) The e-Packet “B” shall contain the copies of following documents –

- a) Complete Technical Information & Proposals as per Volume I – Instructions to Tenderers and General Conditions of Contract, Special Conditions of Contract
- b) Complete Technical Information & Proposals as per Volume II – General Specifications.
- c) Complete Technical Information & Proposals as per Volume III – Description of Works & Technical Specifications.
- d) Complete Technical Information & Proposals as per Volume IV - Schedules related to Technical Particulars & Submissions.
- e) Duly filled and scanned copy of Schedule A - Specification Drawings as mentioned in Volume IV – Schedules
- f) Duly filled and scanned copy of Schedule C – Places of manufacture & inspection and contract times, Volume IV – Schedules
- g) Duly filled and scanned copy of Schedule D – Technical Particulars, Volume IV – Schedules
- h) Duly filled and scanned copy of Schedule G – Pump manufacturer’s experience as mentioned in Volume IV - Schedules
- i) Duly filled and scanned copy of Schedule H – Pipe fabrication contractor’s experience as mentioned in Volume IV - Schedules
- j) Duly filled and scanned copy of Schedule M - Schedule of Guarantees as mentioned in Volume IV – Schedules

- k) The successful bidder shall make the arrangements of the required equipment on the day of commencement or with respect to the progress of the work in phases, as per the instructions of site in charge. The successful bidder and, to that effect will ensure commitment on an undertaking on Rs.500 stamp paper to be submitted along with the Bid in Packet B. However, this condition in no way shall dilute the respective condition in Registration Rules of BMC.

Note: Insistence of availability of equipment/plants at a particular distance from site should not be made in the tender document.

- l) The tenderers shall upload work plan, without fail, as per the following outline:
1. GANTT chart/ PERT/ CPM chart showing the completion of work within prescribed time period, considering major activities.
 2. Organizational set up envisaged by the contractors.
 3. Plant & equipment proposed to be deployed for this work.
 4. Site Offices and Laboratories, if any, proposed to be set up.
 5. A note on how the whole work will be carried out (work plan including methodology).
 6. Quality management plan.
 7. All the activities included in the Scope of Work shall be covered in the work plan.

(III) The e-Packet ‘C’

The Bidder shall submit the Commercial bid (Packet C) **online** by filling Complete as per Volume VI – Price Packet C.

Financial Proposal

All the inputs given on this screen need to be digitally signed. The Packet – C shall be filled in online as per items mentioned in ‘Volume VI - Price Packet C’ and the folder named ‘C’ (Financial Submission) containing duly filled & signed scanned copies of Schedule-O: Schedule of Tools and Test Equipment (Sr.no.15 of Volume IV) and Schedule of Bill of Quantities & Rates (Volume VI) shall be online only.

Bidder shall also submit the duly filled and signed Declaration Form for Buyback as per Volume I – Instructions to Tenderers and General Conditions of Contract, 8. Forms, 8.7 - Declaration Form for Buyback, in Folder named C.

Hard Copies of Packet C and documents in Folder named ‘C’ shall not be submitted

If Bidder does not comply with this, he will be disqualified from the tender process.

(Bid Comparison Report is generated in the system when authorized bid opening committee processes for opening commercial bid).

Mandatory Requirement (must be uploaded)

Once the e-Packet C opening date and time (Price Bid opener filled online date and time) is passed, BMC can open the commercial online Bid submitted by the bidder. A bid comparison report would be generated which will give ranking of bidders according to the total cost.

The final selection will be as per LCS method.

Bidders may note that Employer shall reject the tender if the bidder submits the conditional tender, stipulates hedging condition / own conditions and also stipulates the validity period less than what is stated in the tender.

3. DISCLAIMER

DISCLAIMER

The information contained in this e-tender document or provided to Applicant(s), whether verbally or in documentary or any other form, by or on behalf of the Brihanmumbai Municipal Corporation (BMC), hereafter also referred as “Corporation”, or any of its employees or advisors, is provided to Applicant(s) on the terms and conditions set out in this e-tender and such other terms and conditions subject to which such information is provided.

This e-tender includes statements, which reflect various assumptions and assessments arrived at by the BMC in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This e-tender may not be appropriate for all persons, and it is not possible for BMC, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this e-tender. The assumptions, assessments, statements and information contained in this e-tender may not be complete, accurate, adequate or correct. Each Applicant should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this e-tender and obtain independent advice from appropriate sources.

Information provided in this e-tender to the Applicant(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. BMC accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed here.

BMC, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this e-tender or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the e-tender and any assessment, assumption, statement or information contained therein or deemed to form part of this e-tender or arising in any way with pre-qualification of Applicants for participation in the Bidding Process. BMC also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Applicant upon the statements contained in this e-tender.

BMC may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this e-tender.

The issue of this e-tender does not imply that BMC is bound to select and short-list pre-qualified Applications for Bid Stage or to appoint the selected Bidder or Concessionaire, as the case may be, for the Project and BMC reserves the right to reject all or any of the Applications or Bids without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Application including but not limited to preparation, copying, postage,

delivery fees, expenses associated with any demonstrations or presentations which may be required by BMC or any other costs incurred in connection with or relating to its Application. All such costs and expenses will remain with the Applicant and BMC shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Application, regardless of the conduct or outcome of the Bidding Process.

4. INSTRUCTIONS TO TENDERERS

INSTRUCTIONS TO TENDERERS

GENERAL

1.0 SCOPE OF BID

- 1.1 The Municipal Commissioner on behalf of the Brihanmumbai Municipal Corporation, hereinafter referred to as the “Corporation” wishes to invite bids on item rate basis for the **Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD** (as defined in these documents and referred to as “the works”) detailed in the table given in Schedule of Prices. The bidders must submit bid for all the works detailed in the table given in Volume -VI (Packet C and Schedule of Bill of Quantities).
- 1.2 These instructions are provided to assist bidders while preparing their bid. They shall form part of the contract and they shall be taken into consideration in interpreting or construing the contract.
- 1.3 Bidders are requested to read carefully the following directions, the terms and conditions of the contract; addendum if any and sign the form of bid, annexure, specifications and Schedule of Quantities and Rates etc. after making appropriate entries wherever necessary.
- 1.4 The Bidder is expected to examine all instructions, forms, terms and specifications in the Bid Document. Failure to furnish all information required by the Bid Document or submission of a bid not substantially responsive to the Bid Document in every respect will be at the Bidder’s risk and may result in the rejection of its Bid

2.0 SITE VISIT

In order to obtain first-hand information /opinion on the assignment, the bidders are advised to visit the site of the Project mentioned before submitting their proposal. The site is located at Ghatkopar near Eastern Express Highway. Required assistance may be obtained from the “office of Chief Engineer (Mumbai Sewage Disposal Project), 2nd Floor, Worli Engineering Hub, Near Worli Naka, E Moses Road, Mumbai with prior appointment in writing except on all Saturdays, Sundays and public holidays.

The bidder, at the Bidder’s own responsibility & risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for the referred Scope of Works. The costs of visiting the site shall be at Bidder’s own expense. If any of the work is not mentioned in the specifications & the work is of essential in nature for successful completion & commissioning, bidders are requested to get clarification on the same during the bidding stage itself. Any claim of whatsoever nature will not be entertained.

3.0 ELIGIBLE BIDDERS

3.1 This *invitation for Bid* is open to all prospective bidders. Single Entity or Joint Venture of not more than two firms meeting the qualification criteria set out in the tender are eligible to bid for this tender.

3.2 The Bid documents are not transferable. Only those bidders who have purchased the bid documents are eligible to submit their bid.

Bidders shall provide such evidence of their eligibility satisfactory to the Employer as the Employer shall reasonably request.

3.3 The qualification shall be also governed by the requirements prescribed in the order no. 1 under reference F.No.6/18/2019-PPD of Ministry of Finance, Government of India (subject: "Insertion of Rule 144 (xi) in the general Financial Rules (GFRs), 2017") dated 23rd July 2020 and the clarifications issued vide Order no. 2 under even number dated 23rd July 2020 and Order No.3 under even number dated 24th July 2020.

It is clarified that the bids of the parties that do not comply to the above requirements as on the final bid submission date shall be outrightly rejected.

The Bidder has to submit the Certificate(s) in the format given in Appendix - II for the relevant parties along with bid Packet A.

3.4 Firms with common proprietor/partner or connected with one another either financially or as principal and agent or as master and servant or with proprietor/partner closely related to each other such as husband, wife, father/mother, minor son/daughter, brother/sister, minor brother/sister shall not submit bid separately under different names for the same contract.

3.5 If it is found that firms as described in 3.4 have submitted bid separately under different names for the same contract, all such bid(s) shall stand rejected and bid security (EMD) of each such firm/establishment shall be forfeited. In addition, such firms/establishments shall be liable, at the discretion of the Municipal Commissioner, for further penal action including blacklisting.

3.6 If it is found that closely related persons as stated in 3.4 have submitted separate bid under different names of firms/establishments but with common address for such establishments/firms and/or if such establishments/firms, though they have different addresses, are managed or governed by the same person/persons jointly or severally, such bids shall be liable for action as in 3.5 above including similar action against the firms/establishments concerned.

3.7 To become eligible for bidding -

The Contracting firm must not have been blacklisted or debarred from bidding in tendering process (either as single entity or as partner of Joint Venture) by any Govt. /Semi govt. Authority, Funding Agencies like World Bank/ADB/ JICA etc. during last 3 (three) years period and validity of debarred period should not fall in last 3 years period.

And

Any Entity shall have neither failed to perform on any Contract, as evidenced by

imposition of a penalty by an arbitral or judicial employer or a judicial pronouncement or arbitration award against the Tenderer, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Tenderer, or any party constituting the Tenderer in the last 3 years.

And

All pending litigations shall, in total, not represent more than 25% {Twenty Five} of tenderer's net worth during the last five (5) years.

- 3.8 The firm will be excluded from selection process, if it is debarred during the period of start of bidding and finalization of award.
Also, no bidder shall be affiliated with a firm or entity who has been involved in any capacity with the tendering process for the referred works.
- 3.9 If after award of contract, it is found that the accepted Bid violated any of the instruction as in 3.4, 3.5 the contract shall be liable for cancellation at any time during its currency in addition to penal action against the contractors as well as related firm/establishments.
- 3.10 Government – owned enterprises in the Employer's country may only participate if they are legally and financially autonomous, operate under commercial law and are not a dependent agency of the employer.
- 3.11 The Bidder shall not add to or amend the text of the Bid Document except in so far as may be necessary to comply with the addendum issued by the Employer.
- 3.12 The Bid prepared by the Bidder and all correspondence and documents relating to the Bid exchanged by the Bidder and the Corporation, shall be written in the English language provided that any printed literature furnished by the Bidder may be written in another language so long as accompanied by a English translation of its pertinent passages in which case, for purpose of interpretation of the bid, the English translation shall govern.
- 3.13 The successful bidder will be expected to complete the works by the intended completion date specified as per relevant clauses mentioned in GCC.
- 3.14 The Works to be carried out under this Contract include the **Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD.**
- 3.15 For reference project to be eligible for submission in support of the experience requirement subject to technical criteria C, the tenderer shall either have
- Undertaken the project as single entity or
 - Undertaken the project as a partner in Joint Venture;
 - i. The partner may claim the value of a project executed based upon their pro rata share holding within the Joint Venture.
 - ii. Only the lead partner with highest shareholding in a Joint Venture will qualify for claiming the plant's capacity

- 3.16 The scope of work is detailed in General Specifications included in Volume - II of the Bid Documents.
- 3.17 The successful Bidder shall complete the works so as to commission, including carrying out tests within the specified completion period, inclusive of monsoon periods from the date of issue of order of commencement for the Works or SAP work order. The works may be carried out in two or three shifts as per the requirement at site & as per the approval of the Engineer of the Contract. However, the Contractor shall obtain all necessary permissions required if any. The Contractor shall plan and complete all works as defined in scope of work within prescribed completion period stated in this document.
- 3.18 Throughout these Bid documents, the terms “bid” and “Bid” or “tender and tenderer” and their derivative (bidder/ Bidder, bidding, etc.) are synonymous and “day” means calendar day. For definition of various terms refer to Conditions of Contract.

4.0 SOURCE OF FUNDS

- 4.1 The Municipal Corporation have initiated this work by raising fund from BMC’s internal sources towards the **Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD.**

5.0 BACKGROUND

- 5.1 Ghatkopar sewage Pumping Station was commissioned in the year 2002 with a capacity of 553 MLD having 5 number of pumps (4 working +1 standby) of capacity 138.4 MLD each. As overall capacity will be increased to 699 MLD. The new pumps of capacity 139.8 MLD each with 6 pumps arrangement (5 working and 1 standby) and additional piping and valves will be executed under this contract.
- 5.2 At present, the existing pumps are pumping raw sewage to existing WwTF. These pumps have completed their useful life and thus the equipment & machinery of Ghatkopar IPS are required to be replace by new ones as detailed in specifications.
- 5.3 The Tenderers shall have and be capable of demonstrating core competence and experience in the planning, construction and commissioning of similar works as defined in Eligibility Criteria

6.0 GENERAL SCOPE OF WORKS

- 6.1 This Contract involves **Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD.**
- 6.2 The detailed scope of works required is as shown in the Volume V - Drawings and described in the Volume II of General Specifications. However, the works required to be carried out under this contract include construction, supply, laying installation, testing, pre-commissioning and commissioning of works and further 36 months of operation and maintenance as specified and shown on the drawings, datasheets.
- 6.3 The following is a general description of the work to be carried out:

- a) It is proposed to carry out the **Work of Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD** as defined.

Note - All the works specified above are required to be carried out stage wise in sequence such that Ghatkopar IPS delivers the sewage to existing Ghatkopar WwTF uninterruptedly. The switching over of the electrical operations, pumping system and conveyance system, etc. shall be carried out smoothly without any disturbance till commissioning of the new works as proposed above. Tenderer shall consider all the costs associated with the above including temporary isolations or flow diversion arrangement for successful execution of works.

- b) The drawings enclosed with the documents are indicative & illustrative for getting the general idea of the works to be carried out and it is the responsibility of the contractor to check the drawings, specifications for its satisfactory completion of the work as specified. However, the drawing, datasheet and specifications are intended to set the minimum acceptable standards which may please be noted.
- c) The Contractor shall include for the design, material, manufacture, testing at works, packing for shipment, delivery to the site, unloading, storing, complete erection, setting to work, pre-commissioning, commissioning, testing, operation and maintenance for 36 months, rectification of defects and maintaining during the period of defect liability.

6.4 Description of works

I Civil Works

- a) Supply, Laying, Installation & Commissioning of 1800 mm diameter rising main and 2200mm pipeline in addition to existing 1800 mm diameter rising main from Ghatkopar IPS to Ghatkopar WwTF & its allied works.
- b) Steelwork, ladders and chequered plating and grating as required for the equipment.
- c) Repairs / Modifications / Providing new foundations for the newly installed equipment & Machinery as per specifications including demolition of existing one.
- d) Structural repairs & Face Uplifting of Ghatkopar IPS Building & Sub-Office Building
- e) Reconstruction of 1000 m long road from Ghatkopar IPS to Ghatkopar WwTF.
- f) Construction of new surge tank near old surge tank and bypassing the system through new surge tank by disconnecting the existing one.

II Mechanical Works

- a) Supply, installation, testing and commissioning of six numbers of main

Submersible Dry Pit Sewage Pumps and their Submersible motors – 5825 m³/hr, 36 MWC 6.6 KV rating motor as per specifications & all necessary ancillary equipment.

- b) Provision of Vibration sensor and mounting pads for each pump-motor unit.
- c) Provision of Bearing temperature indicators and RTDs for each pump
- d) Replacing existing screens with new mechanical screens at inlet channel along with conveyor belt system.
- e) Replacing existing Sluice gates near screens, wet well chamber with new gates and installing new sluice gate in new Surge tank.
- f) Replacing the existing 20 Ton and 7.5 Ton EOT cranes with new 20 Ton and 7.5 Ton SWL capacity cranes without rail. However, condition of existing rails shall be assessed and replaced if required.
- g) Replacing the existing 1 Ton Electric Hoist with new 1 Ton Electric Hoist in Blower room. However, condition of existing rails shall be assessed and replaced if required.
- h) Replacing existing Air conditioning system with new one in Panel room and Control room.
- i) Replacing existing Plug valves with new Knife gate valves at delivery side and existing Knife gate valves with new knife gate valves at suction side.
- j) Replacing existing Non Return valves with new Non Return valves at delivery side.
- k) Provision of new Knife gate valves at 1800 mm on existing & proposed rising main to WwTF
- l) Replacing existing Blowers with new ones for ventilation of Riser chamber and existing Ducting with new Ducting near Riser chamber and Screen chamber.
- m) Replacing existing Elevator in Pump house with new Elevator.

III Electrical Works

- a) Two nos. of existing 22/6.6 kV 3.5MVA transformers will be replaced by two nos. of 22/6.6 kV, 6.3 MVA transformer, Two nos. of existing 22/0.433kV 630kVA transformers will be replaced by two nos. of 22/0.433 kV, 800kVA transformers.
- b) All existing 22kV, 6.6kV and LT switchboard will be replaced by new 22kV, 6.6kV and LT switchboard.
- c) 2 nos. Power transformer oil type 22/6.6 kV 6.3MVA with NGR, 2 Nos. Distribution Oil type transformer 22/0.433 kV 800 KVA.
- d) Provision of Variable Frequency Drive for the 6.6 kV H.T. motors
- e) Provision of APFC Panels for 415V LT Panel

- f) Provision of 22 kV and 6.6 kV H.T. Panels as per specifications
- g) Provision of 6.6 kV Neutral Grounding Resistors
- h) Provision of Battery & Battery Chargers, UPS as per specifications
- i) Provision of 22 kV, 6.6 kV and 1.1 kV UE grade power cables and 1.1 kV with control cables with terminations & cable trays and carrier system wherever required.
- j) Provision of Local emergency stop push button station.
- k) Provision of G.I. conductor earthing system (comprising equipment connection)

IV Instrumentation Works

- a) Data acquisition of all 6 pumps including vibration, temperature, pressure and flow by PLC based SCADA monitoring system with A3 size colour laser multifunction printer.
- b) Pressure gauge, pressure transmitter, vibration and temperature monitoring system on individual pumps.
- c) Level transmitter at each wet well compartment
- d) Flow meters along with companion flanges and dismantling joint on individual delivery lines

V Miscellaneous Works

- a) Isolating, dismantling, removing, shifting & storing the old existing equipment & machineries at suitable location for buyback.
- b) Operation and maintenance for 36 months immediately after construction and commissioning of the project
- c) Buyback of the removed existing civil, mechanical, electrical & Instrumentation material etc. as per BMC procedure which are replaced under the contract.
- d) Not used
- e) Supply of complete set of Tools as included in Volume IV.
- f) Sufficient quantity of all jointing hardware as required to complete the work successfully
- g) Furnishing Basic Engineering Drawings & As-built drawings and manuals as required as per relevant clause.
- h) Class room based training to BMC staff for 3 days and on site job training for operation & maintenance of equipment & machinery.
- i) Obtaining all required clearances from the statutory authorities to the installation if any
- j) Hand over the installation in good working condition after completion of operation and maintenance period of 36 months to the employer.

- k) All the necessary required work essential to complete & commission the subject work successfully.

Note: The above is general scope of work. For detailed scope of work the contractor shall refer Volume II: General Specifications and shall comply the same.

7.0 CLARIFICATIONS FOR THE BIDDER

The Commissioner reserves the right to accept or reject any bid or all the bids or annul the bidding process at any time prior to award without assigning any reasons thereby incurring any liability to the affected Bidder or any obligation to inform the Bidder(s) of the ground for corporation's action.

8.0 BID VALIDITY PERIOD

The bids shall be kept valid for acceptance for **240 (Two Hundred & Fourty) days** from the last date of bid submission.

In exceptional circumstances, BMC may request the Bidder in writing to extend the validity of their proposals without allowing any modifications to the offer and stipulated conditions in the bid.

9.0 EARNEST MONEY DEPOSIT

- a) The Bidders are required to pay the EMD online of the amount as stated in the e-tender. On the online payment of EMD, a receipt will be generated.
- b) If the tenderer withdraws his tender offer during the tender validity period his Earnest Money deposit shall be forfeited.

10.0 Refund of Earnest Money Deposit (EMD)

10.1 EMD of all the bidders will be refunded as follows:

- a) The Bid Security / EMD of the successful bidder will be discharged when the bidder has signed the agreement and furnished the required Security Deposits.
- b) The Bid Security / EMD and ASD of L-2 and other higher bidders (L-3, L-4, etc.) shall be refunded immediately after opening of financial bid.
- c) In case, the successful bidder becomes non-responsive or successful bidder withdraws the bid or is unwilling to extend the bid validity period, in such circumstances, if L-2 bidder is agreeable to extend the bid validity period and ready to deposit the requisite amount of bid security / EMD and ASD to the department within stipulated time period i. e. 15 days, the department will process further as per normal procedure.

10.2 The Bid Security (EMD) may be forfeited

- a) if the Bidder withdraws his Bid during the period of Bid validity
- b) if the bidder attempts to modify any prices/rates or substance of the bid

after the deadline of the submission of bids.

- c) if the Bidder does not accept the correction of his “Bid Total”
- d) in case of a successful Bidder, if he fails within the specified time limit to
 - i. Sign the Contract Agreement, or
 - ii. Furnish the required Performance Security
- e) if Bidder is found influencing the decision of Award.

10.3 No interest shall be paid on the EMD

11.0 CONTENTS OF THE TENDER DOCUMENTS

The tender document comprises the following

- a) Tender Notice
- b) Special Instructions to bidders for e-tendering
- c) Disclaimer
- d) Instructions to Tenderers
- e) General conditions of contract
- f) Special Conditions of Contract if any
- g) General Specification
- h) Scope of work and Technical specifications
- i) Schedules
- j) Financial Packet and folder named ‘C’.
- k) Annexures, Appendices and various forms
- l) Drawings
- m) Addenda, Corrigenda, if any
- n) Any other documents forming part of the tender

12.0 QUALIFICATION OF THE BIDDER

12.1 All bidders shall provide Forms of Bid and Qualification Information, a preliminary description of the proposed methodology of work and schedules, including drawings and charts, as necessary.

12.2 In addition to above all the bidders (in case of JV, both members of JV) shall include the following information and documents with their bids

- a) Experience in works of a similar nature and size for each of the last Ten (10) years, and details of works under way or contractually committed; and clients who may be contacted for further information on those contracts.
- b) Reports on the financial standing of the Bidder, such as profit and loss statements and auditor’s reports for the past Ten (10) years.

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- c) Evidence of adequacy of working capital for this contract access to line(s) of credit and availability of other financial resources other than any contractual advance payments to meet the cash flow requirement
 - d) Information regarding any litigation, current or during the last three years, in which the Bidders is involved, the parties concerned, and disputed amount.
 - e) The proposed methodology of construction, backed with their construction equipment planning and development, duly supported with broad calculations and quality control procedures proposed to be adopted, justifying their capability of achieving the completion of work as per milestones (if any) specified within the stipulated period of completion.
- 12.3 To qualify for award of the bid, bidder shall meet the following qualification/eligibility criteria and experience.

Sr. No	Requirements	Single Entity	Joint Venture	
			Both Parties Combined	Each Party
A	General Criterion			
A.1	The tenderer shall be single entity or Joint Venture. They, as independent entities shall be in existence for last 5 years. Authorized change in name & style shall be considered.	Must meet requirement		Must meet requirement
A.2	The firms shall have valid ISO-9001 Certification.	Must meet requirement		Must meet requirement
B	Financial Criteria			
B.1	Submission of audited financial statements, for the last 10 (TEN) financial years subject to A.1 above.	Must meet requirement		Must meet requirement
B.2	Minimum average annual turnover for the last 3 (THREE) years (2020-21, 2019-20, 2018-19), shall not be less than Rs. 49Crore An escalation rate of 10% per annum can be applied to annual turnover of previous years (refer Note No. 1) to arrive at current year turnover value.	Must meet requirement	Must meet requirement	
B.3	Assessed Available Bid Capacity (ABC) ABC to be greater than INR 164 Crore. $ABC = A * N * 2 - B$ where A = Average annual value of construction works executed during the last ten years (subject to A.1 above) N = Number of years prescribed for completion of the works (2.5 years) for which the Tenders are invited; and B = Value at current price level of the existing commitments and on-going works to be executed over the next 2.5 years;	Must meet requirement	Must meet requirement	Lead Member must meet Fifty percent (50%) of the requirement
C	Technical Criteria			

Sr. No	Requirements	Single Entity	Joint Venture	
			Both Parties Combined	Each Party
C.1	<p>The firm should have experience of similar works (refer C.2), either fully completed or substantially completed* (i.e. 90% of the contract value) after 1st January 2011 in India as per following:</p> <p>a. One similar completed work costing not less than the amount equal to Rs. 64 Crores. OR</p> <p>b. Two similar completed works each costing not less than the amount equal to Rs. 40 Crores. OR</p> <p>c. Three similar completed works each costing not less than the amount equal to Rs. 32 Crores.</p> <p>The value of completed works shall be brought to current costing level by enhancing the actual value of work by compound rate 10% per annum (Refer Note No. 2); calculated from the date of completion to the date of issue of tender.</p> <p>* 'substantially completed' (i.e. 90% of the Contract value) means R.A. bills paid under the contract up to 90% of the contract value”</p>	Must meet requirements		Lead Member must meet Hundred percent (100%) of the requirement
C.2	<p>Relevant experience in the similar completed works in “Construction, Supply, Installation, Testing and Commissioning of Waste Water/Storm water/Water Pumping Station works along with Pumping Mains Piping Work, either individual plant capacity / cumulative plant capacity in single work order each, within India, after 1st April 2012”</p> <p>a. At least one work with minimum 280 MLD capacity OR</p> <p>b. At least two works with minimum 175 MLD capacity each OR</p> <p>c. At least three works with minimum 140 MLD capacity each</p>	Must meet requirements		Lead Member must meet Hundred percent (100%) of the requirement

1. Updation of annual turnover (B.2) to the annual turnover of the tender year to be done at the rate of 10% per year compounded annually as follows:

FY 2018-19: 1.33 FY 2020-21: 1.10

FY 2019-20: 1.21 FY 2021-22: 1.00

The last 3 years applicable for a bidder who has the 2021-22 financial statements ready as per the tender requirements shall be from 2019-20 to 2021-22. For others, the 3 years applicable shall be considered as 2018-19 to 2020-21.

2. Updation of contract value (C.1) and Average annual value of construction works ('A' mentioned in B.3) to the price level of the tender year to be done at the rate of 10% per year compounded annually as follows:

FY 2012-13: 2.35 FY 2016-17: 1.60

FY 2013-14: 2.13 FY 2017-18: 1.46

FY 2014-15: 1.94 FY 2018-19: 1.33

FY 2015-16: 1.76 FY 2019-20: 1.21

FY 2020-21: 1.10

FY 2021-22: 1.00

The last 10 years applicable for a bidder who has the 2021-22 financial statements ready as per the tender requirements shall be from 2012-13 to 2021-22. For others, the 10 years applicable shall be considered as 2011-12 to 2020-21.

3. For reference project to be eligible for submission in support of the experience requirement subject to technical criteria C, the tenderer shall either have
 - Undertaken the project as single entity or
 - Undertaken the project as a partner in Joint Venture
 - i) The partner may claim the value of a project executed based upon their pro rata share holding within the Joint Venture
 - ii) Only the lead partner with highest shareholding in a Joint Venture will qualify for claiming the plant's capacity
4. Copies of purchase order & Taking over Certificate (of the works on which the bidder desires to get qualified) from the client, not below the rank of Executive Engineer, shall be enclosed along with the tender to substantiate the same. And also details of clients who may be contacted for further information on all these contracts.

The Bidders who does not fulfil this criterion shall be disqualified and their Packet B and Packet C shall not be opened.

13.0 PERSONNEL CAPABILITIES

13.1 Bidders shall upload general information on the management structure of the firm, and shall deploy qualified personnel to fill the key positions as under:

Requirement of Technical Staff		Min. Experience (year)	Position
Qualification	Number		
i) Project Manager with degree in Civil / Mechanical / Electrical discipline of Engineering	1	10	Project Manager
ii) Graduate Engineer each for Civil, Mechanical & Electrical Engineering	1 of each discipline	5	Resident Engineer
iii) Graduate Engineer or Diploma Engineer each for Civil, Mechanical & Electrical Engineering	1 of each discipline	2 for graduate 5 for diploma	Site Engineer

13.2 The Bidders should upload general information on the Organizational set up of the firm, to allow the employer to review their proposals

14.0 EACH BIDDER SHOULD FURTHER DEMONSTRATE:

- i) To qualify for the contract works for which bid is invited in the ITT, the bidder must demonstrate enough experience and sufficient resources available to meet the qualifying criteria for the contracts
- ii) Sub-contractors' experience and resources shall not be taken into account in determining the bidder's compliance with the qualifying criteria
- iii) Even though the bidders meet the above qualifying criteria, they are subject to be disqualified if they have:
 - a) Made misleading or false representations in the forms, statement and attachments submitted in proof of the qualification requirements; and/or
 - b) Record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.

15.0 ONE BID PER BIDDER

15.1 Each bidder shall submit only one bid. A bidder who submits or participates in more than one Bid (in cases of alternatives that have been permitted or requested) will cause all the proposals with the Bidder's participation to be disqualified.

16.0 COST OF BIDDING

16.1 The bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible and liable for those costs.

17.0 BIDDING DOCUMENTS

17.1 Content of Bidding Documents

The set of bidding documents comprises the documents listed in the table below and addenda issued (if any).

Volume I : Instructions to Tenderers and General Condition of Contract

Volume II : General Specifications

Volume III : Description of work and Technical Specifications

Volume IV : Schedules

Volume V : Drawings

Volume VI : Packet C and Schedule of Bill of Quantities

17.2 Volumes I, II, III, IV, V & VI and Addenda, if any, will be uploaded at BMC's Portal.

17.3 The Bidder is expected to examine carefully the contents of all the above documents. Failure to comply with the requirements of Bid submission will be at the Bidder's own risk.

18.0 CLARIFICATION ON BIDDING DOCUMENTS

18.1 A prospective bidder requiring any clarification of the bidding documents may notify the Employer in writing by mail at the Employer's address indicated in the invitation to bid. The employer will respond to any request for clarification which he received prior to the pre-bid meeting. Copies of the Employer's response will be published on BMC's Portal, including a description of the enquiry but without identifying its source. Verbal information and/or clarification given by any representative of the Employer shall not be binding on the employer.

18.2 Queries if any, raised during the meeting, will also be considered and the minutes of the meeting including the text of the questions raised and BMC's response will be transmitted to all prospective firms in the form of addendum. No queries will be entertained after the pre-bid meeting.

19.0 PRE-BID MEETING

Pre-Bid Meeting will take place at the address and as per the Schedule mentioned in the tender notice.

20.0 PREPARATION OF BIDS

20.1 In preparing the Proposal, the Bidder is expected to examine the bids in detail. Material deficiencies in providing the information requested in the bid may result in rejection of the Proposal.

20.2 Queries relevant to the bid documents shall be addressed to Chief Engineer (MSDP), preferably at least 1 day prior to the pre-bid meeting in pdf as well as in editable excel format as per the following.

Sr. No.	Bidder Name	Page No.	Clause Reference	Subject	Queries raised by Prospective Bidders

- 20.3 BMC will respond to any such request for clarifications, which are received in stipulated time. The response, however, will be in the form of written communication.
- 20.4 The Bidder shall bear all costs associated with the preparation and submission of its Proposal. BMC is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Bidder.
- 20.5 The Bidder shall not add to or amend the text of the Bid Document except in so far as may be necessary to comply with the addendum issued by the Corporation. If it is found that the Bidder has violated this condition, his bid is liable to be rejected.
- 20.6 Any addenda thus issued shall be part of the proposal documents and will be binding on the bidders. BMC may, at its discretion, extend the dead line for submission of proposals.

21.0 LANGUAGE OF BID

The language of the bid shall be English. Documents/ Information in any other language shall be accepted only if accompanied by translations certified by Consulates/ Embassies or Gazetted Officers conversant with the language of the document. Only English text shall be governing in e- tendering.

22.0 FORMAT OF THE BID

The Bidder shall submit the bid online in three parts, i.e. Eligibility Criteria & Technical bid (Packet A & Packet B respectively) and Commercial bid (Packet C with Folder named 'C') and shall contain scanned copies of the following documents.

1.1 Eligibility Requirement (Packet A)

Online submission as per Volume I – Instructions to Tenderers and General Condition of Contract 2. Special Instructions to bidders for e-Tendering e-Packet A, Sr.No.15(I).

1.2 Technical bid (Packet B)

Online submission as per Volume I – Instructions to Tenderers and General Condition of Contract, 2. Special Instructions to bidders for e-Tendering e-Packet B, Sr.No.15(II).

1.3 Commercial bid (Packet C)

Online submission as per Volume I – Instructions to Tenderers and General Condition of Contract, 2. Special Instructions to bidders for e-Tendering e-

Packet C, Sr.No.15(III).

(The department reserves the rights to seek clarifications /information /shortfalls from a Bidder in all above Packets (Packet A, B & C) by e-mail & bidder should reply the clarifications within 3 working days by return e-mail).

22.4 **Conditional Proposals by Bidders**

Bidders shall upload the offers that comply with the requirements of the e-tendering documents in Bidders folders. If the Bidder suggests any alternative or stipulates his own condition(s), the e-tenders shall be rejected.

22.5 **Amendment of contents of proposal**

Before the deadline for submission of bids, the BMC may modify the bid documents by issuing addendum/ corrigendum and publishing on BMC's portal.

Any addendum/corrigendum/clarifications thus issued shall be part of the bid documents and shall be published on BMC's portal.

The addendum/corrigendum/ clarifications thus issued shall be downloaded, digitally signed by the Bidder and submitted and uploaded along with the bid.

In order to give prospective Bidders reasonable time to consider the addendum/ corrigendum/clarifications before submitting and uploading their bids, the BMC may extend as necessary the deadline for submission and uploading of bids.

23.0 **DOCUMENTS COMPRISING THE BID SUBMISSION**

The Bid to be prepared & submitted by the Bidder shall comprise the following:

- (a) Bid Security (EMD) is to be paid Online only.
- (b) Bid Form duly filled in and signed and Appendix to Bid.
- (c) Documents related with the Financial & Technical Criteria
- (d) Schedule of Technical details as per Volume IV - Schedules
- (e) Schedules of Prices.
- (f) Schedules of Supplementary Information
- (g) Information on general performance data, eligibility and qualification as per the schedules of supplementary information
- (h) Documents as per Volume I – Instructions to Tenderers and General Condition of Contract, Special Instructions to bidders for e-Tendering e-Packet A, Sr.No.15(I), e-Packet B, Sr.No.15(II) & e-Packet C, Sr.No.15(III)
- (i) Instructions to Tenderers, Specifications, General Conditions of Contract, Special Conditions of Contract, General Specifications and Technical Specifications and Addendums (if any) and Specification Drawings
- (j) A detailed note outlining bidder's proposed methodology of

construction backed with his construction equipment planning and development, duly supported with broad calculations and quality control procedures proposed to be adopted, justifying the capability of achieving the completion of work.

- (k) Information related with the organisational setup
- (l) Power of Attorney in respect of the person who is authorized to sign the Bidding Documents.
- (m) Valid Bank Solvency (Rs. 1.5 Crore issued by the bank from the approved list of banks not prior to six months of due date of tender)

24.0 BID PRICES

24.1 The contract shall be for the whole works as described, based on the Schedule of Prices submitted by the Bidder.

24.2 The Bidder shall quote the price in Volume VI-Packet C and Schedule of Bill of Quantities uploaded online in Commercial bid (Packet C and Folder named 'C') only. The rate shall invariably include the cost of the work arising out of scope of the work mentioned. Items for which no rate or price is entered by the bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities.

24.3 The bidder shall fill in the rates & prices for all items of works described in Schedule of Prices. Items against which no rate of prices is entered by the bidder will not be paid for by the Corporation and shall be deemed covered by the other rates and prices in the bill of quantities.

24.4 In case of any change in rates/amount of taxes due to legislation implemented after the day fifteen days prior to the date of submission of bid, resulting additional/ reduced cost will be paid /credited by/ to the Corporation.

24.5 The Packet – C shall be filled online as per items mentioned in 'Volume VI. It shall contain-

- Price Packet C (to be filled online in the BOQ provided).
- Schedule of Bill of Quantities' (break up of cost to be submitted in folder named 'C')
- Duly filled & signed scanned copies Schedule O: Schedule of Tools and Test Equipment (Sr.no.15 of Volume IV) (to be submitted in folder named 'C').

Note: Hard Copies shall not be submitted. If Bidder does not comply with this, he will be disqualified from the tender process.

24.6 After opening of financial packet, the lowest bidder shall have to submit detailed rate analysis for all items along with his estimated quantities for each work schedule if required.

25.0 CURRENCIES OF BID AND PAYMENT

25.1 The unit rates and the prices shall be quoted by the bidder entirely in Indian Rupees and payment will be made in Indian Rupees only.

26.0 SIGNING OF BID DOCUMENT

Bidders are requested to sign at appropriate place in the tender form & formats etc. after making appropriate entries wherever necessary. The uploaded documents shall also be digitally signed. If the Bid is made by a proprietary firm, it shall be signed by the Proprietor above his name and the name of his firm above his current address. If the Bid is made by firm in partnership, it shall be signed by all the partners of the firm above their full names and current addresses or by a partner holding the Power of Attorney for the firm for signing the bid (in which case the partnership deed, current address of the firm and full names and current addresses of all the partners of the firm shall also accompany the bid). If the bid is made by a limited Company or a limited Corporation, it shall be signed by a duly authorized person holding the Power of Attorney for signing the bid (in which case the Power of Attorney shall accompany the bid). Such Limited Company or Corporation may be required to furnish satisfactory evidence or its existence before the contract is awarded.

27.0 MODIFICATION OF DOCUMENTS

Modifications of specifications and extension of the end date of the Bid, if required, will be made by BMC by issuing necessary addendum/corrigendum. Such addendum/corrigendum will be uploaded in the bid and same will be displayed on BMC's Portal. The copies of the same shall be signed by the Bidder and shall form a part of the Bidder's bid.

28.0 SUBMISSION OF BIDS

All bids i.e. 3 packets consisting of Packet A, Packet B & Packet C with Folder named 'C' shall be submitted online. However, 2 sets of hard copies (Each of Packet A & Packet B) in sealed envelopes shall be submitted to office of Chief Engineer, 2nd Floor, Worli Engineering Hub, Near Worli Naka, E Moses Road, Mumbai - 400018 within two (2) working days (during Employer's office working hours) after opening of Packet A. The contents of the e-Tender shall be considered as final and binding on the Bidder.

No hard copies of Packet C & folder named C shall be submitted in any case. If Bidder does not comply with this, he will be disqualified from the tender process.

29.0 OPENING OF BID

Packet A will be opened and scrutinised for their responsiveness and if found responsive such Bidders' Packet B will be opened. In case of non-responsive bidder in Packet A, 10% amount of EMD paid will be forfeited.

Packet B of only those Bidder found responsive in respect of Packet A shall be opened and the Technical bid (Packet B) shall be scrutinized. In case of non-responsive bidder in Packet B, 10% amount of EMD paid will be forfeited.

The Bidders' representatives who are present shall sign a register evidencing their attendance.

The Bidders' names, withdrawals, the presence or absence of Bid security, and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening.

The Employer shall prepare notes of the Bid opening, including the information disclosed to those Bidders representatives present.

To assist in the examination evaluation and comparison of offers, BMC may, at its discretion ask for clarifications on submitted offers. The request and the response to clarification will be in writing and no change in price or specification of the offer will be permitted.

During evaluation of Packet A and B, Original documents / clarifications, if asked, shall be produced for verification within 3 working days from the date of intimation, failing which the offer of the respective Bidder may be treated as non-responsive.

If any discrepancies are observed and false documents are found to be uploaded by the Bidder, such Bidder will be disqualified from the bidding process. Further action as per tender conditions will be initiated against such bidder.

Only the Bidders who qualify in Packet 'A' and Packet 'B' will be considered as responsive for opening financial bid i.e. Packet 'C'.

Any effort by any prospective firm to influence the BMC's processing of proposals and/or award decisions may result in rejection of the proposal of that firm.

If a bidder is not satisfied with the decision of responsiveness / non responsiveness in Packet 'A', 'B' or 'C', by the concerned HOD, he may appeal to D.M.C. (C.P.D.) by paying fee Rs. 25000/-.

D.M.C.(C.P.D.)will assign the work of co-ordination of various activities and administration work of G.C.R. to nominated Registrar.

The Committee will hear the grievance of bidder within 30 days on receipt of bidder's application and will pass an order within 45 days.

If bidder not satisfied with the decision of the above Committee, he may appeal to the concerned Addl. Municipal Commissioner (Project). The Addl. Municipal Commissioner (Project) will hear the case within 45 days from the date of receipt of application for second appeal from the bidder and will pass the order within 60 days.

30.0 PROCESS TO BE CONFIDENTIAL

Information relating to the examination, clarification, evaluation, and comparison of Bid and recommendations for the award of a contract shall not be disclosed to Bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any

effort by a Bidder to influence the Employer's processing of Bids or award decisions may result in the rejection of his Bid.

31.0 POST-BID CORRESPONDENCE

Bid shall be termed to be under consideration from the opening of the bids, until such time an official announcement of award is made. While bids are under consideration, Bidders and their representatives or other interested parties, are advised to refrain from contacting by any means the Corporation's personnel or representatives on matters related to the bids under consideration.

The BMC engineer's representative, if necessary, will obtain clarification of bid by requesting such information from any or all the Bidders either in writing or through personal contact as may be necessary. The Bidder will not be permitted to change the substance of his bid after bids have been opened.

32.0 DATE OF OPENING AND EVALUATION OF FINANCIAL BIDS (PACKET C)

The price packet of the technically responsive bids will be opened on a date as mentioned in at e-tender notice.

The date of opening of Financial Proposal if extended shall be intimated to the qualified Bidders separately after the technical evaluation is completed.

The employer reserves the right to accept or reject any variation or deviations, and other factors which are in excess of the requirements of the bidding documents or otherwise result in actual of unsolicited benefits to the employer shall not be taken in to account in bid evaluation.

33.0 EVALUATION OF THE BIDS (PACKET A & PACKET B)

Prior to the detailed evaluation of Bids, the Employer will determine whether each Bid.

- (a) meets the eligibility criteria stated in ITT clause 3;
- (b) has been properly signed
- (c) is accompanied by the required securities
- (d) is substantially responsive to the requirements of the Bidding documents.

A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the Bidding documents, without material deviation or reservation. A material deviation or reservation is one

- (a) which affects in any substantial way the scope, quality, or performance of the Works;
- (b) which limits in any substantial way, inconsistent with the Bidding documents, the Employer's rights or the Bidder's obligations under the Contract;
- (c) whose rectification would affect unfairly the competitive position of

other Bidders presenting substantially responsive Bids.

The Corporation may waive any informality or non-conformity or irregularity in a Bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.

If a Bid is not substantially responsive, even after obtaining clarification from the Bidder it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

As a result of the Technical evaluation, the Bids which are Technically responsive shall be shortlisted. The Price Bids of the technically responsive bidders only shall be opened on the date of opening of Price Bids to be informed to all Technically responsive Bidders.

If it is found that the tenderer has not submitted required documents in Packet "A" then, the shortfalls will be communicated to the tenderer through e-mail only and compliance required to be made within a time period of **three** working days otherwise they will be treated as non-responsive.

No rejections and forfeiture shall be done in case of curable defects.

For non-curable defects, bid will be liable for rejection and 10% of EMD shall be forfeited.

Note:

- i) Curable Defect shall mean shortfalls in submission such as:
 - a. Non-submission of following documents,
 - i. Valid Registration Certificate
 - ii. Valid Bank Solvency
 - iii. Goods & Services Tax Registration Certificate (GSTN)
 - iv. Certified Copies of PAN documents and photographs of individuals, owners, etc
 - v. Partnership Deed and any other documents
 - vi. Undertakings as mentioned in the tender document.
 - b. No proper submission of experience certificates and other documents, etc
 - c. Wrong calculation of Assessed Available Bid Capacity
- ii) Non-curable Defect shall mean
 - a. Inadequate submission of EMD/ASD amount,
 - b. Inadequacy of technical and financial capacity with respect to Eligibility criteria as stipulated in the tender.
- iii) In case if bidder fails to comply with the curable defects within the prescribed time limit, such curable defects will get converted into non-

curable defects & the provisions for non-curable defects will be applied.

34.0 EVALUATION AND COMPARISON OF BIDS

34.1 The Employer will evaluate and compare only the Bids determined to be substantially responsive in accordance with Clause 33.

34.2 Conditional bids will not be accepted and will be rejected outright.

34.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Bid evaluation.

34.4 Errors and Corrections

- a) All priced Schedules will be inspected and examined by the Engineer for errors which might alter the Tender Price for the Works.
- b) For the purpose of the assessment of e-Tender Submissions and in order to determine the Tender Price of an e-Tender Submission, the following steps shall be undertaken by the Engineer, without reference to the Tenderer, and the Tender Price shall form the basis for financial comparison with other e-Tender Submissions:
 - i) If, on receipt of any e-Tender Submission, any errors shall be apparent in the extension of any item in the Bill of Quantities and Rates submitted in folder C, the Engineer shall correct the extension so as to be a product of the quantity (if applicable) and the rate set against that item and the Engineer shall adjust the Tender Price accordingly;
 - ii) If, on receipt of any e-Tender Submission, any error in addition shall be apparent, the Engineer shall correct it and adjust the total amount of the Tender Price accordingly; but shall not exceed Price Packet C generated online in e-bid comparison report.
- c) In the event that, prior to any corrections being made by the Engineer as referred to above, a Tenderer is in contention for the award of the Contract, the Tenderer shall be notified of the corrections made in accordance with ITT 34.4 (b) and the Engineer shall seek the Tenderer's agreement to the corrected Tender Price.
- d) If in the evaluation of e-Tender Submissions the Employer believes that a mathematical error has been made by the Tenderer in the completion of the Bill of Quantities and Rates submitted in folder C other than as described above, the Engineer may raise this issue with the Tenderer concerned. If the Engineer that such an error has been made the Engineer may correct the e-Tender Submission and inform the Tenderer of the Engineer's actions in order to obtain the Tenderer's agreement to the correction. The Engineer's decision as to the corrections required to be made shall be binding on the tenderer.

- i) If the Tenderer rejects the corrections to its Tender, its Tender shall be excluded from further consideration in this Tender Process. If the Tenderer accepts the corrections the Tenderer shall be bound by the corrected Tender Price not exceeding Price Packet C generated online in e-bid comparison report.

35.0 ADDITIONAL SECURITY DEPOSIT

Not applicable.

36.0 REJECTION OF BID

The bid is liable to be rejected, if the Bidder:

- a) Does not submit the proofs of qualification criteria;
- b) Stipulates the validity period less than what is in the bid;
- c) Stipulates his own conditions;
- d) Does not submit the EMD as per clause of Instruction to Bidder;
- e) Does not submit the bid before the stipulated time on the specified date;
- f) Does not fulfil the requirements and submission as per tender specifications (i.e. Volume I, Volume II, Volume III, Volume IV, Volume V and Volume VI).

37.0 PAYMENT TERMS

The Corporation shall not under any circumstances relax these terms of payment and will not consider any alternative terms of payment. Bidders should therefore, in their own interest note this provision, to avoid rejection of their bids. Currency of Payment shall be Indian Rupees only.

38.0 AWARD OF CONTRACT

The Contract will be awarded to the technically qualified and responsive Bidder on Low Cost Selection (LCS) basis in conformity with the provisions of Bid.

Prior to the expiration of the period of bid validity, the Corporation will notify the successful/unsuccessful Bidder in writing by registered letter / Fax / e-mail from Head of the Department (HOD). The successful Bidder will be informed in writing by registered letter that his bid has been accepted.

The bid acceptance letter will be issued to the bidder by BMC, which shall state the amounts of Contract/Security deposit, Legal charges, Stationary charges, insurances etc. to be paid by the successful Bidder as detailed in the acceptance letter. **The applicable legal and stationary charges are Rs.58,270/- + GST** Postponement of the payment of the full Contract/security deposit or the execution of the contract will not be permitted by reason of the Brihanmumbai

Municipal Corporation having in possession, other deposits on account of other bids or contract, which deposits may be or become returnable to the Bidders and which they may wish to transfer as a security deposit under this contract. Such transfers will not under any circumstances be permitted.

The SAP P.O./W.O. will be generated and issued to the successful Bidder only after making the necessary payments and furnishing the necessary documents as stated in the acceptance letter. The Legal and stationary charges shall be paid by the successful Bidder for preparing contract documents for the subject work.

The issue of Letter of Acceptance will constitute the formation of the Contract. The date of commencement shall be the date of issue of Letter of Acceptance or suitable date communicated in writing by the Engineer of the contract, whichever is later.

After award of bid, if it is found that the accepted Bidder has violated any instructions/conditions as in the bid, the bid shall be liable for cancellation at any time during its currency in addition to penal action against the Bidder as well as related firms/establishments.

In the event of Bid being accepted, they must be signed by all the members of the firm. If any one or more partners are absent, the signatory must produce a power of attorney authorizing him to sign on behalf of all absent partners.

The Contract must be signed by the two Directors with the common seal of the Company or by the Managing Director or by a person having a power of Attorney to sign the Contract. Certified copy of power of attorney must be produced in the office of the Chief Engineer (MSDP), Worli.

Contract Execution

All required documents mentioned in letter of acceptance for execution of the contract shall be submitted within 28 days from the date of issue of letter of acceptance.

The Parties shall enter into a Contract Agreement based upon the sample form included in the tender documents. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Contractor.

In case contractor fails to sign & return the Contract Agreement / documents to BMC within 28 days after intimation by Employers Representative to do so, a penalty of Rs. 5000/- per day shall be imposed on the contractor.

39.0 STAMP DUTY, LEGAL CHARGES, BILL FORMS

The payments towards legal charges, stamp duty as applicable (on contract agreement & bank guarantees) including extensions of BG, supply of bill forms & Tax certificates as per the prevailing rates shall be borne by successful Bidder. The legal & stationary charges shall be as per BMC Circular

10318 Dated 24.03.2022 and CA/WSSD/AO51-SP/F Dated 21.07.2022 or as per the rates prevailing on the date of payment.

Stamp Duty

It shall be incumbent on the successful tenderer to pay stamp duty on the contract cost (Contract Price + 10% Physical Contingency + 10% cost contingency) As per the provision made in Article 63, Schedule I of Bombay Stamp Act 1958, stamp duty is payable for “works contract” that is to say, a contract for works and labour or services involving transfer of property in goods (whether as goods or in some other form) in its execution and includes a sub-contract, as under:

(a)	Where the amount or value set forth in such contract does not exceed rupees ten lakh.	Five Hundred rupees stamp duty
(b)	Where it exceeds rupees ten lakhs	Five hundred rupees plus 0.1% of the amount above rupees ten lakhs subject to maximum of rupees twenty five lakhs.

Stamp Duty on Bank Guarantee: As per section 54 read with section 40 (b) of Bombay Stamp Act, 1958, stamp duty of 0.5% will be applicable to the all bank guarantee submitted. Also for every renewal of bank guarantee, fresh stamp duty shall be paid by the Contractor.

It shall be incumbent on the successful tenderer to pay stamp duty on the contract sum (Contract Price + 10% Physical Contingency)

Further shortfall, if any, in amount of stamp duty paid as against prescribed amount for the documents executed in Mumbai City & Mumbai Suburban District shall be paid by the contractor along with Penalty, as applicable, by two separate Demand Draft or Pay Order in favour of “Superintendent of Stamp, Mumbai” within 15 days from intimation thereof.

40.0 PERFORMANCE SECURITY

Within 30 days from the receipt of notification of award from BMC, the successful Bidder shall furnish a performance security amounting to 2% (Two percent) of Contract Sum (Contract Price + 10% Physical Contingency) in the form of Bank Guarantee (as per attached format) from any of the banks from the list enclosed below.

The performance bank guarantee shall be valid till the period, three month beyond the defect liability period.

The bank guarantee for performance security will not be accepted in broken periods & same shall be one complete bank guarantee for entire defect liability period.

However, If the contractor submits Bank guarantee for short duration with justified reasons acceptable to BMC, the contractor shall ensure to renew such bank guarantee before expiry and pay applicable stamp duty for such renewals.

The notification of award will constitute formation of Contract agreement. Within 28 days from receipt of the agreement form, the successful bidder shall enter into the agreement and return the same to BMC.

41.0 RETENTION MONEY

The retention money of an amount equal to two (2) percent of the Contract Value will be recovered from the contractors every bill i.e. interim / running / final bill.

Refund of Retention Money

One-half (50%) of the Retention Money shall be released within 30 days after issue of Commissioning Certificate. In the event, the Engineer issues a Commissioning Certificate for a section or part of the Permanent Works, only such proportion thereof, as the Engineer determines (having regard to the relative value of such section or part of the Works) shall be considered by the Engineer for refund to the Contractor.

The balance 50% Retention Money shall be released within 30 days after completion of DLP as mentioned in clause 58 of GCC and after issue of 'Defect Liability Certificate' provided that the Engineer is satisfied that there is no demand outstanding against the Contractor.

In the event of different Defects Liability Periods have been specified or become applicable to different sections or parts of the Permanent Works, the said moneys will be released within 30 days on expiration of the latest of such Defects Liability Periods.

42.0 LIST OF APPROVED BANKS

The Banker's Guarantees issued by branches of approved Banks (as per prevailing RBI schedule) beyond Kalyan and Virar can be accepted only if the said Bankers Guarantee is countersigned by the Manager of a Branch of the same Bank within the Mumbai City limit categorically endorsing thereon that the said Banker's Guarantee is binding on the endorsing Branch of the Bank within Mumbai Limits and is liable to be enforced against the said Branch of the Bank in case of default by the contractor/supplier furnishing the Banker's guarantee (as per schedule bank list of RBI available on www.rbi.org.in)

List of Scheduled Commercial banks:

<p>(A) Public Sector banks:</p> <ol style="list-style-type: none">1. State Bank of India2. Bank of Baroda3. Bank of India4. Bank of Maharashtra5. Canara Bank6. Central Bank of India7. Indian Bank8. Indian Overseas Bank9. Punjab National Bank10. Punjab & Sind Bank11. Union Bank of India12. UCO Bank	<p>(B) Private Sector banks:</p> <ol style="list-style-type: none">1. Axis Bank Ltd.2. Bandhan Bank Ltd.3. CSB Bank Limited4. City Union Bank Ltd.5. DCB Bank Ltd.6. Dhanlaxmi Bank Ltd.7. Federal Bank Ltd.8. HDFC Bank Ltd9. ICICI Bank Ltd.10. IndusInd Bank Ltd11. IDFC FIRST Bank Limited12. Jammu & Kashmir Bank Ltd.13. Karnataka Bank Ltd.14. Karur Vysya Bank Ltd.15. Kotak Mahindra Bank Ltd16. Nainital bank Ltd.17. RBL Bank Ltd.18. South Indian Bank Ltd.19. Tamilnad Mercantile Bank Ltd.20. YES Bank Ltd.21. IDBI Bank Limited
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<p>(C)List of Local Area Banks (LAB)</p> <ol style="list-style-type: none"> 1. Coastal Local Area Bank Ltd. 2. Krishna Bhima Samruddhi LAB Ltd. 3. Subhadra Local Bank Ltd. <p>(D) List of Small Finance Banks(SFB)</p> <ol style="list-style-type: none"> 1. Au Small Finance Bank Ltd. 2. Capital Small Finance Banks Ltd. 3. Fincare Small Finance Banks Ltd. 4. Equitas Small Finance Banks Ltd. 5. ESAF Small Finance Banks Ltd. 6. Suryoday Small Finance Banks Ltd. 7. Ujjivan Small Finance Bank Ltd. 8. Utkarsh small Finance Bank Ltd. 9. North East Small Finance Bank Ltd. 10. Jana Small Finance Bank Ltd 11. Shivalik Small Finance Bank Ltd <p>(E) List of Payments Banks (PBI)</p> <ol style="list-style-type: none"> 1. Airtel Payments Bank Ltd 2. India Post Payments Banks Ltd 3. FINO Payments Bank Ltd 4. Paytm Payments Bank Ltd 5. Jio Payments Bank Ltd 6. NSDL Payments Bank Limited <p>(F)List of Financial Institutions in India</p> <ol style="list-style-type: none"> 1. National Bank for Agriculture and Rural Development 2. Export-Import Bank of India 3. National Housing Bank 4. Small Industries Development Bank of India <p>(G)List of Regional Rural Banks in India</p> <ol style="list-style-type: none"> 1. Assam Gramin Vikash Bank 2. Andhra Pradesh Grameena Vikas Bank 3. Andhra Paragati Grameena Bank. 4. Arunachal Pradesh Rural Bank 5. Aryavart Bank 6. Bangiya Gramin Vikash Bank 7. Baroda Gujarat Gramin Bank 8. Baroda Rajasthan Kshetriya Gramin Bank 9. Baroda UP Bank 10. Chaitanya Godavari GB 11. Chhattisgarh Rajya Gramin Bank 12. Dakshin Bihar Gramin Bank 13. Ellaquai Dehati Bank 	<ol style="list-style-type: none"> 14. Himachal Pradesh Gramin Bank 15. J&K Grameen Bank 16. Jharkhand Rajya Gramin Bank 17. Karnataka Gramin Bank 18. Karnataka Vikas Gramin Bank 19. Kerala Gramin Bank 20. Madhya Pradesh Gramin Bank 21. Madhyanchal Gramin Bank 22. Maharashtra Gramin Bank 23. Manipur Rural Bank 24. Meghalaya Rural Bank 25. Mizoram Rural Bank 26. Nagaland Rural Bank 27. Odisha Gramya Bank 28. Paschim Banga Gramin Bank 29. Prathama U.P. Gramin Bank 30. Puduvai Bharathiar Grama Bank 31. Punjab Gramin Bank 32. Rajasthan Marudhara Gramin Bank 33. Saptagiri Grameena Bank 34. Sarva Haryana Gramin Bank 35. Saurashtra Gramin Bank 36. Tamil Nadu Grama Bank 37. Telangana Grameena Bank 38. Tripura Gramin Bank 39. Uttar Bihar Gramin Bank 40. Utkal Grameen Bank 41. Uttarbanga Kshetriya Gramin Bank 42. Vidharbha Konkan Gramin Bank 43. Uttarakhand Gramin Bank
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<p>(H) Scheduled Urban Co.Op. Banks.</p> <ol style="list-style-type: none"> 1. Abhyudaya Cooperative Bank Limited 2. Ahmedabad Mercantile Cooperative Bank 3. Ahmednagar Merchants Co-Op Bank Ltd 4. Akola Janata Commercial Cooperative Bank 5. Almora Urban Cooperative Bank Limited 6. Ambarnath Jaihind Coop Bank Ltd Ambarnath 7. Bassein Catholic Cooperative Bank Limited 8. Bharat Cooperative Bank Mumbai Limited 9. Bombay Mercantile Cooperative Bank Ltd 10. Citizen Credit Cooperative Bank Limited 11. Credit Agricole Corporate And Investment Bank Calyon Bank 12. Durgapur Steel Peoples Co-Operative Bank Ltd 13. GS Mahanagar Cooperative Bank Ltd, Mumbai 14. Haryana State Cooperative Bank 	<ol style="list-style-type: none"> 15. Himachal Pradesh State Cooperative Bank Ltd 16. Idukki District Co Operative Bank Ltd 17. Irinjalakuda Town Cooperative Bank Ltd 18. Janatha Seva Cooperative Bank Ltd 19. Kalupur Commercial Cooperative Bank 20. Kozhikode District Cooperatiave Bank Ltd 21. Model Cooperative Bank Ltd 22. Nagar Urban Co Operative Bank 23. Nav Jeevan Co Op Bank Ltd 24. New India Cooperative Bank Limited 25. NKGSB Cooperative Bank Limited 26. Prime Cooperative Bank Limited 27. Rajnandgaon District Central Co-Operative Bank Lt
<ol style="list-style-type: none"> 28. Saraspur Nagrik Co Operative Bank Ltd Saraspur 29. Shri Chhatrapati Rajashri Shahu Urban Cooperative Bank Limited 30. Shri Veershaiv Co Op Bank Ltd 31. Sir M Visvesvaraya Co Operative Bank Ltd 32. Sree Charan Souhardha Co Operative Bank Ltd 33. Surat National Cooperative Bank Limited 34. Telangana State Coop Apex Bank 35. Textile Traders Co-Operative Bank Limited 36. The A.P. Mahesh Cooperative Urban Bank Limited 37. The Ahmednagar District Central Co-Operative Bank Ltd 38. The Ajara Urban Co Op Bank Ltd Ajara 39. The Andhra Pradesh State Cooperative Bank Limited 40. The Banaskantha Mercantile Cooperative Bank Ltd 41. The Cosmos Co Operative Bank Limited 42. The Delhi State Cooperative Bank Limited 	<ol style="list-style-type: none"> 43. The Gadchiroli District Central Cooperative Bank Limited 44. The Greater Bombay Cooperative Bank Limited 45. The Gujarat State Cooperative Bank Limited 46. The Hasti Coop Bank Ltd 47. The Jalgaon Peoples Cooperative Bank Limited 48. The Kangra Central Cooperative Bank Limited 49. The Kangra Cooperative Bank Limited 50. The Karad Urban Cooperative Bank Limited 51. The Karanataka State Cooperative Apex Bank Limited 52. The Kerala State Co Operative Bank Ltd 53. The Kolhapur Urban Co-Op Bank Ltd 54. The Malkapur Urban Co Operative Bank Ltd Malkapur

55. The Mehsana Urban Cooperative Bank	73. The Surath Peoples Cooperative Bank Limited
56. The Mumbai District Central Cooperative Bank Limited	74. The Tamil Nadu State Apex Cooperative Bank
57. The Municipal Cooperative Bank Limited	75. The Thane District Central Cooperative Bank Limited
58. The Muslim Co-Operative Bank Ltd	76. The Udaipur Urban Co Operative Bank Ltd
59. The Nasik Merchants Cooperative Bank Limited	77. The Urban Co Operative Bank Ltd
60. The Navnirman Co-Operative Bank Limited	78. The Varachha Cooperative Bank Limited
61. The Nawanagar Cooperative Bank Ltd	79. The Vijay Co Operative Bank Limited
62. The Nilambur Co Operative Urban Bank Ltd Nilambur	80. The Vishweshwar Sahakari Bank Limited
63. The Odisha State Cooperative Bank Ltd	81. The West Bengal State Cooperative Bank
64. The Pandharpur Urban Co Op. Bank Ltd. Pandharpur	82. The Zoroastrian Cooperative Bank Limited
65. The Punjab State Cooperative Bank Ltd	83. Thrissur District Co-Operative Bank Ltd
66. The Pusad Urban Cooperative Bank Ltd Pusad	84. Tumkur Grain Merchants Cooperative Bank Limited
67. The Rajasthan State Cooperative Bank Limited	85. Uttar Pradesh Cooperative Bank Ltd
68. The Satara District Central Cooperative Bank Ltd	
69. The Seva Vikas Cooperative Bank Limited	
70. The Shamrao Vithal Cooperative Bank	
71. The Sindhudurg District Central Coop Bank Ltd	
72. The Surat District Cooperative Bank Limited	

(I) List of Scheduled Foreign Banks in India	
1. Australia and New Zealand Banking Group Ltd.	25. Shinhan Bank
2. National Australia Bank	26. Woori Bank.
3. Westpack Banking Corporation	27. KEB Hana Bank
4. Bank of Bahrain & Kuwait BSC	28. Industrial Bank of Korea
5. AB Bank Ltd.	29. Kookmin Bank
6. Sonali Bank Ltd.	30. Bank of Ceylon
7. Bank of Nova Scotia	31. Credit Suisse A.G.
8. Industrial & Commercial Bank of China Ltd.	32. CTBC Bank Co. Ltd.
9. BNP Paribas	33. Krug Thai Bank Public Co. Ltd.
10. Credit Agricole corporate & Investment Bank	34. Abu Dhabi Commercial Bank Ltd.
11. Societe Generale	35. Mashreq Bank PSC
12. Deutsche Bank	36. First Abu Dhabi Bank PJSC
13. HSBC Ltd.	37. Emirates Bank NBD
14. PT Bank Maybank Indonesia TBK	38. Barclays Bank Plc.
15. Mizuho Bank Ltd.	39. Standard Chartered Bank
16. Sumitomo Mitsui Banking Corporation	40. Nat West Market Plc
17. MUFG Bank Ltd.	41. American Express Banking Corporation
18. Cooperative Rabobank U.A.	42. Bank of America
19. Doha Bank	43. Citibank N.A.
20. Qatar National Bank	44. J.P. Morgan Chase Bank N.A.
21. JSC VTB Bank	
22. Sberbank	
23. United Overseas Bank Ltd.	
24. FirstRand Bank Ltd/	

Note: 1) In case of bankruptcy of above listed bank during the contract period, the contractor shall submit new bank guarantee of other listed bank within 21 days.

2) Bidder shall take cognisance of the fact that some of the bank listed above might have been merged with other banks. The bidder are therefore requested to refer the latest list of banks approved by RBI.

43.0 REFUND OF PERFORMANCE GUARANTEE

The performance guarantee shall be returned to the bidder without any interest when the contractor ceases to be under any obligations under this contract.

44.0 JURISDICTION OF COURTS

In case of any claim, dispute or difference arising in respect of the contract, the cause of action thereof shall be deemed to have arisen in Mumbai and all legal proceedings in respect of any such claim, dispute or difference shall be instituted in a competent court in the city of Mumbai only.

45.0 IMPORT LICENSE

The Bidders shall have to make their own arrangements to secure import licence and/or release of controlled or scarce raw materials or parts if required by them for fulfilment of their contract. The Municipal Commissioner shall not be bound to give any assistance to the Bidders in that behalf.

46.0 PAYMENT OF BILLS & OTHER CLAIMS

The payment of bills and other claims arising out of the contract will be made by ECS/RTGS/NEFT. The successful Bidder, therefore, will have to furnish the information as regards the vendor No. registered with BMC. Vendor No. can be obtained by paying the requisite fees and giving necessary information such as PAN Card, Bank Details, GST Registration etc. in the prescribed form available with BMC.

All payments shall be made in INR and not in any other currency.

47.0 INDIAN LAWS AND INDIAN ENVIRONMENT

The law applicable is Law of Union of India with jurisdiction of competent courts at Mumbai and Bidder should be aware of all the environment Conditions in India.

48.0 The successful bidder shall provide transportation arrangement for Employers staff throughout the Contract period or such extended period as mentioned in the specifications.

49.0 TIME PERIOD OF THE PROJECT

Construction works for the entire project should be completed within thirty months from the date of award of contract that includes Monsoon and further, operation and maintenance period of thirty six months. The time allowed for carrying out the work as entered in the Tender shall be strictly observed by the Contractor. The work, throughout the stipulated period of the Contract, shall be proceeded with all due diligence on the part of the Contractor as time being deemed to be the essence of the contract. On failing to do so, the Contractor shall pay as compensation, an amount which shall be governed as per applicable clause. The Contractor should complete the work of construction and commissioning (30 months) as per phase given below:

¼ of the work in ¼ of the time

½ of the work in ½ of the time

¾ of the work in ¾ of the time

Full of the work in Full of the time

Further, operation and maintenance period of thirty six months.

The programme for completion of work shall be a part of the Contract Document in the form of Bar Chart / GANTT Chart. The Contractor is supposed to carry out the work and keep the progress as per Bar Chart/GANTT Chart. The Contractor shall complete the work as per the Schedule given in the Contract and the programme submitted by the Contractor.

5. GENERAL CONDITIONS OF CONTRACT

GENERAL CONDITIONS OF CONTRACT**INTERPRETATION AND DEFINITIONS****1. SINGULAR & PLURAL**

Where the context so requires, words importing the singular only also include the plural and vice-versa.

2. HEADINGS & MARGINAL NOTES TO CONDITIONS

The headings & marginal notes to these General Conditions shall be deemed to be part thereof and be taken into consideration in the interpretation or construction of the contract.

3. GENDER

Words importing the masculine gender shall also include the feminine gender.

4. DEFINITIONS

In the contract, the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

- a) The 'Corporation' or the 'Municipal Corporation' shall mean the Brihanmumbai Municipal Corporation constituted under the Bombay Municipal Corporation Act.
- b) The 'Commissioner/ Employer' shall mean the Municipal Commissioner for Brihan Mumbai for the time being holding the said office and also his successors and shall also include all the Additional Municipal Commissioners, Director (Engineering Services & Projects) and Deputy Municipal Commissioners to whom the powers of the Municipal Commissioner have been delegated under section 56 and 56B of the Mumbai Municipal Corporation Act.
- c) The 'Contractor' shall mean the individual or firm or company or JV; whether incorporated or not, undertaking the works and shall include legal representatives of such individuals or persons composing such firm or unincorporated company or successors of such firm or company as the case may be and permitted assigns of such individual or firm or company or JV.
- d) The 'Sub-Contractor' means any persons (other than the Contractor) named in the contract for any part of the works or any person to whom any part of the contract has been sublet with the consent in writing of the Engineer and the legal personal representative, successors and assigns of such person.
- e) The 'Engineer' shall mean the Chief Engineer appointed for the time being or any other officer or officers of the Municipal Corporation who may be authorized by the Municipal Commissioner to carry out the function of the Chief Engineer or any other competent person appointed by the Municipal Commissioner and notified in writing to the Contractor to act in replacement of the Engineer from time to time.

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- f) The 'Engineer's Representative' means any Engineer, Consulting Engineer or Assistant of the Engineer appointed from time to time by the Engineer to perform the duties delegated in terms of Clause 6 of General Conditions of Contract.
- g) The 'Contract' shall mean the tender and acceptance thereof and the formal agreement, if any, executed between the Corporation, the Commissioner and the Contractor together with the documents referred to therein including their conditions and appendices and any special conditions, the specifications, design, drawings, price schedules, bill of quantities and schedule of rates. All these documents taken together shall be deemed to form one contract and shall be complementary to one another.
- h) 'Excepted Risks' are risks due to riots (otherwise than among contractor's employees) and civil commotion (in so far as both these are uninsurable), war (whether declared or not), invasion, act of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power, any act of government, damage from aircraft, acts of god, such as unprecedented floods and other cause over which the contractor has no control and accepted as such by the Commissioner or causes solely due to use or occupation by the Municipal Corporation of the works in respect of which a certificate of completion has been issued or a cause solely due to faulty Municipal Design of the works.
- i) 'Works' shall mean the works to be executed in accordance with the Contract or part(s) thereof as the case may be and shall include all extra or additional altered or substituted works as required for performance of the Contract.
- j) The 'Urgent Works' shall mean any urgent measures which in the opinion of the Engineer become necessary during the progress of the work to obviate any risk of accident or failure of which become necessary for security.
- k) The 'Site' means the land and other places including water bodies more specifically mentioned in the Special Conditions of the Tender, on, under, in or through which the permanent works or temporary works are to be executed and any other lands and places provided by the Municipal Corporation for working spaces or any other purpose as may be specifically designated in the contract as forming part of the site.
- l) The 'Contract Price' means the sum named in the tender subject to such additions thereto or deduction therefrom as may be made under the provisions hereinafter contained.
- m) The 'Contract Value' means that part of the Contract Price which is properly apportionable to the Plant or Work in question having regards to the state, condition and topographical location of the Plant, the amount for work done and all other relevant circumstances and disregarding any changes that may have occurred since the date of the Contract; in the cost of executing the works.

- n) `Time of Completion' means the time for completion mentioned in the tender.
- o) The `Contractor's equipment' means all appliances or things of whatsoever nature required in or about the execution, completion or maintenance of the Works but does not include Plant, materials or other things intended to form or forming part of the permanent work.
- p) The `Plant' means machinery, apparatus, materials, articles and things of all kinds to be provided under the Contract other than Contractor's equipment.
- q) The `Test on Completion' means such test to be made by the Contractor before the Works are taken over by the Municipal Corporation as are provided for in the contract and such other tests as may be agreed between the Municipal Corporation and the Contractor.
- r) The `Specification' means the specifications annexed to or issued with these General Conditions.
- s) The `Month' means calendar month.
- t) The `Writing' means manuscript, typewritten or printed statement under seal or hand.

5. SETTING OUT

The Contractor shall be responsible for the true and proper setting out of the Works in relation to original points, line and levels of reference given by the Engineer in writing and for the correctness (subject as above mentioned) of the positions, levels, dimensions and alignment of all parts of works and for the provision of all necessary instruments, appliances and labour in connection therewith. The checking of any setting out or of any line or level by the Engineer or the Engineer's representative shall not in any way relieve the Contractor of his responsibilities for the correctness thereof.

6. ENGINEER'S REPRESENTATIVE

The duties of the representative of the Engineer (who can be the Consulting Engineer) are to check, inspect and supervise the work and to test and examine any material to be used or workmanship employed in connection with the works. He shall have no authority to order any extra work involving any extra payment by the Corporation nor to order any variation in the works unless approved or directed by the Engineer. However, he shall perform the following duties:

- a) Furnishing of drawings and information to the Contractor.
- b) Approving of Contractor's drawings subject to post-facto approval and signature of the Engineer.
- c) Recommending and approving the interim certificate, taking over certificate and final certificate after thorough checking and inspection.
- d) Recommending extra works required and extension of time.

Failure of the representative of the Engineer to disapprove any work or material shall

not prejudice the power of the Engineer thereafter to disapprove such work or material and to order removal or modification thereof.

If the Contractor shall be dissatisfied with any decision of the representative of the Engineer, he shall be entitled to refer the matter to the Engineer who shall thereupon confirm, reverse or vary such decision.

7. ASSIGNMENT

The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or there under (otherwise than by a charge in favour of the Contractor's bankers or any monies due under this Contract) without the prior written consent of the Commissioner.

8. SUB-LETTING

The Contractor shall not sub-let the whole of the works. Except where otherwise provided by the Contract, the Contractor shall not sub-let any part of the Works without the prior consent of the Commissioner (which shall not be unreasonably withheld) and such consent, if given, shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults, and neglects of any Sub-Contractors, his agents, servants or workmen as fully as if they were the acts, defaults, or neglects of the Contractor, his agents, servants or workmen; provided always that the provision of labour on a piece work basis shall not be deemed to be a sub-letting under this clause.

9. EXTENT OF CONTRACT

The Contract comprises the manufacture, testing, transport and delivery of the plant to site and its erection, completion, setting to work and maintenance works and except in so far as the Contract otherwise provides, the provision of all labour, materials, Contractor's equipment and everything, whether of a temporary or permanent nature, required in and for such transport and delivery to site, erection completion, setting to work and maintenance so far as the necessity for providing the same is specified in or reasonably to be inferred from the Contract.

10. LANGUAGE(S)

The language of the Contract shall be English and all correspondence, drawings and operating and maintenance instructions shall conform to the English language.

11. DISCREPANCIES IN DRAWINGS OR SPECIFICATIONS

The tender drawings and specifications are to be considered as actually explanatory of each other, detailed drawings being followed in preference to small scale drawings and figured dimensions in preference to scale and special conditions in preference to general conditions. Special directions or dimensions given in the Specifications shall supersede all else should any discrepancies, however arise as to the meaning and import of the said specifications or drawings or as to the dimensions or the quality

of the materials for the due and proper execution of the works or as to the measurement or quality or valuation of the works executed under the Contract or as extra thereupon the same shall be explained by the Engineer and his explanation shall subject to the final decision of the Commissioner in case a reference be made to him, be binding upon the Contractor and the Contractor shall execute the work according to such explanation (Subject as aforesaid) and without addition to or deduction from the Contract and shall also to do all such works and things necessary for the proper completion of the works as implied by the Drawings and Specifications, even though such works and things are not specifically shown and described in the said drawings and specifications.

12. USE OF SPECIFICATIONS

In cases where no particular reference is given for any article to be used under the Contract, the relevant specification, where one exists of the Bureau of the Indian Standards shall apply.

13. DRAWINGS

The Contractors shall submit to the Engineer for approval within the time named in the specifications, such drawings, samples, patterns and models as may be called for therein or as the Engineer may reasonably require within such periods as not to delay or disrupt the work. After receiving such drawings, samples, patterns and models, the Engineer shall signify his approval or otherwise. Copies of all drawings which require to be approved by the Engineer shall be provided at least in quadruplicate by the Contractor. The Contractor shall supply additional copies of approved drawings in accordance with details set out in the specification.

Drawings approved as above described shall not be departed from except as provided for elsewhere in these conditions.

The Contractor shall within the times named in the specifications, provide drawings reflecting on it complete specifications of the plant and machinery offered and showing the manner in which the plant is to be affixed together with all information relating, unless otherwise agreed, only to the works required for preparing suitable foundations for equipment to the point on site where the plant is to be erected and for making all necessary connections to the plant (whether such connections are to be made by the contractor under the contract or not).

Any expenses resulting from an error or omission in or from delay in delivery of the drawings and information mentioned here in below shall be borne by the Contractor.

The Contractor shall furnish to the Corporation before the works are taken over, the drawings of the Works as completed, in sufficient detail to enable the Municipal staff to maintain, dismantle, reassemble and adjust all the parts of the Works. The Works shall not be considered to be completed for the purpose of taking over under the terms of Clause 55 (taking over) until such instructions and drawings have been supplied

to the Municipal Commissioner.

The Contractor shall be responsible for any discrepancies, errors or omissions in the drawings and other particulars supplied by him, whether such drawings and particulars have been approved by the Engineer or not, provided that such discrepancies, errors or omissions be not due to inaccurate information or particulars furnished in writing to the Contractors by the Municipal Commissioner or the Engineer and information supplied by the Municipal Commissioner or Engineer and for the details of special work specified by either of them.

14. OPERATING AND MAINTENANCE INSTRUCTIONS

The Contractor shall furnish to the Corporation on or before the delivery of the plant to the site or Municipal godowns, the operation and maintenance instructions together with the detailed drawings of units and other sketches in sufficient detail to enable the Municipal Staff to operate the plant in a smooth and trouble free manner and to maintain, dismantle, reassemble and adjust all the parts or units. The Contractor shall also furnish the maintenance schedule for preventive maintenance of the plant. The plant shall not be considered as taken over by the Municipal Corporation until the operating and maintenance instructions have been supplied to the Municipal Corporation.

15. SECURITY DEPOSIT/PERFORMANCE GUARANTEE

The Contractor shall pay a security deposit/performance guarantee equal to the rate as mentioned in Annexure 'A' as security for due fulfilment of contract.

The mode of paying this deposit is as under:

A Value which amounts to the rate as mentioned in Annexure 'A' shall be paid immediately after receipt of intimation in writing of acceptance of tender. It is, optional to the Contractor to pay the security deposit in one or the other of the following ways:

- i) By the General Undertaking and Guarantee issued on behalf of the Contractors by the Banks (including their branches in Brihan Mumbai Limit and up to Virar and Kalyan) on approved list of the Municipal Corporation, provided the Bankers' Guarantee is renewed from time to time so as to cover the entire period of maintenance.
- ii) The Bankers' Guarantee issued by branches of approved Banks beyond Kalyan and Virar can be accepted only if the said Bankers' Guarantee is countersigned by the Manager of a branch of the same bank within the Mumbai city limit categorically endorsing thereon that the said Bankers' Guarantee is binding on the endorsing branch of the Bank within Mumbai limits and is liable to be the Bank in case of default by the Contractor/Supplier furnishing the Bankers' Guarantee. List of approved Banks is enclosed in Instructions to Tenderer.
- iii) Refund of Security Deposit /Performance Guarantee:

The performance guarantee shall be returned to the contractor without any interest

when the contractor ceases to be under any obligations under this contract.

- iv) All the Bank Guarantees (BG) including extensions of BGs will attract stamp duty as per Stamp Act and the same shall be borne by the contractor and will not be reimbursed

16. CONTRACTOR TO INFORM HIMSELF FULLY

The Contractor by tendering shall be deemed to have satisfied himself as to all the conditions and circumstances affecting the contract price, as to the general circumstances at the site of Works and to the general labour position at the site and to have fixed his prices according to his own view, for these as no additional allowance, except as otherwise expressly provided will afterwards be made beyond the Contract Price. The Contractor shall be responsible for any misunderstanding or incorrect information however, obtained except information given in writing by the Engineer.

- a) The Contractor shall inspect & examine the site and its surrounding & shall satisfy himself before submitting his tender as to the nature of the ground and subsoil (so far as practicable) the form and nature of the site, the quantities and nature of the work and materials necessary for completion of the work and means of access to the site and in general shall himself obtain all necessary information as to risk, contingencies and other circumstances which may influence or affect his tender.
- b) The contractor shall be deemed to have satisfied himself before tendering as to the correctness & sufficiency of his tender for the works and of the rates and prices quoted in the schedule of works/items/quantities or in the Bill of quantities, with rates and prices shall except as otherwise provided, cover all his obligations under the contract and all the matters and things necessary for proper completion and maintenance of the works. No extra charges consequent on any misunderstanding or otherwise shall be allowed.

17. ENGINEER'S DECISION

The whole of the work shall be under the direction of the Engineer, whose decision shall be final, conclusive and binding on all parties to the Contract, on all questions relating to the construction and meaning of plans, working drawings, sections and specifications, connected with the work.

18. PROGRAMME TO BE FURNISHED & MANAGEMENT MEETING

The time allowed for execution of the Works as specified in the contract documents shall be the essence of the Contract. The date of commencement shall be the date of issue of Letter of Acceptance or suitable date communicated in writing by the Engineer of the contract, whichever is later.

The Contractor is required to submit a time and progress chart (in the form of PERT/CPM network/Bar chart, schedules etc.) along with his tender. The Engineer

may approve the chart as submitted or suggest modifications as he thinks necessary as soon as the acceptance of the tender is intimated to the Contractor. The Contractor shall modify the chart accordingly and obtain the Engineer's approval before the commencement of the work.

The chart shall be prepared in direct relation to the time stated in the contract document for completion of items or groups of items of work and/or the contract as a whole. It shall indicate the forecast of the dates of commencement and completion of various trades or sections of the work and may be amended as necessary by agreement between the Engineer and the Contractor within the limitations of the time imposed in the contract documents.

The delivery and erection schedules for various plant and equipment etc. shall also be drawn up so as to avoid unnecessary early investments by the Corporation.

18.1 Management Meetings

The Engineer may require the Contractor to attend a management meeting. The business of a management meeting shall be to review the plans for progress of the Works.

The Engineer shall record the business of management meetings and provide copies of the record to those attending the meeting. The responsibility of the parties for actions to be taken shall be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all those who attended the meeting.

19. CONTRACTOR'S STAFF

The Contractor shall employ in and about the execution of works only such persons as are skilled and are experienced in their several trades and the Engineer shall be at liberty to object to and require the Contractor to remove from the works any person, employed by the Contractor in or about the execution of the works, who in the opinion of the Engineer, misconducts himself or is incompetent or negligent in the proper performance of his duties and such person shall not be again employed upon the Works without permission of the Engineer.

20. CONTRACTOR'S SUPERVISION

The Contractor shall himself supervise the execution of works or shall appoint a competent agent approved by the Engineer to act in his stead. If in the opinion of the Engineer the Contractor has himself not sufficient knowledge and experience to be capable of receiving instructions or cannot give his full attention to the works, the Contractor shall at his own expense, employ as his accredited agent, an Engineer or suitably qualified and experienced person approved by the Engineer. The name of the agent so appointed, along with the qualifications, experience and address shall be communicated to the Engineer. The agent shall be a responsible person adequately authorized by the Contractor to take decisions on site to spend money if required for procuring material and labour etc. to carry out emergency works in the interest of the contract work, if so required by the Engineer. Orders given to Contractor's agent shall be considered to have the same force as if these had been given to the Contractor

himself. If the contractor fails to appoint a suitable agent as directed by the Engineer, the Engineer shall have full power to suspend the execution of the works until such a date as a suitable agent is appointed and the Contractor shall be held responsible for the delay so caused to the works.

21. CONTRACTOR'S EQUIPMENT

Unless specific arrangements be made to the contrary the Contractor shall at his own expense, provide all Contractor's equipment, labour haulage and power necessary to execute and complete the works.

22. FENCING, WATCHING & LIGHTING

The Contractor shall provide and maintain at his own expense all lights, guards, fencing and watching when and where necessary or as required by the Engineer for the protection of the Works or for the safety and convenience of those employed on the Works or the public.

In the event of failure on the part of the contractor, the Engineer may with or without notice to the Contractor put up a fence or improve a fence already put up or provide and/or improve the lighting or adopt such other measures as he may deem necessary and all the cost of such procedures as may be adopted by the Engineer shall be borne by the Contractor. In addition, the Engineer may impose such fines or penalty as the Engineer may deem reasonable.

23. ELECTRICITY, WATER AND GAS

The Contractors may be entitled to use such supply of electricity as may be available on the site for the purpose of the work and shall pay such service charges as decided by the Engineer. If such supply is not available, Contractor shall make his own arrangement for electric supply.

The Contractor shall make his own arrangements for drinking water for the labour employed by him.

Water made available to the Contractor from either nearest Municipal main or other Municipal source of lakes or wells, shall not be charged to the contractor. Water charges shall not, therefore, be recovered from the Contractor's bill. For all purposes connected with the work, quantity of water that may be available to the contractor through an un-metered connection from nearest Municipal main, if available, will not be chargeable to the contractor and should be governed as per terms and conditions laid down by the Hydraulic Engineer. The adequacy of connection for construction purpose will be decided by Hydraulic Engineer and his decision in this regard would be final and binding on the contractor.

The Contractor will have to make his own arrangement to get at his cost, necessary water connection from the Municipal mains, if available. It is, however agreed that if in the opinion of the Hydraulic Engineer, water is used improperly or wasted, the Hydraulic Engineer may cause the un-metered supply of water to be discontinued and the water will be supplied to the Contractor through a metered connection. He will be

charged at the prevailing rates for the quantity of water which in the opinion of the Hydraulic Engineer has been used in excess or a reasonable quantity required to be used on that work.

The contractor will be charged for all the cost connected with making any connections with the main that may be required for the purpose of the work and afterwards for cutting off such connections besides the usual Municipal charges for the use of the meters, if any, fixed by the water department in case of improper use or wastage of water. In the event of the meter getting damaged or found to be out of order, inaccurate or tampered with, excess quantity of water chargeable due to misuse will be assessed on the discharging capacity of the water connection.

In case the contractor finds the water supply to be inadequate for the construction of the work, the balance quantity of water shall be procured by the contractor and the cost of procuring, pumping and conveyance of the balance quantity of water shall be entirely borne by the contractor. In case Municipal water mains are not available nearby, Contractor's attention is invited to conditions 16, 16(a) and 16(b) given here before. In such cases, the contractor shall have to make his own arrangement for procuring, pumping and conveyance of water at his own cost.

The Contractor may be allowed to use water from the Municipal hydrants subject to such terms and conditions as shall be laid down by the Hydraulic Engineer. The payment for use of water from Municipal Hydrants shall be entirely borne by the Contractor.

The Engineer may however, allow use of water from other sources namely lakes, wells etc. for construction purposes only in consultation with the Hydraulic Engineer provided such permission is requested sufficiently in advance. In all these cases the Contractor shall have to make his arrangement for pumping and conveyance of water. The payment for use of water from such sources shall also be entirely borne by the Contractor.

24. PLANT AND EQUIPMENT

The Contractor shall arrange at his own expenses all tools, plant and equipment required for execution of works. If required by the Contractor and if available, the Municipal Corporation may supply such tools, plant and equipment as are available to the contractor at the rates and terms to be specified by the Engineer. No tools, plant and equipment once brought to the works site shall be removed without the written permission or order of the Engineer until he has certified the completion of the work.

If any tools, plant and equipment brought on site, are in the opinion of the Engineer inefficient, bad or inferior quality or unsuited for the works such tools, plant and equipment shall not be used on the work but shall be removed by the contractor at his own expense within twenty four hours after the serving of the written order or notice from the Engineer to that effect and fresh tools, plant and equipment be substituted in lieu of that ordered to be removed by the Engineer.

25. EMPLOYMENT OF PERSONS

The Contractor shall employ labour in sufficient numbers to maintain the required rate of progress and quality to ensure workmanship of the degree specified in the contract and to the satisfaction of the Engineer. The contractor shall not employ in connection with the work any child who has not completed his 15th year of age. He shall also not employ an adolescent who has not completed his 18th year unless he is certified fit for work as an adult as prescribed under clause (b) of sub-section (2) of Section 69 of the Factories Act, 1948.

The contractor shall also see that all the provisions regarding employment of young persons covered by the employment of Children Act, 1933 and the Factories Act, 1948 as amended from time to time shall be fully complied with. The contractor shall also see that the provisions set forth under the Minimum Wages Act as amended from time to time are fully complied with by him and shall maintain necessary registers and records for payment of wages, overtime, etc. made to his workman as required by the Conciliation Officer Central Ministry of Labour, Government of India or such other authorized person appointed by the Central or State Government.

26. MINIMUM WAGES

- a) The Contractor shall pay the labourers engaged by him on the work not less than a minimum wage which expression shall mean whether for time or piece of work, the respective rates of wages as fixed under the law for the time being in force.
- b) The Contractor shall notwithstanding the provisions of any contract to the contrary, cause to be paid such minimum wage to labourers indirectly engaged on the works, including any labour engaged by labour contractors in connection with the said work as if labourers had been immediately employed by him.
- c) The Contractors shall comply with the provisions of payment of Wages Act, 1936; Minimum Wages Act, 1948; Employees' Liability Act, 1938; Workmen's Compensation Act, 1923; Industrial Disputes Act, 1947; Indian Factories Act, 1948; and the Maternity Benefit Act, 1961; or any modification thereof or any other law relating thereto and rules made there under from time to time and he will observe and give effect to the provisions of any law for the time being in force and regulating the rights and privileges of the labourers employed by him directly or indirectly.
- d) The Contractor shall indemnify the Municipal Corporation by executing a separate indemnity bond on requisite stamp paper against any payments to be made under and for the observance of the regulations, in force for the time being without prejudice to his right to claim indemnity from his sub-contractors.

27. COMPLIANCE WITH STATUTORY REGULATIONS

27.1 The Contractor shall, in all matters arising in the performance of the contract, conform in all respects with the provisions of any National or State Statute,

Ordinance or other law or any Regulation or Bye-law of any local or other duly constituted authority that shall be applicable to the works and shall keep the Employer indemnified against all penalties and liability of every kind for breach of any such Statute, Ordinance or Law Regulation and or Bye-law.

- 27.2 If the cost to the Contractor of the performance of the Contract shall be increased or reduced by reason of the making after the date of his tender of any law or of any order, regulation or Bye Law having the force of law, the amount of such increase or reduction shall be added to or deducted from the Contract Price as the case may be.

28. INSURANCE OF PLANT

28.1 Employer's Risks

The Employer is responsible for the excepted risks which are (a) in so far as they directly affect the execution of the Works in the Employer's country, the risks of war, invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, riot, commotion or disorder (unless restricted to the Contractor's employees) and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive, or (b) a cause due solely to the design of the Works, other than the Contractor's design.

28.2 Contractor's Risks

All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks, referred to in this clause, are the responsibility of the Contractor.

28.3 Insurance

The Contractor at his cost shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of Defects Liability Period, in the amounts and deductibles as per Annexure 'A' for the following events which are due to the Contractor's risks:

- a) Loss of or damage to the Works, Plant and Materials;
- b) Loss of or damage to Equipment;
- c) Loss of or damage to property (other than the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- d) Personal injury or death.

Insurance policies and certificates for insurance shall be delivered by the Contractor to the Engineer for the Engineer's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

Alterations to the terms of insurance shall not be made without the approval of the Engineer.

Both parties shall comply with any conditions of the insurance policies.

If the Contractor does not provide any of the policies and certificates required, the Employer may affect the insurance which the Contractor should have provided and

recover the premiums the Employer has paid, from payments otherwise due to the Contractor or if no payment is due, the payment of premiums shall be debt due.

All insurances for the Works shall be taken from the Directorate of Insurance Maharashtra State / Insurance Regulatory Development Authority of India (IRDA) and in the event that insurance cover is not offered by the Directorate of Insurance, the same can be taken out from an insurance company approved by the Maharashtra State Insurance Fund / IRDA.

29. THIRD PARTY INSURANCE

The Contractor shall, in the joint names of the Contractor, the Commissioner and the Engineer, insure against all damage or injury occurring before all the works have been taken over to any person or to any property (other than property forming part of the works) due to or arising out of the execution of the works. Such insurance shall be effected for an amount for Rs.1,00,000/- per occurrence and the Contractor shall from time to time when so required by the Engineer produce the policy and the receipt for the premium.

30. REMEDY ON FAILURE TO INSURE

If the Contractor shall fail to effect and keep in force the insurance referred to in the preceding clauses, the Commissioner may effect and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose and from time to time deduct the amount so paid by the Commissioner from any moneys due or which may become due to the Contractor or recover the same as a debt from the Contractor.

31. LIABILITY FOR DAMAGE & RISKS

The Contractor shall be responsible for all risks to the Works and shall make good at his own cost, all loss or damage, whether to the Works themselves or to any other Municipal property, or to the lives, persons or property of others, from whatsoever cause, arising out of, or in connection with the Works, either during their progress or during the defect liability Period and this, although all reasonable and proper precautions may have been taken by the Contractor and in case the Commissioner or the Corporation shall be called upon to make good any such costs, loss or damages, or to pay compensation (including that payable under the provisions of Workmen's Compensation Act) to any person or persons sustaining damage as aforesaid by reason of any act or of any negligence or omissions on the part of the Contractor, the amount, which the Commissioner may pay in respect thereof and the amount of any costs or charges (including law costs and charges) in connection with legal proceedings, which he may incur in reference thereto, shall be charged to the Contractor. The Commissioner shall have full power and right at his own discretion to pay or to defend or compromise any claim which may be made against the Corporation for damage, or in case of threatened legal proceedings, or in anticipation of legal proceedings being instituted consequent on the action or default of the Contractor, to take such steps as he may

consider necessary or desirable to ward off or mitigate the effect of such proceedings charging to the Contractor, as aforesaid, any such or sums of money which he may pay and any expenses, whether for reinstatement or otherwise which he may incur and the propriety of any payment, defence or compromise, or of the incurrence of any such expense shall not be called in question by the Contractor.

The Contractor shall be held responsible for any obligations, damages and fines etc. arising out of or in connection with the Works either during their progress or during the defect liability period and shall indemnify the Municipal Corporation or the Commissioner against them and make good any such damages, fines and dues arising out of non-compliance of any regulation under the Minimum Wages Act by the Contractor which may devolve on the Corporation or the Commissioner.

The Contractor shall take out a policy as per the provisions of the Workmen's Compensation Act for the purpose of ensuring compensation to the workers engaged by them.

32. CONTRACTOR'S OTHER LIABILITIES

From commencement to completion of the works, the Contractor shall take full responsibility for the care thereof and for taking precautions to prevent loss or damage and to minimize the loss or damage to the maximum extent possible and shall be liable for any damage or loss that may happen to the Works or any part thereof and all Municipal Tools and Plants from any cause whatsoever (save except Excepted Risks) and shall at his own cost repair and make good the same so that at completion, the Works and all Municipal Tools and Plants shall be in good order and condition and in conformity in every respect with the requirements of the Contract and instructions of the Engineer.

In the event of any loss or damage to the Works or any part thereof or to any Tool and Plant or to any material or article at the Site from any of the Excepted Risks, the following provision shall have effect:

- a) The Contractor shall, as may be directed in writing by the Engineer, remove from the site any debris and so much of the Works as shall have been damaged, taking to the Municipal Stores such Municipal Tools and Plants, articles and/or materials as may be directed.
- b) The Contractor shall, as may be directed by the Engineer, proceed with the erection and completion of the Works in accordance with the provisions and conditions of the Contract; and
- c) These will be added to the Contract Price the net amount due, ascertained in the same manner as per deviations, or as prescribed for payment, in respect of the re-execution of the works lost or damaged, the replacement of any tools and plants and of any materials and articles lost or damaged but not incorporated in the Works on the day when the loss or damage occurred and removal, by the Contractor as provided above of Municipal Tools and Plants, articles and/or materials to the Municipal Stores and of the debris and damaged

works referred to therein. Provided always the Contractor shall not be entitled to payment under the above provisions in respect of such loss or damage as have been occasioned by any failure on his part to perform his obligations under the Contract or not taking precautions to prevent loss or damage or minimize the amount of such loss or damage.

The Contractor shall indemnify and keep indemnified the Municipal Corporation against all losses and claims for injuries or damage to any person or any property whatsoever which may arise out of or in consequence of the construction and maintenance of the work and against all claims, demands proceedings, damages, costs, charges and expenses whatsoever in respect of or in relation thereto. PROVIDED always that nothing therein contained shall be deemed to render the Contractor liable for or in respect of to indemnify the Municipal Corporation against any compensation or damage caused by the Excepted Risks. The Contractor shall at all times indemnify the Municipal Corporation against all claims, damages, or compensation under the provisions of the Payment of Wages Act, 1936; Minimum Wages Act, 1948; Employer's Liability Act, 1948; the Workmen's Compensation Act, 1923; Industrial Dispute Act, 1947; Indian Factories Act, 1948; Maternity Benefit Act, 1961; or any modifications thereof or any other law relating thereto and rules made there under from time to time, or as a consequence or any accident or injury to any workman or other persons or about the Works, whether in the employment of the Contractor or not, save and except where such accident, or injury has resulted from any act of the Municipal Corporation, their agents or servants and also against all costs, charges and expenses of any suit, action or proceedings arising out of such accident or injury and against all sum or sums which may with the consent of the Contractor be paid to compromise or compound any such claims without limiting his obligations and liabilities as above provided.

33. PATENT RIGHT ETC

- 33.1 The Contractor shall fully indemnify the Corporation against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement of letters, patent, design or copyright protected in the Contractor's country or in the country in which the Plant is to be erected by the use of any Plant supplied by the Contractor but such indemnity shall not cover any use of the Works otherwise than for the purpose indicated by or reasonably to be inferred from the Specification.
- 33.2 In the event of any claim being made or action brought against the Corporation arising out of the matters referred to in this clause the Contractor shall be promptly notified thereof and may at his own expense conduct all negotiations for the settlement of the same and any litigation that may arise there from. The Corporation shall not, unless

and until the Contractor shall have failed to take over the conduct of the negotiations or litigation, make any admission which might be prejudicial thereto. The conduct by the Contractor of such negotiations or litigation shall be conditional upon the Contractor having first given to the Corporation such reasonable security as shall from time to time be required by the Corporation to cover the amount ascertained or agreed or estimated as the case may be of any compensation, damage, expenses and costs for which the Corporation may become liable in respect of such infringement as aforesaid. The Corporation shall at the request of the Contractor afford all available assistance for the purpose of contesting any such claim or action and shall be repaid any expense incurred in so doing.

34. INSPECTION AND TESTING

34.1 The Engineer or his appointed inspecting agent shall be entitled at all reasonable times during manufacture to inspect, examine and test in the Contractor's premises the materials and workmanship, of all plants to be supplied under the Contract and if part of the said plant is being manufactured on other premises, the Contractor shall obtain for the Engineer, permission to inspect, examine and test as if the said plants were being manufactured on the Contractor's premises. Such inspection, examination or testing if made shall not relieve the Contractor from any obligation under the contract.

34.2 The Contractor shall give the Engineer reasonable notice in writing of the date on and the place at which any plant will be ready for testing as provided in the Contract and unless the Engineer shall attend at the place so named within 30 days of the date which the Contractor has stated in his notice the Contractor may proceed with the test, which shall be deemed to have been made in the Engineer's presence and shall forthwith forward to the Engineer's duly certified copies of the test readings. The Engineer shall give the Contractor 24 hours notice in writing of his intention to attend the tests. The cost of the inspection & testing including to and fro transportation, lodging, boarding for 2 engineer's representatives shall be borne by the contractor & no future claim of the same shall be submitted.

35. Not Used.

36. ACCESS TO AND POSSESSION OF THE SITE

36.1 Subject to sub-clause 4 of this clause access to and possession of the Site shall be afforded to the Contractor by the Commissioner in reasonable time and except in so far as the Specification may provide to the contrary the Commissioner shall provide a road suitable for the transport of all Plant and Contractor's Equipment necessary for the execution of the works from an adequate public through are available to the Contractor to the point on the Site where it is to be delivered or used.

36.2 If a building, structure, foundation or approach is by the Contract to be provided by the Corporation such building, structure, foundation or approach shall be in a condition suitable for the efficient transport, reception, installation and maintenance of the Works.

- 36.3 In the execution of the Works no persons other than the Contractor, Sub-contractor and his and their employees shall be allowed on the Site except by the written permission of the Engineer but facilities to inspect the works at all times shall be afforded to the Engineer and his representatives and other authorized officials or representatives of the Corporation.
- 36.4 The access to and possession of the Site referred to in Sub-Clause 1 hereof shall not be exclusive to the Contractor but only such as shall enable him to execute the works. The Contractor shall afford to the Corporation and to other Contractors whose names shall have been previously communicated in writing to the Contractor by the Engineer every reasonable facility for the execution of work concurrently with his own.

37. WORKS CLOSED BETWEEN SUNSET SUNRISE, ON SUNDAYS & HOLIDAYS

- a) No work shall be done between sunset & sunrise or on Sundays or Municipal holidays except with the special sanction of the Engineer in writing previously obtained and the withholding of such sanction shall be no ground of complaint on the part of the Contractor or cause of Compensation for him, or excuse for not completing the work within the contract period. The period within which the work has to be carried out and completed has been fixed in terms of this clause with the proviso that the total number of hours of works permissible shall not exceed 48 hours in a week and in no case more than 8 hours on any working day, the actual time within which the said hours shall be worked being subject to mutual arrangements with the Contractor at the commencement of the Works or from time to time as may be required and provided that all work shall be stopped for rest and meals for one hour at about mid-day exclusive of the permissible hours aforesaid for the Works.

Though sanction may be accorded to the Contractor to work on days and at times otherwise normally not permissible under this Contract, the Contractor shall be required to bear the cost of such supervision as in the opinion of the Engineer may be necessary at these times. It should be distinctly understood that the granting of permission to work extra hours or to work on Sundays and holidays will be entirely at the discretion of the Engineer and cannot be claimed by the Contractor as a matter of right.

- b) If on the other hand the Engineer required that the work shall be proceeded with on days and at times otherwise normally not permissible under this contract, the Contractor shall proceed with the work, but he will not be required in such cases to bear the cost of the Municipal Supervision.
- c) The Contractor at all times during the continuance of this contract shall in all his dealings with local labour for the time being employed on the works contemplated by this contract have due regard to all local festivals and religious or other customs and all disputes, matters and questions between the Contractor and any of his agents on the one hand and any local labour on the

other hand with respect to any matter or thing in any way connected with this Contract shall be decided by the Commissioner whose decision shall be final and binding on all parties.

38. CLEARANCE OF SITE ON COMPLETION

On the completion of this work, the Contractor shall clear away and remove within 3 months from the site all Contractor's equipment, surplus materials and rubbish and leave the whole of the site and works clean and in a workman like condition to the satisfaction of the Engineer.

39. ENGAGEMENT OF LABOUR

The Contractor shall make his own arrangements for the engagement of all labour local or otherwise and save in so far as the Contract otherwise provides, for the transport, feeding and payment thereof.

40. EPIDEMICS

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.

41. CONTRACTOR TO PRESERVE PEACE

The Contractor shall at all times during the progress of the work take all requisite precautions and use his best endeavours, for preventing any riotous or unlawful behaviour by or amongst the workers and others employed on the Works and for the preservation of peace and protection of the inhabitants and the security of property in the neighbourhood of the works. He shall also pay the charges of such special police protection arrangement made (if any), as the Engineer may deem necessary.

42. SAFETY PROVISIONS

The Contractor shall at his own expense arrange for the safety provisions as required by the Engineer, in respect of all labour directly or indirectly employed for performance of the works and shall provide all facilities in connection there with. In case the Contractor fails to make arrangements and provide necessary facilities as aforesaid, the Engineer shall be entitled to do so and recover the costs thereof from the Contractor.

43. PROVISION OF FIRST AID BOX

The Contractor shall at his own cost provide and maintain at the Site of Works a standard first aid box as directed and approved by the Engineer for the use of his own as well as the Municipal Staff on site.

44. CONTRACTOR'S OFFICE NEAR WORKS

The Contractor shall have an office near the Works at which notice from the Commissioner may be served and shall between the hours of sunrise and sunset on all working days have a clerk or some other authorized person always present at

such office, upon whom such notice may be served and service of any notices left with such clerk or authorized person or at such office shall be deemed good service upon the Contractor.

45. OBSERVANCE BY SUB-CONTRACTORS

The Contractor shall be responsible for observance by his sub-contractors of the foregoing provisions.

46. RETURN OF LABOUR

The Contractor shall, if required by the Engineer, deliver to the Engineer or at his office a return in detail in such form and at such intervals as the Engineer may prescribe, showing the supervisory staff and the numbers of the several classes of labour from time to time employed by the Contractor on the site.

47. MANNER OF EXECUTION

All Plants to be supplied and all erection works to be done under the Contract shall be manufactured and executed in the manner set out in the Specification or where not so set out to the satisfaction of the Engineer and all the works on Site shall be carried out in accordance with such reasonable direction as the Engineer may give.

48. PERIOD OF COMPLETION

The period fixed for completion of the whole work is sixty six months (66 months); this consists of thirty months (inclusive of monsoon) for construction and commissioning from the stipulated date of commencement of work and further thirty six months of operation and maintenance. The work shall be programmed so that the design, manufacture, delivery, testing, commissioning of equipment and accessories and further operation & maintenance described in the tender is completed within the time period specified.

49. SUSPENSION OF WORK

- a) The Contractor shall, on receipt of the order in writing of the Engineer, suspend the progress of the work or any part thereof for such time and in such manner as the Engineer may consider necessary for any of the following reasons.
 - i) On account of continued non-compliance of the instructions of the Engineer or any other default on the part of the Contractor, or
 - ii) For proper execution of the Works or part thereof for reasons other than the default of the Contractor, or
 - iii) For safety of the Works or part thereof.

The Contractor shall, during such suspension, properly protect and secure the Works to the extent necessary and carry out the instructions given in that behalf by the Engineer.

- b) If the suspension is ordered for reasons (ii) and (iii) in sub-para (a) above, the Contractor shall be entitled to an extension of time equal to the period of every

such suspension plus a reasonable time as decided by the Engineer.

- c) If the suspension is ordered for reason of (i) in sub-para (a) above, the Engineer shall have powers to suspend the payment under the Contract. Such suspension of payment may be continued until default shall have been rectified.

50. REJECTION

If at any time before the Works are taken over the Engineer shall;

- a) decide that any work done or Plant supplied or materials used by the Contractor or any Sub-contractor is or are defective or not in accordance with the Contract, or that the Works of any portion thereof are defective or do not fulfill the requirements of the Contract (all such matters being hereinafter in this clause called 'defects' and
- b) as soon as reasonably practicable, give to the Contractor notice in writing of the said decision specifying particulars of the defects alleged and of where the same are alleged to exist or to have occurred and
- c) So far as may be necessary place the plant at the Contractor's disposal, then the Contractor shall with all speed at his own expense, make good the defects so specified. In case the Contractor shall fail so to do, the Corporation may, provided he does so without undue delay, take at the cost of the Contractor such steps as may, in all the circumstances, be reasonable to make good such defects. All Plants provided by the Corporation to replace defective Plant shall comply with the contract and shall be obtained at reasonable prices and where reasonably practicable under competitive conditions. The Contractor shall be entitled to remove all Plants that the Corporation may have replaced at the Contractor's cost. Nothing contained in this clause shall affect any claim by the Corporation under Clause 53 (Compensation for delay).

51. TESTS ON COMPLETION

- 51.1 The Contractor shall give to the Engineer in writing 21 days notice of the date after which he will be ready to make the Tests on completion. Unless otherwise agreed the tests shall take place within 10 days after the said date on such day or days as the Engineer shall in writing notify the Contractor.
- 51.2 If the Engineer fails to appoint a time after having been asked so to do or to attend at any time or place duly appointed for making the said test the Contractor shall be entitled to proceed in his absence and the said tests shall be deemed to have been made in the presence of the Engineer.
- 51.3 If in the opinion of the Engineer the tests are being unduly delayed he may, by notice in writing, call upon the Contractor to make such tests within 10 days from the receipt of the said notice and the Contractor shall make the said tests on such day within the said 10 days as the Contractor may fix and of which he shall give notice to the Engineer. If the Contractor fails to make such tests or fails to give a satisfactory explanation for the delay within the time aforesaid the Engineer may himself proceed to make the tests. The Tests so made by the Engineer shall be at the risk and expense

of the Contractor.

51.4 The Commissioner, except where otherwise specified, shall provide free of charge subject to the provision of sub-clause 5 of this clause, such material, electricity, fuel, water, stores as may be requisite and as may be reasonably demanded to carry out tests efficiently.

51.5 If any portion of the works fails to pass the tests, tests of the said portion shall, if required by the Engineer, or by the contractor, be repeated within a reasonable time upon the same terms and conditions save that all reasonable expenses to which the Corporation may be put by the repetition of the test shall be deducted from the contract price.

52. COMPLETION TIME AND EXTENSION FOR DELAY

I. The time allowed for execution for the works of 30 months for construction and commissioning (inclusive of monsoon period) and further 36 months for Operation & Maintenance as specified in the contract documents shall be the essence of the contract. The execution of the works shall commence from the date specified by the Engineer in writing. If the contractor fails or neglects to commence the execution of the work as aforesaid, the Municipal Corporation shall without prejudice to any other right or remedy be at liberty to forfeit the security deposit absolutely. If the work be delayed by:

- a) force majeure
- b) Abnormally bad weather
- c) Serious loss
- d) Civil commotion, local combination of workmen, strike or lockout of any of the trades employed on the work.
- e) Delay on the part of other contractors or tradesmen engaged by the Municipal Corporation in executing work not forming part of the contract.
- f) non-availability of stores which is the responsibility of the Corporation to supply.
- g) non-availability or breakdown of tools and plants to be supplied or supplied by Municipal Corporation
- h) any other cause which, in the absolute discretion of the Engineer is beyond the contractor's control.
- i) extra work

Upon the happening of any such event causing delay, the contractor shall immediately give notice thereof in writing to the Engineer but shall nevertheless use constantly his best endeavours to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer to proceed with the work.

Requests for extension of time to be eligible for consideration shall be made by the Contractor in writing within 14 (Fourteen) days of the happening of the event

causing delay. The contractor may also, if practicable, indicate in such a request the period for which extension is desired.

In any such case the Engineer may give a fair and reasonable extension of time for completion of individual item or groups of items of work for which separate periods of completion are specified in the contract or the contract as a whole. The decision of the Engineer in regard to the extension will be communicated to the Contractor in writing within a reasonable time.

The Contractor shall have no other claim against the Commissioner in respect of delay and disorganization of work arising from the occurrence herein mentioned.

II. Extension of Time in Contracts

Subject to any requirement in the contract as to completion of any portions or portions of the works before completion of the whole, the contractor shall fully and finally complete the whole of the works comprised in the contract (with such modifications as may be directed under conditions of this contract) by the date entered in the contract or extended date in terms of the following clauses:

a) Extension attributable to BMC

- i) **Extension Due To Modification:** If any modifications have been ordered which in the opinion of the Engineer have materially increased the magnitude of the work, then such extension of the contracted date of completion may be granted as shall appear to the Engineer to be reasonable in the circumstances, provided moreover that the Contractor shall be responsible for requesting such extension of the date as may be considered necessary as soon as the cause thereof shall arise and in any case **should not be less than 30 days before the expiry of the date fixed for completion of the works.**
- ii) **Extension For Delay Due To BMC:** In the event of any failure or delay by the BMC to hand over the Contractor possession of the lands necessary for the execution of the works or to give the necessary notice to commence the works or to provide the necessary drawings or instructions or any other delay caused by the BMC due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the contractor alter the character thereof or entitle the contractor to damages or compensation therefore, but in any such case, the BMC may grant such extension(s) of the completion date as may be considered reasonable.

Note:

For extension of time period as governed in (i) and (ii) above, any modifications in design/drawings, specifications, quantities shall be needed to be justified with recorded reasons with approval of Ch. Eng. for not anticipating the same while preparing estimates and draft tender.

b) Extension Of Time For Delay Due To Contractor : The time for the execution of the work or part of the works specified in the contract documents shall be deemed to be the essence of the contract and the works must be completed no later than the date(s) / the programme for completion of work as specified in the contract. If the contractor fails to complete the works within the time as specified in the contract for the reasons other than the reasons specified in above as (a.i) and (a.ii), the BMC may, if satisfied that the works can be completed by the contractor within reasonable short time thereafter, allow the contractor for further extension of time as the Engineer may decide. On such extension the BMC will be entitled without prejudice to any other right and remedy available on that behalf, to recover the compensation as governed by Clause 53 of GCC.

For the purpose of this Clause, the contract value of the works shall be taken as value of work as per contract agreement including any supplementary workorder/contract agreement issued.

Further, competent authority while granting extension to the contract period under Clause (b) as above may also consider levy of penalty, as deemed fit based on the merit of the case. Also, the reasons for granting extension shall be properly documented

Delays Ordered by the Engineer

The Engineer may instruct the Contractor to delay the start or progress of any activity within the Works. Delay/delays totalling more than 30 days will require prior written approval of the DMC/AMC

53. COMPENSATION FOR DELAY

If the Contractor fails to complete the work and clear the site on or before the completion period or extended periods of completion in accordance with GCC Clause 48, he shall without prejudice to any other right or remedy of the Corporation on account of such breach, pay compensation at the rate as indicated/mentioned in **Annexure 'A'**.

53.1 The Corporation 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 part.

a) If the Contractor fails to complete the work within the time period(s) specified in the contract or any extension thereof granted by the Corporation pursuant to Clause 52 or

b) If the Contractor fails to perform any other obligation(s) under the contract.

53.2 In the event of the Corporation terminates the contract in whole or in part, pursuant to Clause 53.1, the Corporation may carry out the work upon such terms and in such manner as it deems appropriate, and the Contractor shall be liable to pay to the Corporation for any excess cost for such similar work. However, the Contractor shall continue the performance of the contract to the extent not terminated.

53.3 Employer's Representative is entitled to impose penalty / fine for any lapses observed in the work during site visit at @ Rs.5000 (Rs. Five Thousand)/day/lapse, in accordance to the gravity of the lapse / default communicated in writing.

54. FORCE MAJEURE/IDLE CHARGES

The Contractor shall not be liable for payment of compensation /idle charges for delay or for failure to perform the contract for reasons of force majeure such as acts of God, acts of the public enemy, acts of Government, fires, floods, epidemics quadrant restrictions, freight embargoes and provided that the Contractor shall, within ten (10) days from the beginning of such delay notify the Corporation, in writing, of the cause of delay. The Corporation shall verify the facts and grant such extension only as the facts justify.

55. TAKING OVER

As soon as the works have been completed in accordance with the contract (except minor defects that do not affect their use for the purpose for which they are intended) and except for the defect liability thereof as provided in Clause 59 (Defects), have passed the commissioning Tests and subsequent 7-day trial run tests for completion and further successfully completed the Operation & Maintenance period of 36 months, the Engineer shall issue a certificate to the Contractor (hereinafter called 'taking over certificate') in which he shall certify the date on which the works have been so completed and have passed the said tests and the Corporation shall be deemed to have taken over the works on the date so certified but the issue of a taking over certificate shall not operate as an admission that the works have been completed in every respects.

In the event of the works being divided by the Contract into two or more sections the Corporation shall be entitled to take over any section or sections before the other or the others and thereupon the Engineer shall issue a taking over certificate in respect thereof.

If by agreement between the Corporation & Contractor any portion of the works (other than a section or sections) shall be taken over before the remainder of the works and Engineer shall issue a taking over certificate in respect of that portion.

56. USE BEFORE TAKING OVER

If by reason of any default on the part of the Contractor a taking over certificate has not been issued in respect of every portion of the works within one month after the time for completion or extended time as the case may be, the Commissioner shall be at liberty to use the works or any portion thereof in respect of which a taking over certificate has not been issued, provided that the works or the portion so used as aforesaid shall be reasonably capable of being used and the contractor shall be afforded the earliest possible opportunity of taking such steps as may be necessary to permit the issue of the taking over certificate.

57. INTERFERENCE WITH TESTS

If by reason of any act or omission of the Commissioner or the Engineer, the contractor shall be prevented from carrying out the tests on completion as provided

in sub-clause 1 of clause 51 (tests on completion) then, unless in the meantime the work shall have been proved not to be substandard in accordance with the contract, the Commissioner shall be deemed to have taken over the works and the Engineer shall issue a taking over certificate accordingly, nevertheless the Contractor shall make the said tests during the period of maintenance as and when required by the Engineer by 14 days' notice in writing and sub-clauses 2, 3 and 5 of clause 51 (tests on completion) shall apply. Any additional expense to which the Contractor may be put in making the said test during the period of maintenance pursuant to this sub-clauses shall be added to the contract price and such allowance shall be made from the performance required to be attained in the said tests as may be reasonable having regard to any use of the works by the Corporation prior to the tests.

58. PERIOD OF DEFECT LIABILITY

- 58.1 The Contractor is expected to carry out the construction work in Workmen like manner so as to meet the requirement and specification for the project. It is expected that the Workmanship and materials will be reasonably fit for the purpose for which they are required.
- 58.2 Defects or defective work is where standard, and quality of workmanship and materials as specified in the contract is deficient. Defect is defined as a failure of the completed project to satisfy the express or implied quality or quantity obligations of the construction contract. Defective construction works are as the works which fail short of complying with the express descriptions or requirements of the contract, especially any drawings or specifications with any implied terms and conditions as to its quality, workmanship, durability, aesthetic, performance or design. Defects in construction projects are attributable to various reasons.
- 58.3 Some of the defects are structural defects results in cracks or collapse of faulty defective plumbing, inadequate or faulty drainage system, inadequate or faulty ventilation, cooling or heating systems, inadequate fire systems etc. The defects could be various on accounts of different reasons for variety of the projects.
- 58.4 The Engineer's Representative shall issue the practical completion certificate for the project. During the Defect Liability Period which commences from the date of issue of certificate for successful completion of trial run tests., the Engineer's Representative shall inform or the contractor is expected to be informed of any defective works by the Engineer's representative of the defects and make good at contractor's cost with an intention of giving opportunity to the contractor of making good the defects appeared during that period. It is the contractor's obligation under the contract to rectify the defects that appear during Defect Liability Period and the contractor shall within a reasonable time after receipt of such instructions comply with the same at his own cost. The Engineer's Representative shall issue a certificate to that effect and completion of making good defects shall be deemed for all the purpose of this contract to have taken place on the day named in such defect liability certificate.

- 58.5 If defective work or workmanship or design have been knowingly covered-up or conceived so as to constitute fraud, commencement of the Defect Liability Period may be delayed. The decided period may be delayed until discover actually occurs on at least the defect could have been discovered with reasonable diligence, whichever is earlier.
- 58.6 The Defect Liability Period for all the works shall be 36 months (3 years) from the issue of 'Certificate of Completion' (i.e. upon successful completion of trial run tests after commissioning).
- 58.7 Also, in case of defect, the Engineer shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins upon the issue of 'Certificate of Completion' (i.e. upon successful completion of trial run tests after commissioning). The Defects Liability Period shall be extended for as long as Defects remain to be corrected. Every time notice of Defect/Defects is given, the Contractor shall correct the notified Defect/Defects within the duration of time specified by the Engineer's notice. The Engineer may issue notice to the Contractor to carry out removal of defects or deficiencies, if any, noticed in his inspection, or brought to his notice. The Contractor shall remove the defects and deficiencies within the period specified in the notice and submit to the Engineer a compliance report.
- 58.8 It is the Completion Stage when the contractor has completed all of the works and fixed all of the defects that were on the list of issue by Engineer's Representative. When this happens, the engineer must issue a 'Certificate of Completion'. The contractor also must issue a 'Certificate statement' as an acknowledgment to the engineer not later than 14 days after the 'Certificate of Completion' has been issued. During the 'Defect Liability Period', the contractor has to obey all written instructions from the engineer to carryout repairs and fix any defects which appear in the Permanent Works. If the contractor does not, due to his own faults finish the repair works or fix the defects by the end of 'Defect Liability Period', the 'Defect Liability Period' will continue until all works instructed by engineer is done.

59. DEFECTS

- 59.1 The Contractor shall be responsible for making good with all possible speed any defects arising from defective design, (other than a design made, furnished or specified by the Corporation and for which the Contractor has disclaimed responsibility in writing within a reasonable time after the receipt of the Commissioner's instructions) materials or workmanship or from any act or omission of the Contractor that may develop under the conditions provided for by the contract and under proper use in the works or any portion thereof during the period of maintenance.
- 59.2 If such defects shall occur, the Engineer shall inform the Contractor thereof stating in writing the nature of the defect. If the Contractor replaces or renews any portion of the works the provision of this clause shall apply to the portion of the works so

replaced or renewed as if that portion had been taken over on the date of replacement of renewal.

- 59.3 If any defects be not remedied within a reasonable time, the Commissioner may proceed to do the work at the Contractor's risk and expense but without prejudice to any other rights which the Corporation may have against the Contractor in respect of the failure of the Contractor to remedy such defects.
- 59.4 If the replacement or renewals are of such a character as may affect the efficiency of the works or any portion thereof the Commissioner may, within one month of such replacement or renewal, give to the Contractor, notice in writing, requiring that tests on completion be made, in which case such tests shall be carried out as provided in clause 51 (Tests on Completion).
- 59.5 These General Conditions shall apply to all inspections, adjustments, replacement and renewals and to all tests occasioned thereby carried out by the Contractor pursuant to this clause.
- 59.6 Save as in this clause expressed, the Contractor shall be under the liability in respect of the said defects after the works have been taken over.
- 59.7 Until the final certificate shall have been issued, the Contractor shall have the right of access, at all reasonable working hours, at his own risk and expense, by himself or his duly authorized representatives whose name shall have previously been communicated in writing to the Engineer, to all parts of the works for the purpose of inspecting the working thereof and to the records of the working and performance thereof for the purpose of inspecting the same and taking notes there from subject to the Engineer's approval, which shall not be unreasonably withheld, the Contractor may at his risk and expense make any tests which he considers desirable.
- 59.8 The Contractor shall, if required by the Engineer in writing search for the cause of any defect, imperfection or fault under the directions of the Engineer. Unless such defects, imperfections or faults shall be one for which the Contractor is liable under the contract, the cost of the work carried out by the Contractor in searching as aforesaid shall be borne by the Corporation. But if such defect, imperfection or fault shall be the one for which the Contractor is liable as aforesaid the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case repair, rectify and make good such defect, imperfection or fault at his own expense in accordance with the provision of this clause.

60. OWNERSHIP OF PLANT

Plant supplied pursuant to the contract shall become the property of the Corporation from whichever is the earlier of the following times namely:

- a) When the plant is delivered pursuant to the contract.
- b) When the contractor has been paid any sum to which he may become entitled

in respect thereof pursuant to clause 66 (Terms of Payment).

61. VARIATIONS & OMISSIONS

61.1 The Contractor shall not alter any of the works except as directed in writing by the Engineer but the Engineer shall have full power, subject to the provision hereinafter contained from time to time during the execution of the contract by notice in writing to direct the Contractor to alter, amend, omit, add to or otherwise, vary any of the works and the Contractor shall carry out such variations and be bound by the same conditions, so far as applicable as though the said variations were stated in the specifications, provided that no such variation shall, except with the consent in writing of the Contractor, be such as will, with any variation already directed to be made, involve a net increase or decrease in the Contract Price of more than 25% thereof. In any case in which the Contractor has received any such direction from the Engineer which either then or later will, in the opinion of the Contractor involve an increase or decrease in the Contract Price, the Contractor shall as soon as reasonably possible and before proceeding therewith advise the Engineer in writing to that effect. The difference in cost to the Commissioner, if any, occasioned by any such variation, shall be added to or deducted from the contract price as the case may require. The amount of such difference shall be ascertained and determined in accordance with the rates contained in the said schedules or are not applicable such amount shall be agreed between the Engineer and the Contractor.

The rate quoted for individual BOQ items will be applicable to any excess quantity beyond the schedule quantity. No extra/fair rate will be paid for any excess quantity beyond the schedule quantities.

The rate for extra item other than BOQ item will be paid at such fair and reasonable rate as worked out by the Engineer on the basis of cost of material, labour, operation of plant and machinery etc. required to execute the said particular item and allowing 15% to cover profit and overhead charges (i.e. including taxes and duties etc.). No escalation will be admissible on the fair items.

61.2 If the Engineer shall make any such variation in any part of the works such reasonable notice in writing shall be given to the Contractor as well enable him to make his arrangements accordingly and in case where plant is already manufactured or in course of manufacture or any matter done or drawings or patterns made that require to be altered, a reasonable sum in respect thereof shall be allowed by the Engineer. If, in the opinion of the Contractor, any such variation is likely to prevent or prejudice the Contractor from or in fulfilling any of his obligations under the Contract he shall notify the Engineer thereof in writing and the Engineer shall decide forthwith whether or not the same shall be carried out. If the Engineer confirms his instructions in writing the said obligations shall be modified to such an extent as may be justified until the Engineer confirms his instructions they shall be deemed not to have been given.

61.3 On receipt of the Engineer's confirmation of instructions in respect of any variation, the Contractor shall immediately proceed to carry out such instructions. The work shall not without the permission of the Engineer be delayed pending agreement on price.

62. CLAIMS

The Contractor shall send to the Engineer, once in every month, an account giving particulars (as full and detailed as possible) of all claims for any additional expense to which the Contractor may consider himself entitled and of all extra or additional works ordered by the Engineer which he has executed during the preceding month, and no claim for payment for any such work will be considered which has not been included in such particulars. Provided always that the Engineer shall be entitled to authorize payment to be made for any such work notwithstanding the Contractor's failure to comply with this condition, if the Contractor has at the earliest practicable opportunity notified the Engineer that he intends to make a claim for such work.

63. OWNERSHIP OF CONTRACTOR'S EQUIPMENT

All contractor's equipment and material shall, on being brought upon the site for the purpose of the works, become the property of the Corporation and shall be used solely for the purpose of the works and shall not be taken away by the Contractor while it is required on the site for the purpose of the works without the permission in writing of the Engineer and the Contractor shall be liable for the loss or destruction thereof or damage thereto which may happen otherwise than through the fault of the Corporation. If there shall be owing or occurring to the Corporation from the Contractor any money under or in respect of the Contract of which the Commissioner shall be unable to obtain payment the Commissioner shall be at liberty at the cost of the Contractor, to sell and dispose of any of the Contractor's equipment and material as he shall think fit and to apply the proceeds in or towards the satisfaction of such money as aforesaid. Subject to the forgoing the property in any Contractor's equipment and material shall revert to the Contractor on being properly removed from the site or on the completion of the works or on the termination of the contract whichever may be the earliest.

64. INTERIM AND FINAL CERTIFICATES

64.1 The Contractor may at the times and in the manner following apply for interim and final certificate as referred to in Clause 66 (Terms of Payment) for plant shipped from the place of manufacture en-route to the Site and for erection work executed on the site.

The interim payment certificate shall be submitted monthly or as per progress of the work. The time period between two consecutive interim payment certificates shall not be less than 30 days ideally. However, in case of fast progress or deliveries, this condition could be waived under special circumstances.

- 64.2 Application for interim certificate may be made to the Engineer in respect of each dispatch of shipment of plant and from time to time as work on the site progresses. Each such application shall identify the plant dispatched, the amount claimed and be accompanied by such evidence of dispatch and of payment of freight, insurance and other charges as well as the certified copy of the test taken at the manufacturer's premises and other proof of evidence as the Engineer may reasonably require.
- 64.3 The Engineer shall issue to the Contractor an interim certificate within 28 days after receiving a valid application for interim certificate made in accordance with this clause.
- 64.4 Every interim certificate shall certify the contract value of plant shipped or as the case may be the contract value of the work duly executed on the site and of the plant delivered to the site for use in the works pursuant to the Contract upto the date named in the application for the certificate, less the total of any sums previously certified in interim certificates provided that no sum shall be included in any interim certificate in respect of any plant that, according to the decision of the Engineer, does not comply with the Contract, or has been brought and is at the date of certificate prematurely upon the site.
- 64.5 No interim certificate shall be relied on as conclusive evidence of any matter stated therein nor affect or prejudice any right of the Corporation or the Contractor against the other.
- 64.6 Application for the Final Certificate may be made to the Engineer at the end of the period of maintenance for the works or any portion thereof, provided that the contractor has fulfilled his obligations under clause 59 (Defects). Provided that if by reason of the fact that it has become necessary for the Contractor to replace or renew any portion of the works or component of an item of plant, the obligations of the Contractor under clause 59 (Defects) shall continue after the period first therein mentioned the right of the Contractor to apply for a final certificate in respect of the works or portion thereof other than the portions so replaced or renewed or the items referred previously shall not be affected by that fact and after the Contractor has ceased to be under any obligation under Clause 59 (Defects) in respect of the portions replaced or renewed he may apply for a final certificate in respect thereof.
- 64.7 The Engineer shall issue to the Contractor a final certificate within 30 days of receiving a valid application from the Contractor.
- 64.8 A final certificate shall certify the total of all amounts comprised in interim certificate previously issued in respect of the works or the portion thereof to which the final certificate relates, subject to such addition thereto or deductions therefrom as may be authorized in sub-clauses 11 & 12 of this clause.
- 64.9 A final certificate shall, save in the case of fraud or dishonesty relating to or affecting any matter dealt with in a certificate, be conclusive evidence as to the efficiency of the works and of the value thereof.
- 64.10 The Corporation shall not be liable to the Contractor for any matter or thing arising out of or in connection with the Contract or the execution of the works unless the

Contractor shall have the claim in writing in respect thereof before giving of the final certificate under this clause.

64.11 Any sum payable under the contract by or to the Contractor otherwise than for work executed or Plant delivered shall be included or deducted in the next certificate (interim or final) issued by the Engineer.

64.12 The Engineer may in any certificate give effect to any correction or modification that should properly be made in respect of any previous certificate.

64.13 Modification of Interim Certificate

An interim certificate given relating to work done or material delivered may be modified or corrected by any subsequent interim certificate or by the final certificate. No certificate of the Engineer supporting an interim payment shall itself be conclusive evidence that any work or materials to which it relates is/are in accordance with the contract.

64.14 Final Account

Final joint measurement along with the representatives of the contractor should be taken, recorded and signed by the Contractors. Contractors should submit the final bill within 1 month of physical completion of the work.

If the contractor fails to submit the final bill within 1 month, the BMC staff will prepare the final bill based on the joint measurement within next 3 months.

Engineer's decision shall be final in respect of claims for defect and pending claims against contractors.

No further claims should be made by the Contractor after submission of the final bill and these shall be deemed to have been waived and extinguished. Payment of those items of the bills in respect of which there is no dispute and of items in dispute, for quantities and rates as approved by the Commissioner shall be made within a reasonable period as may be necessary for the purpose of verification etc.

After payment of the final bill as aforesaid has been made, the contractor may, if he so desires, reconsider his position in respect of a disputed portion of the final bills and if he fails to do so within 84 days, his disputed claim shall be dealt with as provided in the contract.

A percentage of the retention money, over and above the actual retention money as indicated below shall be held back from payments till the finalization of final bill to be submitted as per above and will be paid within 30 days of acceptance of the final bill.

Sr.No.	Amount of Contract Value	Minimum Payable Amount in final bill
1	Upto Rs.5 Crs.	Rs.10 Lacs or final bill whichever is more

2	Upto Rs.25 Crs.	Rs.1 Crore or final bill amount whichever is more
3	UptoRs. 50 Crs.	Rs.2 Crores or final bill amount whichever is more
4	Upto Rs.100 Crs.	Rs.4 Crore or final bill amount whichever is more
5	More than Rs.100 Crs.	Rs.7 Crore or final bill amount whichever is more

The Contractor have to submit the bill for the work carried out within 15 days from the date of completion of the work to the respective executing department. If the contractor fails to submit their bills to concerned executing department, penalty or action as shown below will be taken for each delayed bill: -

After 15 days from the date of completion/running bill upto certain date, upto next 15 days i.e. upto 30 days	Equal to 5% of bill amount
Next 15 days upto 45 days from the date of completion/running bill upto specified date	Equal to 10% of bill amount
If not submitted within 45 days from the date of completion/ R.A. bill	Bill will not be admitted for payment.

65. PAYMENT DUE FROM THE CONTRACTOR

All costs, damages or expenses for which, under the Contract, the Contractor is liable to the Corporation may be deducted by the Commissioner from any moneys due or becoming due to the Contractor under the Contract or may be recovered by action of law or otherwise from the Contractor.

66. TERMS OF PAYMENT

PART-A MOBILISATION ADVANCE PAYMENT

- i. The first payment is 10% of Contract Price (excluding the price quoted for operation and maintenance) and shall be made as an mobilisation advance payment in the following manner:
 - a) 5% of Contract Price will be made against application and submission of 5.4% Bank Guarantee of the Contract Price, and
 - b) 5% will be released against application after readiness of the site and submission of further 5.4% Bank Guarantee of Contract Price and utilisation of earlier 5% advance.

The bank guarantees shall be in prescribed format from any bank as per the approved list after Notification of award. The necessary stamp duty shall be paid on both the mobilisation advance bank guarantees.

- ii. The Banker's guarantee in lieu of advance payment shall be initially valid for 30 months (for construction and commissioning period) and the same shall be released after 100% recovery of the Mobilization advance by BMC.
- iii. The interest for mobilisation Advance shall be recovered @ rate of 8%
- iv. The Contractor shall extend the validity of the guarantee until the mobilisation advance payment has been repaid.
- v. Recovery of mobilisation advance shall commence once the payment of 10% amount (excluding mobilisation advance payment) of the Contract Price is made to the Contractor. This recovery shall be made in proportionate percentage from each bill until the complete mobilisation advance amount is recovered. In case of termination of contract, for any reasons, the amount of mobilisation advance paid shall be recovered proportionately. Deductions shall be made at the rate of 20% from each running bill for recovery of advance until 100% recovery of Advance is made by BMC.
- vi. All the Bank Guarantees (BG) including extensions of BGs will attract stamp duty as per Stamp Act and the same shall be borne by the contractor and will not be reimbursed.

PART-B PAYMENT TERMS

Unless otherwise agreed the Commissioner shall pay to the Contractor in the following manner the Contract Price adjusted to give effect to such additions thereto and such deductions therefrom as are provided for in this condition

- A. For Construction works** - The 90% payment will be made as per proportionate work carried out by the contractor after raising of invoice. The balance 10% amount will be paid after testing & commissioning of entire plant.

However, for Piping, 70% payment shall be released against supply of **Mild Steel pipes** to site. This clause shall be applicable for the items in Sr. Nos. 168, 169, 170, 171 & 172 of Civil BOQ, Volume VI – Packet C and Schedule of Bill of Quantities and Rates; 20% against laying & jointing and balance 10% against testing and commissioning of entire plant as per specification.

For BOQ items for laying and jointing of pipes, 90% payment will be made after laying of pipes and balance 10% will be made against testing and commissioning of entire plant as per specification

B. For Mechanical, Electrical and Instrumentation works

- i) 70% of the contract value against supply and delivery of equipment (each item of B.O.Q.), the required materials, etc. at site with test certificates.
- ii) 20% of the contract value against the satisfactory erection of the equipment.
- iii) 10% of the contract value against the testing, commissioning of the entire plant.

C. For O&M Period

The payment will be made on monthly basis against the O&M activities carried out by the Contractor after raising invoice.

2% security deposit/ performance guarantee to be released within 3 months after completion of defect liability period of 36 months (GCC 58).

66.1 Retention Money

The contractor shall pay the retention money an amount equal to two (2) percent of the Contract Value which will be recovered from the contractors every bill i.e. interim / running / final bill.

Refund of Retention Money

One-half (50%) of the Retention Money shall be released within 30 days after issue of Commissioning Certificate. In the event, the Engineer issues a Commissioning Certificate for a section or part of the Permanent Works, only such proportion thereof, as the Engineer determines (having regard to the relative value of such section or part of the Works) shall be considered by the Engineer for refund to the Contractor.

The balance 50% Retention Money shall be released within 30 days after completion of DLP as mentioned in clause 58 of GCC and after issue of 'Defect Liability Certificate' provided that the Engineer is satisfied that there is no demand outstanding against the Contractor.

In the event of different Defects Liability Periods have been specified or become applicable to different sections or parts of the Permanent Works, the said moneys will be released within 30 days on expiration of the latest of such Defects Liability Periods.

67. BANKRUPTCY

If the Contractor shall become bankrupt or insolvent or have a receiving order made against him, or compound to be wound up, not being a members' voluntary winding up for the purpose of amalgamation or reconstruction, or carry on its business under a receiver for the benefit of its creditors or any of them, the Commissioner shall be at liberty (a) to terminate the Contract forthwith by notice in writing to the Contractor or to the receiver or liquidator or to any person in whom the Contract may become vested and to act in the manner provided in Clause 68 (Contractor's Default) as though the last mentioned notice had been the notice referred to in such clause and the Works had been taken out of the Contractor's hands or (b) to give such receiver, liquidator or other person the option of carrying out the Contract subject to his providing a guarantee for the due and faithful performance of the Contract upto an amount to be agreed.

68. CONTRACTOR'S DEFAULT

If the Contractor shall neglect to execute the Works with due diligence and expedition or shall refuse or neglect to comply with any reasonable orders or shall contravene the provisions of the Contract, the Commissioner may give notice in writing to the Contractor to make good, the failure neglect or contravention complained of should the Contractor have failed to comply with the notice within a reasonable time from the date of service thereof, then and in such case if the Commissioner shall think fit it shall be lawful for him without prejudice to any other rights he may have under the

Contract to take the Works wholly or in part out of the Contractor's hands and recontract with any other Contractor to complete the work and the Commissioner shall be entitled to retain and apply any balance which may be necessary to the payment of the cost of executing the said part of work or of completing the work as the case may be plus Municipal Supervision. If the cost of completing the works or executing a part thereof as aforesaid shall exceed the balance due to the Contractor, the Contractor shall pay such excess.

69. OUTBREAK OF WAR

If during the currency of the Contract there shall be an outbreak of war (whether war is declared or not) in any part of world which, whether financially or otherwise, materially affects the execution of the Works, the Tenderer shall unless and until the contract is terminated under the provisions in this clause contained, use his best endeavours to complete the execution of the Works, provided always that the Commissioner shall be entitled, at any time after such outbreak of war, to terminate this Contract by giving notice in writing to the Contractor and upon such notice being given under Contract shall (save as to the rights of the parties under this clause and to the operation of clause 72 hereof) terminate, but without prejudice to the rights of either party in respect of any antecedent breach thereof.

70. REMOVAL OF CONTRACTOR'S EQUIPMENT ON TERMINATION

If the Contract shall be terminated under the provisions of the clause No.69 the Contractor shall with all reasonable dispatch remove from the site all Contractor's equipment and shall give similar facilities to his sub-contractor to do so.

71. PAYMENT IF CONTRACT TERMINATED

If the Contract shall be terminated as aforesaid the Contractor shall be paid by the Commissioner (in so far as such amounts or items shall not have already been covered by payments on account made to the Contractor) for all works executed prior to the date of termination at the rates and prices provided in the Contract and in addition

- a) The amounts payable in respect of any preliminary items so far as the work or service comprised therein has been carried out or performed and a proper proportion as certified by the Engineer of any such items the work or service comprised in which has been partially carried out or performed.
- b) The Cost of material or goods reasonably ordered for the Works or for use in connection with the Works which shall have been delivered to the Contractor or of which the Contractor is legally liable to accept delivery (such materials or goods becoming the property of the Commissioner upon such payments being made by him).
- c) A sum, to be certified by the Engineer, being the amount of any expenditure reasonably incurred by the Contractor in the expectation of completing the whole of the Works, in so far as such expenditure shall not have been covered by the payments in this sub-clause earlier mentioned.

- d) The reasonable cost of removal under Clause 72 and (if required by the Contractor) return thereof to the Contractor's works in his country of registration or to any other destination at no greater cost. Provided always that against any payments due from the Commissioner under this sub-clause, the Commissioner shall be entitled to be credited with any outstanding balances due from the Contractor for advances in respect of Plant & materials and any sum previously paid by the Commissioner to the Contractor in respect of the execution of the Works.

72. FRUSTRATION

- 72.1 In the event of the Contract being frustrated, the sum payable by the Commissioner to the Contractor in respect of the work executed shall be the same as that which would have been payable under clause 71 if the Contract had been terminated under the provisions of clause 69 (outbreak of war)
- 72.2 For the purpose of this Clause the term 'Frustrated' shall mean the prevention of the fulfilment of the Contract by reason of war or by any cause or causes agreed by both the Commissioner and the Contractor to be beyond the control of either of them.

73. DISPUTE

If any dispute or differences of any kind whatsoever other than those in respect of which, the decision of any person is, by the Contract, expressed to be final and binding shall arise between the Employer and the Contractor or the Engineer and the Contractor in connection with or arising out of the Contract or carrying out of the Works (Whether during the progress of the Works or after their completion and whether before or after the termination, abandonment or breach of the Contract) it, the aggrieved party may refer such dispute within a period of 7 days to the concerned Addl. Municipal Commissioner who shall constitute a committee comprising of three officers i.e. concerned Deputy Municipal Commissioner or Director (ES&P), Chief Engineer other than the Engineer of the Contract and concerned Chief Accountant. The Committee shall give decision in writing within 60 days. Appeal on the Order of the Committee may be referred to the Municipal Commissioner within 7 days. Thereafter the Municipal Commissioner shall constitute a Committee comprising of three Addl. Municipal Commissioners including Addl. Municipal Commissioner in charge of Finance Department. The Municipal Commissioner within a period of 90 days after being requested to do so shall give written notice of committee's decision to the Contractor. Save as herein provided such decision in respect of every matter so referred shall be final and binding upon both parties until the completion of the works, and shall forthwith be given effect to by the Contractor who shall proceed with the works with due diligence, whether he requires arbitration as hereinafter provided or not. If the Commissioner has given written notice of the decision to the Contractor and no Claim to arbitration has been communicated within a period of 90 days from receipt of such notice the said decision shall remain final and binding upon the Contractor.

73.1 Arbitration & Jurisdiction

If the commissioner fails to give notice of the decision as aforesaid within a period of 90 days after being requested as aforesaid or if the Contractor is dissatisfied with any such decision, then the Contractor may within 90 days after receiving notice of such decision or within 90 days after the expiration of the first named period of 90 days (as the case may be) require that the matter or matters in dispute be referred to arbitration as hereinafter provided.

- i) In case of a contract where the Contract Price and/or Contract Value is less than ₹ 5,00,00,000/- (₹ Five Crore Only), any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to a mutually agreed arbitral tribunal in accordance with the Arbitration and Conciliation Act – 1996 (amended up to date). The arbitral tribunal shall consist of a sole arbitrator, as mutually agreed upon by the parties and the said dispute shall be finally resolved by the said arbitral tribunal. The decision of the arbitral tribunal shall be in writing (with reasons) and which will be final and binding upon the parties hereto and the expenses of the arbitration shall be paid as may be determined by the arbitral tribunal. The seat of the arbitration shall be Mumbai. The venue of Arbitration shall be within the limits of Brihan Mumbai. The language of the Arbitration shall be English.

If the parties fail to appoint mutually agreed arbitral tribunal, within the period of 30 days from the date of application seeking arbitration in the dispute, the arbitral tribunal shall be appointed by the recognised arbitral institution i.e. Mumbai Centre for International Arbitration (approved by Government of Maharashtra under G.R. no. ARB/Case No.1/2017/D-19 dated 28.02.2017) as per the Arbitration Rules of the Mumbai Centre for International Arbitration then in force (“MCIA Rules”).

- ii) In case of a contract where the contract price and/or contract value is ₹ 5,00,00,000/- (₹ Five Crore Only) or more, any dispute arising out of or in connection with such a contract, including any question regarding its existence, validity or termination, shall be directly referred to and finally resolved by the recognised arbitral institution i.e. Mumbai Centre for International Arbitration (approved by Government of Maharashtra under G.R. no. ARB/Case No.1/2017/D-19 dated 28.02.2017) as per the Arbitration Rules of the Mumbai Centre for International Arbitration then in force (“MCIA Rules”). The arbitral tribunal shall consist of a sole arbitrator. The seat of the arbitration shall be Mumbai. The language of the Arbitration shall be English.

In either case, the law governing this arbitration agreement and the contract shall be Indian Law.

73.2 Payments, Tax and Claims

The limit for unforeseen claims:

Under no circumstances whatever the contractor shall be entitled to any compensation from BMC on any account unless the contractor shall have submitted a claim in writing to the Engineer within 1 month of the case of such claim occurring.

No interest for delayed payments due to disputes, etc:

It is agreed that the Brihanmumbai Municipal Corporation or its Engineer or Officer shall not be liable to pay any interest or damage with respect of any moneys or balance which may be in its or its Engineer's or officer's hands owing to any dispute or difference or claim or misunderstanding between the Brihanmumbai Municipal Corporation or its Engineer or Officer on the one hand and the contractor on the other, or with respect to any delay on the part of the Brihanmumbai Municipal Corporation or its Engineer or Officers in making periodical or final payments or in any other respect whatever.

73.3 Settlement of Disputes

Termination of contract for death:

If the Contractor is an individual or a proprietary concern and the individual or the proprietor dies and if the Contractor is a partnership concern and one of the partners of the partnership firm dies and one of the legal representative of the individual Contractor or the proprietor of the proprietary concern and in case of partnership, the surviving partners, are capable of carrying out and completing the contract, the Commissioner shall be entitled to cancel the contract as to its uncompleted part without the Corporation being in any way liable to payment of any compensation to the estate of the deceased Contractor and or to the surviving partners of the Contractor's firm on account of the cancellation of the contract. The decision of the Commissioner that the legal representative of the deceased Contractor or surviving partners of the Contractor's firm cannot carry out and complete the contract shall be final and binding on the parties. In the event of such cancellation, the Commissioner shall not hold estate of the deceased Contractor and or surviving partners of the Contractor's firm liable in damages for not completing the contract

74. ADJUSTMENT IN COST

The Contractor shall be reimbursed or shall refund to the Corporation, as the case may be, the adjustment in the value of the work carried out from time to time, depending on whether the prices of material and labour as a whole rise or fall, and the method adopted for such computations shall be as given below, it being clearly understood that the contractor shall have no claim for being reimbursed on the ground that the price of a particular material or group of materials have risen beyond the limits of the presumptions made in the following paras, however, no price adjustments shall be made applicable for contracts upto 12 months.

Maximum price adjustment shall be limited to 10%

For first 12 months no adjustment for charges need to be paid

Labour and other materials: For the purpose of this contract and for allowing reimbursement of refund on account of adjustment of prices of (i) labour, and (ii) materials, computation will be based on the formula enunciated below which is based on the presumptions that:

-
- i) The general price level of labour, rises or falls in proportion to the rise or fall of consumer price index (General Index) for working class in Mumbai.
 - ii) The general price level of materials rises or falls in proportion to rise or fall of whole-sale price index as published by 'Economic Adviser to Govt. of India'
 - iii) And that the component of labour is to the extent of 30 percent of 85 percent and the component of materials is to the extent of 70 percent of 85 percent of the value of the work carried out. The remaining 15 percent being the presumptive overhead and profit of the contractor.

Design and Build
a) Formula for Labour component: $V_L = \frac{(0.85 R) \times 30}{100} \times \frac{(I - I_0)}{I_0}$
b) Formula for Material component: $V_M = \frac{[(0.85 R) \times 70]}{100} \times \frac{(W - W_0)}{W_0}$
Operation and Maintenance
a) Formula for Labour component: $V_L = \frac{(0.85 R) \times 60}{100} \times \frac{(I - I_0)}{I_0}$
b) Formula for Material component: $V_M = \frac{[(0.85 R) \times 40]}{100} \times \frac{(W - W_0)}{W_0}$

where,

- V_L** := Amount of price adjustment to be reimbursed or claimed as refund on account of general rise or fall of index referred to above.
- I** := Consumer Price Index for industrial workers for the Mumbai for the month under consideration as published by Labour Bureau, Ministry of Labour, Government of India.
- I₀** := Consumer price index number for industrial workers for the Mumbai on 28 days prior to the last date of submission of tender, as published by Labour Bureau, Ministry of Labour, Government of India.
- V_M** := The amount of price adjustment to be reimbursed or claimed as refund on account of general rise or fall of wholesale price index for period under reference.
- W** := Average wholesale price index as published by Economic Adviser to Govt. of India applicable to the period under reference.
- W₀** := Wholesale price index as stated above prevailing on the day of 28 days prior to the last date of submission of tender.
- R** := Total value of the work done during the period under reference as recorded in the Measurement Book excluding water charges and sewerage charges and supervision charges but including cost of excess in respect of item upto 50 percent

Computations based on the above formula will be made for the period of each bill separately and reimbursement will be made to (when the result is plus) and refund will claimed from (when the result is minus) the contractor's next bill.

The operative period of the contract for application of price adjustment shall mean the period commencing from 12 months subsequent to the date of commencement of work mentioned in the work order and ending on the date when time allowed for the work order and ending on the date when time allowed for the work specified in the contract for work expires, taking into consideration, the extension of time, if any, for completion of the work granted by Engineer under the relevant clause of the conditions of contract in cases other than those where such extension is necessitated on account of default of the contractor.

The decision of the Engineer as regards the operative period of the contract shall be final and binding on the contractors.

Adjustment after completion: If the Contractor fails to complete the works within the

time for completion, adjustment of prices thereafter until the date of completion of the works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices whichever is more favorable to the employer, provided that if an extension of time is granted, the above provision shall apply only to adjustments made after the expiry of such extension of time.

Price adjustment will be calculated similarly and separately for extra items and/or excess quantities calculated based on the above formula/formulae as and when mentioned in Special conditions of contract; I_0 and W_0 being the indices applicable to the date on which the rates are fixed. No price adjustment shall be admissible for FAIR items created during execution.

Maximum Price Adjustment shall be as follows:

Time Period of Project	Maximum limit of Price Adjustment
Up to 12 months	No adjustment allowed
Above 12 months to 24 months	5.00%
Above 24 months	10.00%

Note:

- 1) **The extension in time period for the projects originally estimated including monsoon results in change of price adjustment slabs as mentioned above i.e. from first slab to second slab or from second slab to third slab, then the maximum limit of original slab will prevail.**
- 2) Operative period shall mean original or extended time period of contract.

For example:

Extension of Time period	Maximum Price Adjustment
If original period of 11 months including monsoon extends to 16. The operative period will be 11+5 months.	No adjustment allowed
If original period of 11 months excluding monsoon extends to 16. The operative period will be 11+5 months.	Maximum 5% adjustment allowed

Price Adjustment during Extended Period of Contract:

i) Extension Due To Modification and Extension for delay due to BMC :

The price adjustment for the period of extension granted shall be limited to the amount payable as per the Indices in case the indices increases or decreases, above/below the indices applicable, to the last month of the original or extended period vide clause 52 II (a) (i) and (ii) of GCC.

ii) Extension of Time for Delay due to Contractor :

a) The price adjustment for the period of extension granted shall be limited to the amount payable as per the Indices in case the indices increase, above the indices applicable, to the last month of the original completion period or the extended period vide above clause 52 II (b) of GCC.

b) The price adjustment shall be limited to the amount payable as per the indices, in case the indices decrease or fall below the indices applicable, to the last month of original / extended period of completion period vide above clause 52 II (b) of GCC, then lower indices shall be adopted.

iii) Extension of Time For Delay due to reasons not attributable to BMC and Contractor (Reference Clause 52 I of GCC):

The price adjustment for the period of extension granted shall be limited to the amount payable as per the Indices in case the indices increases or decreases, above / below the indices applicable, to the last month of the original period.

75. MISCELLANEOUS

- a) Photographs of works advertisement etc.: The Contractor will not be permitted to photograph any plant or site of work and/or make use of the work for the purpose of advertisement unless written permission is applied for and obtained from the Municipal Commissioner.
- b) Office Secrecy: The Contractors shall take whenever required necessary steps to ensure that all persons employed on any work in connection with this contract have noticed that the Indian Official Secrets Act 1923 (XIX of 1923) applied to them and shall continue so to apply even after execution of such work under the Contract.
- c) Notice to local bodies: The Contractor shall comply with and give all notices required under any Government Authority, Instrument, Rule or Order made under any act of Parliament, State or any regulation or bye-laws of any local authority or public utility concern relating to works. He shall before making any variation from the contract or drawings; necessitated by such compliance, give to the Engineer a notice giving reasons for the proposed variations and obtain the Engineer's Instructions thereon.

The Contractor shall keep the Municipal Corporation indemnified against any liability in respect of any fees or charges payable under any Act of parliament, State Laws or any Government Instrument, Rule or Order and any regulations or Bye Laws of any local authority or public utility concern in respect of the works.

- d) Materials obtained from excavation: Materials of any kind obtained from excavation of the site shall remain the property of the Municipal Corporation and shall be disposed of as the Engineer may direct.
- e) Treasure Trove Etc.:- All fossils, coins, articles of value or antiquity and structural and other remains or things of geological or archaeological interest discovered in or upon the Site shall be the absolute property of the Municipal Corporation and the Contractor shall duly preserve them and shall take precautions to prevent his workman or any other person from removing or damaging any such article or thing and shall immediately upon discovery thereof and before removal acquaint the Engineer with such discovery and shall from time to time deliver the same to such persons as the Engineer may from time to time appoint to achieve the same at the expense of the Corporation.

76. CHANGE IN CONSTITUTION

Where the Contractor is a partnership firm, the prior approval in writing of the Commissioner shall be obtained before any change is made in the constitution of the firm. Where the Contractor is an individual or a Hindu Undivided family business concern, such approval as aforesaid shall likewise be obtained before the Contractor enters into any Partnership agreement where under the partnership firm would have the right to carry out the work here by undertaken by the Contractor. If prior approval as aforesaid is not obtained, the Contract shall be deemed to have been assigned as in G.C.C.7.

77. RECORDS AND MEASUREMENT

The Engineer shall except as otherwise stated ascertain and determine by measurement the value in accordance with the Contract of Works done in accordance therewith. All items having a financial value shall be entered in a measurement book, level book etc. as prescribed by the Municipal Corporation so that a complete record is obtained of all works performed under the Contract.

Measurement shall be taken jointly by the Engineer or his authorized representative and by the Contractor or his authorized representative. Before taking measurements of any work, the Engineer or the person deputed by him for the purpose shall give reasonable notice to the Contractor. If the Contractor fails to attend or send an authorized representative for measurement after such notice or fails to countersign or record the objection within a week from the date of measurement then in any such event measurements taken by the Engineer, or by the person deputed by him shall be taken to be correct measurements of the works and shall be binding on the Contractor. The Contractor shall, without any extra charge, provide assistance with every appliance and other things necessary for measurements.

The measurements shall be signed and dated by both the parties each day (of taking measurement) on the site on completion of measurement.

78. FACILITIES TO THE OTHER CONTRACTORS

The Contractor shall, in accordance with the requirements of the Engineer, afford all reasonable facilities to the other contractors engaged contemporaneously on separate contracts in connection with the Works and for departmental labour and labour of any other properly authorized authority or statutory body which may be employed at the site on execution of any work not included in the Contract or of any contract which the Municipal Corporation may enter in connection with or ancillary to the Works.

79. PRODUCTION OF VOUCHERS

The Contractor shall, when required by the Engineer produce all quotations, invoices, vouchers and accounts or receipts etc. to prove that the materials supplied by him are in conformity with the Specifications laid down in the contract.

80. OVERPAYMENT AND UNDERPAYMENT

Whenever any claim for the payment of a sum to the Municipal Corporation arises out of or under this Contract against the Contractor, the same may be deducted by the Municipal Corporation from any sum then due or which any time thereafter may become due to the Contractor under this Contract and failing that under any contract with the Municipal Corporation or from any other sum due to Contractor from the Municipal Corporation (which may be available with the Municipal Corporation) or from his retention money or he shall pay the claim on demand.

The Municipal Corporation reserves the right to carry out post payment audit and technical examination of the final bill including all supporting vouchers, abstracts etc.

The Municipal Corporation further reserves the right to enforce recovery of any overpayment when detected. If as a result of such audit and technical examination, any over-payment is discovered in respect of any work done by the Contractor or alleged to have been done by him under the contract, it shall be recovered by the Municipal Corporation from the Contractor by any or all the methods prescribed above or if under- payment is discovered the amount shall be duly paid to the Contractor by the Municipal Corporation. Corporation to adjust overpayment against amounts due to the Contractor under any other contract with the Municipal Corporation shall not be extended beyond the period of two years from the date of payment of the final bill or in case the final bill is a 'minus' bill, from the date of the amount payable by the Contractor under 'minus' bill is communicated to the Contractor.

Any amount due to the Contractor under this contract for under payment may be adjusted against any amount then due or which may at any time thereafter become due before payment is made to the Contractor, from him to Municipal Corporation on any other contract amount whatsoever.

81. RECEIPT TO BE SIGNED IN FIRM'S NAME BY ANY ONE OF THE PARTNERS

Every receipt for money which may become payable or for any security which may become transferable to the Contractor under these presents shall be signed in the partnership name by any one of the partners, and shall be a good and sufficient discharge to the Commissioner and Municipal Corporation in respect of the money or security purporting to be acknowledged thereby and in the event of death of any of the partners during the pendency of this contract, it is hereby expressly agreed that every receipt by any one of the surviving partners shall if so signed as aforesaid, be good and sufficient discharge as aforesaid, provided that nothing in this clause contained shall be deemed to prejudice or affect any claim which the Commissioner or the Corporation may hereafter have against the legal representatives of any partners so dying or in respect of any breach of any of the conditions thereof, provided also, that nothing in this clause contained shall be deemed to prejudice or affect the respective rights or obligations of the Contractor and of the legal representative of any deceased Contractor.

82. INCOME TAX

The Contractor shall pay Income Tax on all payments made to him under the contract. Under the provisions of Section 94-C of the Indian Income Tax Act, the Corporation is required to deduct tax, at source and under present legislation will deduct as tax, 2% of the gross amount of each bill submitted. However, the income tax and surcharge prevailing on the date of payment will be deducted.

83. CONTRACTOR TO CONSTRUCT THE WORKS AND UNDERTAKE MAINTENANCE (IF SPECIFIED IN THE TENDER)

- 83.1 The Contractor shall construct, and install and maintain the Works in accordance with the Specifications and Drawings and as per instructions of the Engineer.
- 83.2 The Contractor shall construct the works with intermediate technology, i.e., by manual means with medium input of machinery required to ensure the quality of works as per specifications. The Contractor shall deploy the equipment and machinery as required in the contract.
- 83.3 The Contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation. During continuance of the contract, the Contractor and his sub-contractors shall abide at all times by all existing enactments on environmental protection and rules made thereunder, regulations, notifications and byelaws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in future by the State or Central Government or the local authority. Salient features of some of the major laws that are applicable are given below:
- The Water (Prevention and Control of Pollution) Act, 1974, this provides for the prevention and control of water pollution and the maintaining and restoring

of wholesomeness of water. 'Pollution' means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.

- The Air (Prevention and Control of Pollution) Act, 1981, this provides for prevention, control and abatement of air pollution. 'Air Pollution' means the presence in the atmosphere of any 'air pollutant', which means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.
- The Environment (Protection) Act, 1986, this provides for the protection and improvement of environment and for matters connected therewith, and the prevention of hazards to human beings, other living creatures, plants and property. 'Environment' includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.
- The Public Liability Insurance Act, 1991, This provides for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling hazardous substances and for matters connected herewith or incidental thereto. Hazardous substance means any substance or preparation which is defined as hazardous substance under the Environment (Protection) Act 1986, and exceeding such quantity as may be specified by notification by the Central Government.

84. QUALITY CONTROL

Work to be open to Inspection and Contractor or Responsible agent to be present

All works under or in course of execution or executed in pursuance of the contract shall at all times be open to the inspection and supervision of the Engineer-in-charge and his subordinates and the contractor shall at all times during the usual working hours, at all other times, during the usual working hours and at all other times at which reasonable notice of the intention of the Engineer-in-charge and his subordinates to visit the works shall have been given to the contractor, either himself be present to receive orders and instruction or have responsible agent duly accredited in writing present for that purpose. Order given to the contractors' duly authorized agent shall be considered to have the same force and effect as if they had been given to the contractor himself.

Notice To Be Given Before Work Is Covered Up The contractor shall give not less than ten days' notice in writing to the Engineer-In-Charge or his subordinate in charge of the work before covering up or otherwise placing beyond the reach of

measurement of any work in order that the same may be measured and correct dimension thereof taken before the same is so covered up or placed beyond the reach of measurements and shall not cover up or place beyond the reach of measurement any work without the consent in writing of the Engineer-In-Charge or his subordinate in charge of the work, and if any work shall be covered up or placed beyond the reach of measurement, without such notice having been given or consent obtained the same shall be uncovered at the contractors expenses, and in default thereof no payment or allowance shall be made for such work or for the materials with which the same was executed.

Works to be executed in accordance with specifications / drawings / orders etc.:

The contractor shall execute the whole and every part of the work the most substantial and workman like manner and both has regards material and every other respect in strict accordance with specifications. The contractor shall also confirm exactly, fully and faithfully to the designs, drawings and instructions in writing relating to the work signed by the Engineer In-charge and lodged in his office and to which the contractor shall be entitled to have access for the purpose of inspection at such office, or on the site or work during office hours. The contractor shall be entitled to receive three sets of contract drawings and working drawings as well as one certified copy of the accepted tender along with the work order free of cost.

Ready Mix Concrete/ Asphalt Mix

- i) The contractor shall have to arrange Ready Mix concrete (RMC)/Asphalt from RMC/ASPHALT producing plants registered with BMC
- ii) The contractor shall, within 7 days of award of the work, submit a list of at least three RMC/Asphalt producers with details of such plants including details and number of transit, mixers & pumps etc. to be deployed indicating name of owner/company, its location, capacity, technical establishment.

The Engineer's Representative will reserve right to inspect at any stage and reject the concrete if he is not satisfied about quality of product at the user's end.

- iii) The Engineer's Representative reserves the right to exercise control over the:-
 - a) Calibration check of the RMC/Asphalt plant.
 - b) Weight and quantity check on the ingredients, water and admixtures added for batch mixing for RMC plants
 - c) Time of mixing of concrete/grade of asphalt.
 - d) Testing of fresh concrete/asphalt mix, recording of results and declaring the mix fit or unfit for use. This will include continuous control on the work ability during production and taking corrective action, if required.
 - e) For exercising such control, the Engineer's Representative shall periodically depute his authorized representative at the RMC/Asphalt plant. It shall be responsibility of the contractor to ensure that all necessary

equipment, manpower & facilities are made available to Engineer's Representative and or his authorized representative at RMC/Asphalt plant.

- f) All required relevant records of RMC/Asphalt mix shall be made available to the Engineer's Representative or his authorized representative. Engineer's Representative shall, as required, specify guidelines & additional procedures for quality control & other parameters in respect of material production & transportation of concrete mix which shall be binding on the contractor & the RMC/Asphalt plant. Only concrete as approved in design mix by Engineer's Representative shall be produced in RMC plant and transported to the site.
- g) The contractor shall have to produce a copy of chalan receipts/SCADA reports/VTS reports as issued by the RMC/Asphalt plant as a documentary proof in lieu of supply of RMC/Asphalt mix before releasing payment.

85. P.F. AND E.S.I.C.

The contractor has to follow the circular u/n. Ch.P.O./80 dt. 03/02/2012 regarding P.F. provision of employees appointed by him. As per above circular, the successful tenderer must have registration certificate as per Provident Fund provision rules 1952 and E.S.I.C. Act. 1948. Accordingly the responsibility of contribution for contract labour and compliance of other legal documents and information shall be of the contractor only.

86. ACTION AND COMPENSATION PAYABLE IN CASE OF BAD WORK AND NOT DONE AS PER SPECIFICATIONS

All works under or in course of execution or executed in pursuance of the contract, shall at all times be open and accessible to the inspection and supervision of the Engineer's Representative, his authorized subordinates in charge of the work and all the superior officers, officer of the Vigilance Department of the BMC or any organization engaged by the BMC for Quality Assurance and the contractor shall, at all times, during the usual working hours and at all other times at which reasonable notice of the visit of such officers has been given to the contractor, either himself be present to receive orders and instructions or have a responsible agent duly accredited in writing, present for that purpose. Orders given to the Contractor's agent shall be considered to have the same force as if they had been given to the contractor himself.

If it shall appear to the Engineer's Representative or his authorized subordinates in-charge of the work or to the officer of Vigilance Department, that any work has been executed with unsound, imperfect or unskilful workmanship or with materials of any inferior description, or that any materials or articles provided by him for the execution of the work are unsound or of a quality inferior to that contracted for or otherwise not in accordance with the contract, the contractor shall, on demand in writing which shall be made within twelve months of the completion of the work from the Engineer's Representative specifying the work, materials or articles complained of notwithstanding that the same may have been passed, certified and paid for forthwith rectify, or remove and reconstruct the work so specified in whole or in part, as the

case may require or as the case may be, remove the materials or articles so specified and provide other proper and suitable materials or articles at his own charge and cost. In the event of the failing to do so within a period specified by the Engineer's Representative in his demand aforesaid, then the contractor shall be liable to pay compensation at the same rate as under clause 53 of the general condition of contract of tender document (for Compensation for delay) for this default. In such case the Engineer-in Charge may not accept the item of work at the rates applicable under the contract but may accept such items at reduced rates as the Engineer in charge may consider reasonable during the preparation of on account bills or final bill if the item is so acceptable without detriment to the safety and utility of the item and the structure or he may reject the work outright without any payment and/or get it and other connected and incidental items rectified, or removed and re-executed at the risk and cost of the contractor. Decision of the Engineer's Representative to be conveyed in writing in respect of the same will be final and binding on the contractor.

If the penalisation amount exceeds maximum limit with respect to Clause 53 of General Conditions of Contract, then a show cause notice shall necessarily be issued to the contractor as to why the contract should not be terminated.

87. CONTRACTORS REMAIN LIABLE TO PAY COMPENSATION

In any case in which any of the powers conferred upon the Engineer by the **relevant clauses** in documents that form a part of contract as exercised or is exercisable in the event of any future case of default by the Contractor, he is declared liable to pay compensation amounting to the whole of his security deposit. The liability of the Contractor for past and future compensation shall remain unaffected.

In the event of the Engineer taking action against these **relevant clauses**, he may, if he so desires, take possession of all or any tools and plant, materials and stores in or upon the work of site thereof or belonging to the Contractor or procured by him and intended to be used for the execution of the work or any part thereof paying or allowing for the same in account at the contract rates, or in the case of contract rates not being applicable at current market rates to be certified by the Engineer, may after giving notice in writing to the Contractor or his staff of the work or other authorized agent require him to remove such tools and plants, materials or stores from the premises within a time to be specified in such notice and in the event of the Contractor failing to comply with any such requisition, the Engineer may remove them at the contractors expense or sell them by auction or private sell on account of the Contractor at his risk in all respects and certificate of the Engineer as to the expense of any such removal and the amount of the proceeds an expense of any such sell be final and conclusive against the Contractor.

88. NO CLAIM TO ANY PAYMENT OR COMPENSATION OR ALTERATION IN OR RESTRICTION OF WORK

(a) If at any time after the execution of contract documents, the Engineer shall for any reason whatsoever, desires that the whole or any part of the works specified in the Tender should be suspended for any period or that the whole or part of the

work should not be carried out, at all, he shall give to the Contractor a Notice in writing of such desire and upon the receipt of such notice, the Contractor shall forthwith suspend or stop the work wholly or in part as required after having due regard to the appropriate stage at which the work should be stopped or suspended so as not to cause any damage or injury the work already done or endanger the safety thereof, provided that the decision of the Engineer as to the stage at which the work or any part of it could be or could have been safely stopped or suspended shall be final and conclusive against the contractor.

The Contractor shall have no claim to any payment or compensation whatsoever by reason of or in pursuance of any notice as aforesaid, on account of any suspension, stoppage or curtailment except to the extent specified hereinafter.

- (b) Where the total suspension of Work Order as aforesaid continued for a continuous period exceeding 90 days the contractor shall be at liberty to withdraw from the contractual obligations under the contract so far as it pertains to the unexecuted part of the work by giving 10 days prior notice in writing to the Engineer within 30 days of the expiry of the said period of 90 days, of such intention and requiring the Engineer to record the final measurement of the work already done and to pay final bill. Upon giving such Notice, the Contractor shall be deemed to have been discharged from his obligations to complete the remaining unexecuted work under his contract. On receipt of such notice, the Engineer shall proceed to complete the measurement and make such payment as may be finally due to the contractor within a period of 90 days from the receipt of such Notice in respect of the work already done by the contractor. Such payment shall not in any manner prejudice the right of the contractor to any further compensation under the remaining provisions of this clause.
- (c) Where the Engineer required to Contractor to suspend the work for a period in excess of 30 days at any time or 60 days in the aggregate, the Contractor shall be entitled to apply to the Engineer within 30 days of the resumption of the work after such suspension for payment of compensation to the extent of pecuniary loss suffered by him in respect of working machinery remained idle on the site of on the account of his having and to pay the salary of wages and labour engaged by him during the said period of suspension provided always that the contractor shall not be entitled to any claim in respect of any such working machinery, salary or wages for the first 30 days whether consecutive or in the aggregate or such suspension or in respect of any such suspension whatsoever occasion by unsatisfactory work or any other default on his part, the decision of the Engineer in this regard shall be final and conclusive against the contractor.

89. CONTRACTOR TO SUPPLY PLANT, LADDER, SCAFFOLDING, ETC AND IS LIABLE FOR DAMAGES ARISING FROM NON PROVISION OF LIGHTS, FENCING, ETC.

The Contractor shall supply at his own cost all material, plant, tools, appliances, implements, ladders, cordage, tackle scaffolding and temporary works requisite or

~~proper~~ for the proper execution of the work, whether, in the original, altered or substituted form and whether included in the specification of other documents forming part of the contract or referred to in these conditions or not and which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-In-Charge as to any matter as to which under these conditions is entitled to be satisfied, or which is entitled to require together with the carriage therefore to and from the work.

The Contractor shall also supply without charge, the requisite number of person with the means and materials necessary for the purpose of setting out works and counting, weighing and assisting in the measurements of examination at any time and from time to time of the work or materials, failing which the same may be provided by the Engineer-In-charge at the expense of the contractor and the expenses may be deducted from any money due to the contractor under the contract or from his security deposit or the proceeds of sale thereof, or offers sufficient portion thereof.

The contractor shall provide all necessary fencing and lights required to protect the public from accident and shall also be bound to bear the expenses of defence of every suit, action or other legal proceedings, that may be brought by any person for injury sustained owing to neglect of the above precautions and to pay any damages and cost which may be awarded in any such suit action or proceedings to any such person or which may with the consent of the contractor be paid for compromising any claim by any such person.

90. PREVENTION OF FIRE

The contractor shall not set fire to any standing jungle, trees, brushwood or grass without a written permit from the Engineer In-charge. When such permit is given, and also in all cases when destroying cut or dug up trees brushwood, grass, etc., by fire, the contractor shall take necessary measure to prevent such fire spreading to or otherwise damaging surrounding property.

Compensation for all damages done intentionally or unintentionally by contractor's labour whether in or beyond the limits of BMC property including any damage caused by spreading the fire shall be estimated by the Engineer In-charge or such other officer as he may appoint and the estimate of the Engineer in-charge to the decision of the Dy. Chief Engineer on appeal shall be final and the contractor shall be bound to pay the amount of the assessed compensation on demand failing which the same will be recovered from the Contractor as damages or deducted by the Engineer In-charge from any sums that may be due or become due from BMC to contractor under this Contract or otherwise. Contractor shall bear the expenses of defending any action or other legal proceedings that may be brought to prevent the spread of fire and he shall pay any damages and costs that may be awarded by the Court in consequence.

- 91.** In the case of Tender by partners, any change in the constitution of the firm shall be forthwith, notified by the contractor through the Engineer In-charge for his information.

92. ACTION WHERE NO SPECIFICATIONS

In the case of any class of work for which there is no such specifications, such works shall be carried out in accordance with the specifications and in the event of there being no such specifications, then in such case, the work shall be carried out in all respects in accordance with all instructions and requirements of the Engineer In-charge.

93. SAFETY AND MEDICAL HELP

- (i) The Contractor shall be responsible for and shall pay the expenses of providing medical help to any workmen who may suffer a bodily injury as a result of an accident. If such expenses are incurred by BMC, the same shall be recoverable from the contractor forthwith and be included without prejudice to any other remedy of BMC from any amount due or that may become due to the Contractor.
- (ii) The contractor shall provide necessary personal safety equipment and first-aid box for the use of persons employed on the site and shall maintain the same in condition suitable for immediate use at any time.
 - The workers shall be required to use the safety equipment so provided by the contractor and the contractor shall take adequate steps to ensure the proper use of equipment by those concerned.
 - When the work is carried on in proximity to any place where there is risk or drawing all necessary equipment shall be provided and kept ready for use and all necessary steps shall be taken for the prompt rescue of any person in danger.
 - No compensation shall be allowed for any delay caused in the starting of the work on account of acquisition of land or in the case of clearance of works, on account of ant delay in according to sanction of estimates.

94. ANTI-MALARIA AND OTHER HEALTH MEASURES

Anti-Malaria and other health measures shall be taken as directed by the Executive Health Officer of BMC. Contractor shall see that no mosquito genic conditions are created so as to keep vector population to minimum level. Contractor shall carry out anti-malaria measures in the area as per the guidelines issued by the Executive Health Officer of BMC from time to time.

In case of default, in carrying out prescribed anti-malaria measures resulting in increase in malaria incidence, contractor shall be liable to pay BMC on anti-malaria measures to control the situation in addition to fine.

95. JOINT VENTURE

In case of Joint Venture the bidder shall comply as follows:

- A. Separate identity/name shall be given to the Joint Venture firm.
- B. Number of members in a Joint Venture (the "JV") firm shall not be more than two.

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- C. A member of JV firm shall not be permitted to participate either in individual capacity or as a member of another JV firm in the same tender.
- D. The tender form shall be purchased and submitted in the 'name of the JV firm or any constituent member of the JV.
- E. Normally EMD shall be submitted only in the name of the JV and not in the name of constituent member. However, EMD in the name of lead partner can be accepted subject to submission of specific request letter from lead partner stating the reasons for not submitting the EMD in the name of JV and giving written confirmation from the JV partners to the effect that the EMD submitted by the lead partner may be deemed as EMD submitted by JV firm.
- F. One of the members of the JV firm shall be the lead member of the JV firm who shall have a majority (at least 51%) share of interest in the JV firm. The other member shall have a share of not less than 20% each in case of JV firms.
- G. Memorandum of Understanding (MoU) executed by the JV members shall be submitted by the JV firm along with the tender. The complete details of the members of the JV firm, their share and responsibility in the JV firm etc. particularly with reference to financial technical and other obligation shall be furnished in the agreement.
- H. Once the tender is submitted, the agreement shall not be modified/alterd/terminated during the validity of the tender. In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited. In case of successful tenderer, the validity of this agreement shall be extended till the currency of the contract expires.
- I. Approval for change of constitution of JV firm shall be at the sole discretion of the BMC. The constitution of the JV firm shall not be allowed to be modified after submission of the tender bid by the JV firm except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. In any case the Lead Member should continue to be the Lead Member of the JV firm. Failure to observe this requirement would render the offer invalid.
- J. Similarly, after the contract is awarded, the constitution of JV firm shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. Failure to observe this stipulation shall be deemed to be breach of contract with all consequential penal action as per contract condition.
- K. On award of contract to a JV firm, a single Performance Guarantee shall be required to be submitted by the JV firm as per tender conditions. All the Guarantees like Performance Guarantee, Bank Guarantee for Mobilisation advance, machinery Advance etc. shall be accepted only in the name of the JV firm and no splitting of guarantees amongst the members of the JV firm shall be permitted.

L. On issue of LOA, an agreement among the members of the JV firm (to whom the work has been awarded) has to be executed and got registered before the Registrar of the Companies under Companies Act or before the Registrar / Sub-Registrar under the Registration Act, 1908. This agreement shall be submitted by the JV firm to the BMC before signing the contract agreement for the work. (This agreement format should invariably be part of the tender condition). In case the tenderer fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited and other penal actions due shall be taken against partners of the JV and the JV. This joint venture agreement shall have, inter-alia, following clauses:-

- (i) **Joint and several liability** - The members of the JV firm to which the contract is awarded, shall be jointly and severally liable to the Employer (BMC) for execution of the project in accordance with General and Special conditions of the contract. The JV members shall also be liable jointly and severally for the loss, damages caused to the BMC during the course of execution of the contract or due to no execution of the contract or part thereof.
- (ii) **Duration of the Joint Venture Agreement** -It shall be valid during the entire period of the contract including the period of extension if any and the maintenance period after the work is completed.
- (iii) **Governing Laws** - The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.
- (iv) **Authorized Member** -Joint Venture members shall authorize one of the members on behalf of the Joint Venture firm to deal with the tender, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and similar such action in respect of the said tender/contract. All notices/correspondences with respect to the contract would be sent only to this authorized member of the JV firm. No member of the Joint Venture firm shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other members and that of the employer in respect of the said tender/contract.

M. Documents to be enclosed by the JV firm along with the tender:

- (i) In case one or other member of the JV firm is partnership firm, following documents shall be submitted:
 - (1) Notary certified copy of the Partnership Deed,
 - (2) Consent of all the partners to enter into the Joint Venture Agreement on a stamp paper of Rs.500/- value (in original).
 - (3) Power of Attorney (duly registered as per prevailing law) in favour of one of the partners to sign the MOU and JV Agreement on behalf of the partners and create liability against the firm.

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- (4) In case of JV, The Power of Attorney of other partner (non-lead partner) shall be submitted in Packet A.
- (ii) In case one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed:
- Affidavit on Stamp Paper of Rs.500/- value declaring that his Concern is a Proprietary Concern and he is sole proprietor of the Concern OR he is in position of "KARTA" of Hindu Undivided Family and he has the authority, power and consent given by other partners to act on behalf of HUF.
- (iii) In case one or more members is/are limited companies, the following documents shall be submitted:
- (1) Notary certified copy of resolutions of the Directors of the Company, permitting the company to enter into a JV agreement, authorizing MD or one of the Directors or Managers of the Company to sign MOU, JV Agreement, such other documents required to be signed on behalf of the Company and enter into liability against the company and/or do any other act on behalf of the company.
 - (2) Copy of Memorandum and articles of Association of the Company.
 - (3) Power of Attorney (duly registered as per prevailing law) by the Company authorizing the person to do/act mentioned in the para (a) above.
- N. All the members of the JV shall certify that they have not been blacklisted or debarred by BMC from participation in tenders/contract in the past either in their individual capacity or the JV firm or partnership firm in which they were members / partners.
- O. Credentials & Qualifying criteria: Technical and financial eligibility of the JV firm shall be adjudged based on satisfactory fulfilment of criteria as per Volume I – Instructions to Tenderers and General Conditions of Contract, 4. Instructions to Tenderers, Clause 12 – Qualification of the Bidder.
- P. JV firms shall submit the duly filled forms for ‘**Power of Attorney for Lead Member of Joint Venture**’ as provided in Annexure B and for ‘**Joint Bidding Agreement / Joint Venture Agreement**’ as provided in Annexure C.

96. GST AND OTHER TAXES

G.S.T. and other state levies/cess which are not subsumed under GST will be applicable. The tenderer shall quote inclusive of all taxes. It is clearly understood that BMC will not bear any additional liability towards payment of any Taxes & Duties.

Wherever the Services to be provided by the Tenderers falls under Reverse Charge Mechanism, the Price quoted shall be exclusive of GST, but inclusive of Taxes/Duties/Cess other than GST, if any.

Rates accepted by BMC shall hold good till completion of work and no additional individual claim shall be admissible on account of fluctuations in market rates; increase in taxes/ any other levies/tolls etc. except that payment/recovery for overall market situation shall be made as per price variation and if there is any subsequent change (after submission of bid) in rate of GST applicable on the work or services to be executed as per tender, i.e. any increase will be reimbursed by BMC whereas any reduction in the rate of GST shall be passed on to BMC as per the provisions of the GST Act.

Chapter XXI- Miscellaneous, section 171(1) of GST Act, 2017 governs the 'Anti Profiteering Measure'(APM).

As per the provision of this section, 'Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices'.

Accordingly, the contractor should pass on the complete benefit accruing to him on account of reduced tax rate or additional input tax credit, to BMC. Further, all the provisions of GST Act will be applicable to the tender.

Rate of Reduction of tax : (GST – TDS)

There are four types of taxes in GST – Integrated Tax (IGST), Central Tax (CGST) and State Tax (SGST)/Union Territory Tax (UTGST).

The deduction in case of intra-state supply (supply within a state) will be CGST and SGST (in case of Union Territory without legislature, it will be CGST and UTGST) and the deduction in case of inter-state supply (supply from one state to another) will be IGST.

Rate of such deduction is @ 2% GST - TDS. (i.e. 1% each on CGST and SGST/UTGST component) on the amount paid or credited in respect of intra-state supply and @ 2% (as IGST) on the amount paid or credited in respect of inter-state supply.

Further, all the provisions of GST Act will be applicable to the tender.

**6. ANNEXURE 'A', ANNEXURE 'B' AND
ANNEXURE 'C'**

ANNEXURE 'A'

GCC4 (e): The Engineer for this work will be the Chief Engineer (MSDP).

GCC15: Performance Security Deposit: 2% of Contract Sum (Contract price + 10% Physical Contingency).

GCC 28: Insurance for the amount 110% of Contract Price

GCC52: Time allowed (Period of Completion) : 30 months for construction and commissioning (inclusive of monsoon period) and further 36 months for Operation & Maintenance.

GCC53: Compensation for delay – $\frac{1}{4}$ % per week with maximum limit of 5% of Contract Value.

GCC58: Period of Defect Liability: 36 (Thirty-six) Calendar months shall commence from the date of issue of certificate for successful completion of commissioning and subsequent 7-day trial run tests.

GCC66: Terms of Payment:

Mobilisation Advance payment

The first payment is 10% of Contract Price (excluding the price quoted for operation and maintenance) and shall be made as mobilisation advance payment in the following manner:

- 5% of Contract Price will be made against application and submission of 5.4% Bank Guarantee of the Contract Price, and
- 5% will be released against application after readiness of the site and submission of further 5.4% Bank Guarantee of Contract Price and utilisation of earlier 5% advance for progress of this work

The bank guarantees shall be in prescribed format from any bank as per the approved list after Notification of award. The necessary stamp duty shall be paid on both the mobilisation advance bank guarantees.

The Banker's guarantee in lieu of advance payment shall be initially valid for 30 months (for construction and commissioning period) and the same shall be released after 100% recovery of the advance is made by BMC.

Payment terms

Unless otherwise agreed the Commissioner shall pay to the Contractor in the following manner the Contract Price adjusted to give effect to such additions thereto and such deductions therefrom as are provided for in this condition

A. For Construction works - The 90% payment will be made as per proportionate work carried out by the contractor after raising of invoice. The balance 10% amount will be paid after testing & commissioning of entire plant.

However, for Piping, 70% payment shall be released against supply of **Mild Steel pipes** to site, though there is separate BOQ items for laying of pipes. This clause shall be applicable for the items in Sr. Nos. 168, 169, 170, 171 & 172 of Civil BOQ, Volume VI

– Packet C and Schedule of Bill of Quantities and Rates; 20% against laying & jointing and balance 10% against testing and commissioning of entire plant as per specification.

For BOQ items for laying and jointing of pipes, 90% payment will be made after laying of pipes and balance 10% will be made against testing and commissioning of entire plant as per specification.

B. For Mechanical, Electrical and Instrumentation works

- i) 70% of the contract value against supply and delivery of equipment (each item of B.O.Q.), the required materials, etc. at site with test certificates.
- ii) 20% of the contract value against the satisfactory erection of the equipment.
- iii) 10% of the contract value against the testing, commissioning of the entire plant.

C. For O&M Period

The payment will be made on monthly basis against the O&M activities carried out by the Contractor after raising invoice.

2% security deposit/ performance guarantee to be released within 3 months after completion of defect liability period of 36 months (GCC 58).

Date:

Signature of the Tenderer

ANNEXURE 'B'**Power of Attorney for Lead Member of Joint Venture**

(To be submitted in the case where the Tenderer is a Joint Venture)

Whereas the ("the Employer") has invited tenders from interested parties for theProject (the "Project").

Whereas, and (collectively the "Joint Venture") being members of the Joint Venture are tendering for the Project in accordance with the terms and conditions of the Tender Documents and other connected documents in respect of the Project, and

Whereas, it is necessary for the members of the Joint Venture to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Joint Venture, all acts, deeds and things as may be necessary in connection with the Joint Venture's tender for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We,..... having our registered office at,
M/s.....having our registered office at
and..... having our registered office at, (hereinafter collectively referred to as the "Parties") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/S having its registered office at....., being one of the members of the Joint Venture, as the Lead Member and true and lawful attorney of the Joint Venture (hereinafter referred to as the "Attorney"). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Joint Venture and any one of us during the Tender Process and, in the event the Joint Venture is awarded the Contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Joint Venture, all or any of such acts, deeds or things as are necessary or required or incidental to the Tender Submission for the Project, including but not limited to signing and submission of all applications, tenders and other documents and writings, participate in tenderers and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the Tender Submission of the Joint Venture and generally to represent the Joint Venture in all its dealings with the Employer, and/ or any other government agency or any person, in all matters in connection with or relating to or arising out of the Joint Venture's Tender Submission and/ or upon award thereof till the Contract is entered into with the Employer.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Joint Venture.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 2.....

For (Signature)..... (Name & Title)

For (Signature)..... (Name & Title)

Witnesses:

- 1.
- 2.

..... (Executants)

(To be executed by all the members of the Joint Venture)

..... (Name & Title)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Tenderer should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Tenderer.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued*

ANNEXURE ‘C’

Joint Bidding Agreement/ Joint Venture Agreement

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of20...

AMONGST

1. {....., a company incorporated under the Companies Act, 2013} and having its registered office at (hereinafter referred to as the “First Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {....., a company incorporated under the Companies Act, 2013} and having its registered office at (hereinafter referred to as the “Second Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST and SECOND PART are collectively referred to as the “Parties” and each is individually referred to as a “Party”

WHEREAS,

- (A) The Brihanmumbai Municipal Corporation represented by the Municipal Commissioner and having its principal office at BMC, Municipal Building, Mahapalika Marg, Fort Mumbai 400001 (hereinafter referred to as the “Employer” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited tenders by its tender notice dated for the Upgradation of Ghatkopar Influent Pumping Station & Carrying Capacity of Rising Main to Design PFF Capacity of 699 MLD (the “Project”) to be entered into between the selected Tenderer for the Project and the Employer;
- (B) The Parties are jointly tendering for the Project as members of a joint venture and in accordance with the terms and conditions of the VOLUME I of this tender and other tender documents in respect of the Project; and
- (C) It is a necessary condition under the VOLUME I of this tender, that the Parties bidding as a joint venture shall enter into this Agreement and furnish this Agreement to the Employer as part of their tender submission.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the VOLUME I of this tender.

2. Joint Venture

- 2.1 The Parties do hereby irrevocably constitute a joint venture (the “JV”) for the purposes of jointly participating in the Tender process for the Project.
- 2.2 The Parties hereby confirm and agree that they are participating in the Tender process only through this JV, and not individually and/or through any other Tenderer, either directly or indirectly or through a person who controls, is controlled by, or is under the common control of such Tenderer.

3. Covenants

The Parties acknowledge that the Employer shall require, in the event the JV is declared the selected Tenderer and awarded the Project, that the Tenderer incorporate a special purpose vehicle (the “SPV”) under the Indian Companies Act, 2013 OR JV (agreement registered under Registration Act 1908) for entering into the Contract with the Employer and for performing all its obligations as the Contractor under the terms of the Contract for the Project, and hereby undertake that they shall comply with any such requirement to incorporate an SPV OR JV (agreement registered under Registration Act 1908).

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a) Party of the First Part shall be the Lead member of the JV and shall have the power of attorney from all Parties for conducting all business for and on behalf of the JV during the Tender process and until the execution date of the Contract when all the obligations of the SPV / JV (agreement registered under Registration Act 1908) shall become effective;
- b) Party of the Second Part shall be the _____ Member of the Joint Venture;

Note : Each party constituting JV shall specify technical role played by the each member of the JV for execution of this contract.

5. Joint and Several Liabilities

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the VOLUME I, the Tender and the Contract, until such time that the Contract is executed by the Contractor and the Employer.

6. Shareholding in the SPV/ JV (agreement registered under Registration Act 1908)

- 6.1. The Parties agree that the proportion of shareholding among the Parties in the SPV/ JV (agreement registered under Registration Act 1908) shall be as follows:

First Party:

Second Party:

- 6.2. The parties further agree that they shall not change proportion of their individual shareholding until the Contract Completion Date, as defined in the Contract.
- 6.3. The Parties undertake that they shall not sell or change their stake in SPV / JV (agreement registered under Registration Act 1908) until the Contract Completion Date, as defined in the Contract.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the JV Party is annexed to this Agreement, and will not, to the best of its knowledge:
 - i. require any consent or approval not already obtained;
 - ii. violate any Applicable Law presently in effect and having applicability to it;
 - iii. violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - iv. violate any clearance, permit, concession, grant, license or other Governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- c) This Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. Termination

Where the Project is awarded to the JV, this Agreement shall be effective from the date hereof and shall continue in full force and effect until such time that the Contract is executed by the JV and the Employer. However, where the JV is not selected for award of the Project, the Agreement will stand terminated upon return of the Tender Security by the Employer to the Tenderer.

9. Miscellaneous

- 9.1. This Agreement shall be governed by laws of India.
- 9.2. The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Employer.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED For and on behalf of FIRST PARTY

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED For and on behalf of SECOND PARTY

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1.

2.

7. SPECIAL CONDITIONS OF CONTRACT

SPECIAL CONDITIONS OF CONTRACT

1. The tenderer shall visit the Ghatkopar Pumping Station for ascertaining the scope of work related with replacement of existing 5 Nos. of pump sets (with addition of one more pump set) with HT motor and valves, 6.6 kV switchgear and space provided for proposed installation, so as to get the general idea for design/drawing/modifications and manufacturing of the 6 Nos. Submersible Pump sets with HT motor, accessories & other equipment before submitting the tender and also to get an idea about the buyback of existing equipment and machineries.
2. Tenderer are requested to refer Tender Terms and conditions, clauses of taxes, duties etc. before quoting the rates.
3. The E.O.T. crane facility available will be provided for loading, unloading, transferring of relevant materials and for erection work within the pump house. This will be replaced with new EOT. During use, if any break down occurs on E.O.T. crane, the same shall be attended by the tenderer immediately at free of cost.
4. At a time, only one Pumpset and its accessories will be offered for dismantling & replacement. All the works specified are required to be carried out stage wise in sequence such that Ghatkopar IPS delivers the sewage to existing Ghatkopar WwTF uninterruptedly. The switching over of the electrical operations, pumping system and conveyance system, etc. shall be carried out smoothly without any disturbance till commissioning of the new works as proposed above. Contractor shall consider all the costs associated with the above including temporary isolations or flow diversion arrangement for successful execution of works.
5. **COST LOADING & PENALTY FOR PUMPS / MOTORS WHILE EVALUATING THE TENDER**

Pump / motor will be evaluated on the basis of annual operating cost. The losses will be capitalized as follows.

The liquidated damages for each Pump / motor have been calculated on the basis of power consumption by the motor and is worked out as under:

- a. Cost of electricity Rs. 8.0 per KWH
- b. Load Factor = No. of pumps running / Total No. of pumps = 3/6 = 0.5
- c. Life of motor = 20 years
- d. Present worth factor = $\frac{\{(1+I)^{20}-1\}}{\{(1+I)^{20} \times I\}}$ where I = Rate of interest = 8% pa

$$= \frac{\{(1+0.08)^{20}-1\}}{\{(1+0.08)^{20} \times 0.08\}}$$

$$= (4.66-1) / 0.3728$$

$$= 9.815$$

- e. Liquidated damages per kiloWatts power drawn by the motor = (hours x days x Load

$$\begin{aligned} & \text{factor} \times \text{rate of electricity} \times \text{Present worth factor}) \\ & = (24 \times 365 \times 0.5 \times 8 \times 9.815) \\ & = \text{Rs. } 343918/- \text{ per kilowatt for each motor} \end{aligned}$$

Capitalization of losses in Rs/kW =Rs. 343918/-

Note: The capitalisation of losses in Rs/kW as mentioned above will be considered while evaluating the bids by suitable loading.

In case of saving in kW, such reduction in costs (i.e. reduction in no. of kW x Rs/kW mentioned above) will be deducted from the total costs quoted by the Bidder.

Similarly, in case of excess in kW, such increase in costs (i.e. increase in no. of kW x Rs/kW mentioned above) will be added to the total costs quoted by the Bidder.

Such derived costs will be considered for the evaluation of Bids.

6. PENALTY FOR PUMPS:

For excess power consumption over the guaranteed efficiency at duty point during factory test if observed shall be recovered at the rate of Rs. 3,43,918/- per KW. Thus, considering all pumps have excess power consumption, the penalty will be levied on all pump sets at the above rates. While the allowable excess power consumption may be within HIS or relevant standards as far as acceptance of the pumps are concerned, the penalty mentioned above will be imposed for not meeting the guaranteed efficiency at duty point.

7. PENALTY FOR MOTOR EFFICIENCY

For excess power consumption each KW of power by which the measured power consumption of each motor at the guaranteed efficiency exceeds the guaranteed power in factory test, penalty will be recovered for non-achievement of guaranteed efficiency at the rate of Rs. 3,43,918/- per KW for each motor. While the allowable excess power consumption may be within relevant standards as far as acceptance of the motors are concerned, the penalty mentioned above will be imposed for not meeting the guaranteed efficiency.

8. SUBMISSION OF SYSTEM PERFORMANCE CURVE

The tenderer is requested to study the required system parameters carefully while selecting the pumping equipment. The tenderer shall submit the system performance curve along with the offer.

9. The tenderer shall submit the following drawings along with the tender.

- a. Dimensional general arrangement drawing for Pump set with HT motor, Valves, EOT crane and other accessories.
- b. Dimensional general drawing of HT/LT transformer, HT/LT switchboard, VFD for HT motors
- c. Methodology for laying of 1800mm and 2200 mm diameter rising main (pipe line)
- d. The tenderer shall furnish Technical literature of each equipment.

10. The successful tenderer has to supply, install, test and commission the pump, motor, switchgear, capacitor and other accessories as per attached technical specifications, and as per approved drawing and duly tested as per relevant standards at the site and shall have to give the performance test of the same satisfactorily.
11. While laying of new pipeline from pump house to WwTF, existing utilities such as electric poles, cabling, telephone lines, drainage etc that get damaged shall be reinstated to their original condition by the Contractor without any extra cost to the Employer.

12. STATUTORY CLEARANCES

The successful tenderer has to obtain all statutory clearances mentioned in Scope of Work in Volume II – General Specifications of the Bid document or any other Agency as may be required while carrying out the works and before putting the installation into operation after completing satisfactory commissioning tests.

The required fees/payments to statutory authorities shall be paid initially by the contractor and the same will be reimbursed on submission of original receipts.

13. BUYBACK OF OLD REMOVED MATERIAL

The contractor shall consider the buyback of the removed existing mechanical, electrical & Instrumentation material etc. The removed material shall be properly arranged in the space allotted at site & shall be properly protected till the buyback is to be carried out as per BMC procedure.

Contractor shall quote the cost as per the 'Declaration form for Buyback'. However, BMC reserves the right to retain any of the items, if required. The contractor shall assess in respect of quality of material to be removed etc. before submitting the tender and consider rebate accordingly. The old removed existing material as above will be handed over to the contractor after complying the due procedure, then only the material shall be cleared from the site and the entire workplace shall be cleared/cleaned properly.

Note: Any equipment / machinery if replaced by BMC with one year prior to award of Tender will remain the property of BMC.

14. PROVISIONAL SUM

There is no specific Provisional Sum provided in the Bill of Quantities. However for the payment towards the reimbursement of fees charges deposits that will actually be required to be paid by the Contractor to the government statutory authorities for getting various types of permissions / NOCs, shifting of Utilities etc. as mentioned in the Volume II General Specifications and / or for payment of any Extra work, Provisional Sum will be approved. These fees charges deposits will be reimbursed by BMC on submission of original receipts. The payment receipt shall be generated in the name of BMC.

15% Overhead & Profits shall be applicable on the actual estimate certified by the Engineer for Non SOR Items with respect to any extra work.

15. Not Used

16. Mobilisation Advance Payment

The first payment is 10% of Contract Price (excluding the price quoted for operation and maintenance) and shall be made as an mobilisation advance payment in the following manner:

- 5% of Contract Price will be made against application and submission of 5.4% Bank Guarantee of the Contract Price, and
- 5% will be released against application after readiness of the site and submission of further 5.4% Bank Guarantee of Contract Price and utilisation of earlier 5% advance for progress of this work.

The bank guarantees shall be in prescribed format from any bank as per the approved list after Notification of award. The necessary stamp duty shall be paid on both the mobilisation advance bank guarantees.

The Banker's guarantee in lieu of advance payment shall be initially valid for 30 months (for construction and commissioning period) and the same shall be released after 100% recovery of the advance is made by BMC.

17. SPECIAL CONDITIONS FOR NEW CONSTRUCTION WORKS

- a) Ready mix concrete (RMC) containing total cementitious material shall be as per durability criteria.
- b) Total fines in the concrete shall be limited as per durability criteria by including all cementitious material and silt passing 150 μ sieve.
- c) The crushed sand shall be permitted for concretes and mortars as per the conditions of circular no. CE/PD/26286/ I dated 11.02.2011.
- d) All concretes must be designed as per provisions of IS codes of practice and P.C.C. shall also be designed as per nominal mix concrete as given in IS-456.
- e) For purpose of deciding upper limits of cementitious material & total fines in the concrete, as per durability criteria fly ash and /or any other cementitious material shall be accounted with cement or fines as the case may be.
- f) Contractor must quote the rate with respect of detailed study & scrutiny of BOQ items & quantities. Contractor will not be considered for any kind of additional payment in the tendering stage of project for any missing items or extra items or excess items which are necessary for satisfactory completion of work.
- g) Only RMC will be allowed.

18. ADDITIONAL CONDITIONS OF CONTRACT

- a. The Brihanmumbai Municipal Corporation proposes to carry out the subject work in the Ghatkopar IPS and approach road to Ghatkopar WwTF. These special conditions of contract shall be applicable to all sections of the Bill of Quantities and Tender Document. Any contradiction in interpretation of contract items or terms thereby shall be as interpreted by the Employer/Engineer and shall be final and binding on the contractor.
- b. The rates quoted by the Contractor shall include charges for royalty/excise/GST and any other taxes including the works contract tax. The rates quoted in the Tender shall be

applicable to all parts of the project regardless of the items being included in either part of the Tender Document.

- c. Wherever it is mentioned in the specifications, schedule of quantities / lump sum work or conditions, that the Contractor shall perform certain work or provide certain facility, it is implied that he does so at his own cost, unless stated otherwise. This cost should include cost of material, labour, equipment, clearing the site, cleaning etc., required for that work and any other direct or indirect expenditure done on that work. All material, site test and testing of tender items shall be subject to the approval of the Engineer and if required the Engineer may require additional tests to be conducted by reputed engineering institutions such as VJTI, SPCE, IIT (Mumbai), UDCT etc. at the cost of the contractor.
- d. The contractor shall display the boards stating information of the name of the work, date of starting, date of completion, name of the Dept. and contact telephone nos. of Contractor's Engineer
- e. Tenderers are requested to take cognizance of Child Labour Act and shall not employ child Laborers' on site.
- f. Every running bill submitted by the contractor for payment shall be with the detailed measurements recorded for each item.
- g. The decision of the Engineer shall be final and conclusive and binding to all parties to the contract upon all questions relating to the meaning of specifications. Designs, drawings and instructions herewith before mentioned and as to the quality of workmanship / materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of contract designs, drawings, specifications, estimates, instructions, orders concerning the work of the execution whether arising during the progress of the work or after completion of the work or under forming any other circumstances.
- h. The work shall be carried out under strict supervision of Consultant /BMC/Outside agency, as applicable. The contractor will extend all help in carrying out any survey; tests etc. as directed by the Engineer/Consultant and adverse results/decisions thereof, including rectification shall be carried out by the contractors at his own costs.
- i. BMC will not provide any space for labour colony. Contractor shall make his own arrangements for accommodation with necessary facilities such as drinking water, sanitation and lighting etc. for his workmen and the staff at his own cost. Also, the Contractor's has to make his own arrangement for transportation of his workmen and other employees. BMC shall not provide any facility in this regard.
- j. The Contractor's shall mobilize his plant, machinery, equipment, labour etc. to suit the actual execution of work. No idle charges on account of idling of plant and machinery, equipment, labour etc. for any reason will be paid.
- k. It shall be the Contractor's responsibility to arrange for diesel generators as required at his own cost. The quoted rates shall be inclusive of the same. No separate payment will be made for this and no claim in this respect shall be entertained.
- l. The Contractor shall be held responsible for any violation of statutory regulations (local, state or central) and BMC instructions that may endanger safety of men, equipment, material

and environment in his scope of work or other contractor's or agencies. Cost of damage, if any, to life and property arising out of such violation of statutory regulations and BMC instructions shall be borne by the Contractors.

- m. The Contractor's shall take utmost care that his line out or the method of working does not obstruct or disturb the smooth working of the adjacent structures, while work is in progress. The Contractor's method of working shall not contaminate the water supply to adjacent structures.
- n. Wherever any pavement, trees, shrubs, fencing poles, other property and structures, other above ground / underground utilities have been damaged, removed or disturbed during the course of the work, the same shall be replaced or repaired immediately, and restored to a condition prevailing before commencement of the work. On completion of the work, the contractor shall clear the site of all rubbish, debris, excavated stuff and restore the work site to its original condition neat, tidy, clean, to the satisfaction of the Engineer and hand over the same to the Engineer. No extra payment shall be made to the contractor for these works. The percentage quoted shall be deemed to have covered the same. It will be mandatory on the contractor to dump, spread in layers and upto the level the surplus excavated material without affecting water courses and as directed by the Engineer.
- o. It shall be CONTRACTOR's sole responsibility to carry out the mix designs well in advance for each grade of concrete & same shall be got approved from the appointed Consultant / E.E.(MSDP) at his own cost. All the test results shall be provided with mix design & with necessary supporting documents as per instruction of Engineer.
- p. The Contractor shall ensure that all facilities are made available by the manufacturer of RMC at the plant for the Engineer / Consultant / Owner to inspect the materials incorporated, tests carried out for all materials, concrete, etc. Copies of the test reports of all the tests carried out for materials used / concrete shall also be submitted to the BMC Engineer. Contractor also arranges for plant visit as and when require at his cost.
- q. Existing post hydrant at site shall be removed and handed over / Relocated as per the direction of the Engineer at contractor's cost.
- r. All the tolerances will be as per relevant I.S. Codes.
- s. Contractor shall comply with all the safety standards as included but not limited to conditions given here. And also submit Safety Manual, Methodology of work and Quality Assure Plan within one month from the date of start of work.
- t. Contractor has to visit site to acquaint himself of the site conditions, extent of job to be carried out to be seen physically. On the submission of the offers it will be deemed that the contractor is fully aware of site conditions and the full extent of the work. The rates quoted by the Contractor in the Bill of Quantities are binding to the Contractor irrespective of any variation in the quantity. Any contradiction in interpretation of contract items thereby shall be as interpreted by the Engineer and shall be final and binding on the contractor. The Contractor shall strictly follow all security rules of the Corporation particularly bearing upon the inward and outward movements of people and equipment and shall; also execute the work in such a manner so as to cause the minimum disturbance to the working of the Owner

and the neighbourhood in general without causing any negative deviation whatsoever in the time limit of the works.

- u. The Contractor will have to co-ordinate with other agencies working at site for day-to-day work.
- v. The Tender Specification & Drawings are the copy right of the B.M.C. Tenderer are not permitted to copy / reproduce the same in part or whole for any other works.
- w. While carrying out the work the contractor has to ensure that silence, decency is maintained, and accident free work is done with best workmanship.
- x. On award of the contract a bar chart especially for the phasing needs to be drawn up by the successful contractor and submitted for comments/approval to the Engineer within thirty days from the date of receipt of letter of acceptance.
- y. The Contractor shall carry out at his own cost, the surveying of the plot / building, and shall get a plan / sections / elevations / details and quantities of items to be executed, prepared based on the survey. He shall also record the existing plot levels and the abutting road levels.
- z. The contractor should provide full day and night time security guards for security purpose at his own cost.
- aa. In case of any increase or decrease in the scope of work the tenderer will not be entitled to any claims on that behalf. The tenderer may note while submitting the tender.
- ab. No extra payment will be made for adequate propping, scaffolding at various levels during erection of the work.
- ac. No extra payment will be made for removal of plant / ficus growth, ferrous fixtures and inclusive of providing barricades, dust screens, tarpaulin shields, etc.
- ad. No separate payment will be made for dewatering the water seeping in the trenches and foundation pits opened while executing excavation and other foundation works. The possibility of high-water table should be kept in mind while quoting the rate.
- ae. While excavating the trenches for foundation utmost care shall be taken that the foundation of adjoining structures will not be disturbed.
- af. Materials brought on the site or debris will not be allowed to be stacked on road & footpath.
- ag. The tenderer / contractor will have to make adequate shielding arrangement by putting necessary hoardings, screen or gunny bags, etc. so as to avoid any accident or nuisance to the occupants during the work without any extra payment.
- ah. The Contractor shall provide barricading for protection of site free of cost complying with BMC guidelines/circulars times to times.
- ai. In case of any discrepancy in drawings, BOQ items, and specifications, decision given by Engineer/Consultant shall be final and binding on the contractor.
- aj. The Corporation will not be responsible for any delay that may be caused due to unforeseen circumstances and no compensation on this account will be paid.

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- ak. The tenderer shall intimate the concerned authorities before starting the work and execute the work priority fixed by the Engineer. The inventory of serviceable and unserviceable material must be taken jointly with Engineer/Consultant & representative of User Department before starting of work.
- al. Attention of the contractor is drawn towards the wild animal menace on the site. All sorts of proper precautions should be taken against wild animal menace, by the Contractor's at their own cost. Neither separate payment in this respect will be made nor will any claim be entertained in this respect.
- am. No animal shall be troubled / harmed by the contractor's / his representative on the site during the contract period. The resulting consequences regarding the violation of the same shall be the responsibility of the Contractor's only and the action may be taken by the concerned authorities in this regard against the contractor. BMC shall not be held responsible for the same.
- an. Material testing required frequency shall be maintained at site.
- ao. Tenderer shall have to obtain all the permissions of the concerned authorities required for carrying out the work. Only recommendatory letters will be issued by the BMC.
- i. Contractor shall provide digital camera for taking photographs of work during execution & also later, if required.
- ii. Site Godown & separate cabin/Site Laboratory adjacent to site office for contractor's staff / any other consultant / Quality control auditors if appointed by BMC as per requirement.
- ap. The Contractor shall maintain copy of the following registers as applicable during execution of work. This shall be verified by the Engineer's representative. It is mandatory to provide site engineers Laptops and Desktops on returnable basis till payment of the final bill.
- aq. The BMC shall not be liable to the contractor for damages/ losses/delays resulting from work by third parties/by injunction/other restraining orders obtained by third parties.
- ar. The Contractor shall take utmost care while working in the open premises; for example, laying of rising main. Contractor shall keep in mind that the high tension lines are crossing and passing over the road and nearby areas. In addition, there are underground services like street light cabling and other utilities. Hence Contractor shall take every possible care while executing the works.
- as. The contractor, his representatives and staff shall strictly follow the COVID 19 protocols and guidelines issued by the authorities from time to time.

List of Registers (as applicable)

Register Code	Name of Register
1	Inventory Register
2	Correspondence file
3	Utility remarks file
4	File containing drawings
5	Daily Progress Register
6	Instruction Register
7	Penalty Register
8	Level Book
9	Material Testing Result file
10	Photograph file
11	Filling/Embankment Register
12	Removal Challans/Removal register
13	Steel Register
14	Form Work Shuttering Register
15	Pour Card Register
16	Cube registers (M 10, M15,M20, M35/M40
17	R.M.C. Challan file
18	Cement Variation Register
19	Cement Register
20	Construction chemical register
21	Register for inspection during defect liability period.
22	Contractor's site staff attendance register
23	Demolition Record Register
24	Any other register as directed by Engineer- in-Charge.
25	Pounding Register
26	Hindrances register
27	Pipeline register
28	Welding register
29	Asphalt challan register
30	Asphalt measurement register
31	Asphalt testing register
32	Shoring register
33	Barricading register
34	Sheet piling register
35	Safety register
36	GSB challan/register
37	WMM challan/register

20. SPECIFICATIONS & SELECTION OF MATERIAL

The tender is prepared on the basis of Unified Schedule of Rates (USOR) and specifications 2018 for civil works. The specifications of the items of USOR are available on BMC portal <http://portal.mcgm.gov.in>. Hence, the deserving contractor shall download the same from BMC portal.

SELECTION OF MATERIAL

- a. All materials brought on the site of work and meant to be used in the same, shall be the best of their respective kinds and to the approval of the Engineer. The Engineer or his representative will accept that the materials are really the best of their kinds, when it is proved beyond doubt that no better materials of the particular kind in question are available in the market.
- b. The contractor shall obtain the approval of the Engineer of samples of all materials to be used in the works and shall deposit these samples with him before placing an order for the materials with the suppliers. The materials brought on the works shall conform in every respect to their approved samples. Fresh samples shall be deposited with the Engineer whenever the type or source of any material changes.
- c. The contractor shall check each fresh consignment of materials as it is brought to the site of works to see that they conform in all respects to the Specifications of the samples approved by the Engineer, or both.
- d. The Engineer will have the option to have any of the materials tested to find out whether they are in accordance with the Specifications and the Contractor will bear all expenses for such testing. All bills, vouchers and test certificates, which in the opinion of the Engineer or his representative are necessary to convince him as to the quality of the materials or their suitability shall be produced for his inspection when required.
- e. Any materials that have not been found to conform to the specifications will be rejected forthwith and shall be removed from the site by the contractor at his own cost within 24 hours.
- f. The Engineer shall have power to cause the Contractors to purchase and use such materials from any particular source, as may in his opinion be necessary for the proper execution of the work.
- g. Notwithstanding the source, the sand shall be washed using sand washing machine before use.

21. TESTS

21.1 For carrying out mandatory tests as prescribed in the specifications, the Contractor shall establish field laboratory at the location decided by Engineer. The field laboratory will have minimum of equipment. The contractor shall be solely responsible for:

- a. Carrying out the mandatory tests prescribed in the Specifications, and
- b. For the correctness of the test results, whether preformed in his laboratory or elsewhere.

21.2 If the Engineer instructs the Contractor to carry out a test not specified in the Specification/ Quality Assurance Handbook to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no defect, the test shall be a compensation event.

When required by the Engineer's representative, the contractor(s) shall supply for the purpose of testing samples of all materials proposed to be used in the works. Samples submitted either to govern bulk supplies or required for testing before use shall be in suitable packages to contain them and shall be provided free of charge by the contractor. The cost of testing shall be borne by the contractor even if the result of the sample confirms or do not confirm to the relevant BIS code specifications.

All expenditure required to be incurred for taking the samples conveyance, packing shall be borne by the contractor himself.

The failed material shall be removed from the site by the contractor at his own cost within a week time of written order of the Engineer's representative.

Setting of Site Laboratories:

Contractors shall set up a laboratory at site before commencement of work at their cost for performing various tests and at least the following machines and equipment shall be provided therein –

1. Set of Sieves as per I.R.C. /I.S.
2. Compressive Testing Machine (For new works)
3. Oven Electrically Operated
4. Weighing Balance (20 kg capacity)
5. 3 m straight edge
6. Sieve shaker
7. First Aid Box
8. Measuring Jar (for silt content)
9. Other Machines/apparatus as may be directed by the Engineer
10. Vernier Caliper
11. Level / Theodolite

All the test records shall be maintained at site office and made available as and when required.

The contractor shall install testing equipment at site. The contractor shall ensure and certify the calibration of the equipment so installed and shall maintain the same in working order throughout the period of construction. The contractor shall also provide necessary technically qualified experienced trained staff for carrying out such tests for using such equipment. The tests shall be carried out under the supervision of the Engineer. The calibration shall be checked every twelve months as directed by Engineer.

22.0 LICENSES AND CONSENTS

The successful tenderer has to obtain all statutory clearances mentioned in Scope of Work in Volume II – General Specifications of the Bid document or any other Agency as may be required while carrying out the works and before putting the installation in to operation after completing satisfactory commissioning tests.

The Contractor shall be responsible for obtaining the consent from the MoEF & CC, Government of India to construct relevant works as part of this contract.

The Contractor shall be responsible for obtaining all consents, permits, licenses and approvals/clearances (including pending, re-validation and renewals) required for the project. The Contractor shall also allow sufficient time for the necessary procedures in his programme. Any delays associated with obtaining any licenses, permits and consents shall be the responsibility of the Contractor.

The Contractor shall submit to the Employer in advance a list of licenses, permits and consents required for the Contract and the Employer shall determine which of these shall be in the name of the Employer.

The tenderer (Contractor) shall have to obtain / liason all the consents/clearances/ permits from MPCB, CPCB, MOEF&CC, CRZ, associated Government Authorities etc before start of work or as and when required during construction period at their own cost. The required fees/payments to statutory authorities shall be paid initially by the contractor and the same shall be reimbursed by BMC on submission of original receipts. The payment receipt shall be generated in the name of BMC.

Bidder shall quote for the Liasoning and documentation charges for various permissions and licenses to be obtained (as applicable) from statutory authorities in Volume VI, Schedule of Bill of Quantities and Rates, Civil BOQ, Sr.No.165

No extra cost or additional cost or escalation or cost due to delay or cost due to overhead or claim on this account will be entertained. Also, no extension in time period for completion of work will be granted on this account.

Electrical and Safety audit:

Contractor shall conduct electrical and safety audit of upgraded pumping station from any government approved agency / third party auditor.

8. FORMS

FORM OF TENDER

Name of the Contract: Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD

The Municipal Commissioner
Brihanmumbai Municipal Corporation
Municipal Head Office, Fort
Mumbai-400 001.

Sir,

I/We _____ (full name in capital

letters, starting with surname), the Proprietor/Managing Partner/Managing Director/Holder of the Business, for the establishment/firm/registered company, named herein below do hereby offer to **Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD** referred to in the specifications of schedule to the accompanying form of contract at the rates entered in the schedule of rates sent herewith and signed by me/us (Strikeout the portions which are not applicable).

I/We _____ do hereby state

and declare that I/We, whose names are given herein below in details with the addresses, have not filled in this tender under any other name or under the name of any other establishment/firm or otherwise, nor are we in any way related or concerned with the establishment/firm or any other person, who have filled in the tender for the aforesaid work.

I/We have read and examined the following documents relating to the **Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD.**

- a) Notice inviting tender.
- b) Instructions to tenderer.
- c) Special instructions to tenderer.
- d) General Conditions of Contract.

- e) General & Technical Specifications.
- f) Relevant Drawings/sketches/data.
- g) Schedules.
- h) Annexure `A'.
- i) Bill of Quantities & Rates.
- j) Corrigendum/Addendum if any.

I/We hereby tender for the execution of the works referred to in the aforesaid documents, upon the terms and conditions, contained or referred to therein and in accordance in all respect with the specifications designs, drawings and other relevant details at the rates entered in the aforesaid Bill of Quantities & Rates.

According to your requirements for payment of Earnest Money amounting to ₹ 1.64 crores (₹ ONE CRORE SIXTY FOUR LAKHS ONLY), I/We have paid the Earnest Money amount online not to bear interest.

I/We hereby request you not to enter into a contract with any other person/s for the execution of the works until notice of non-acceptance of this tender has first been communicated to me/us and in consideration of your agreeing to refrain from so doing I/We agree not to withdraw the offer constituted by this tender before the date of communication to me/us of such notice of non-acceptance which date shall be not later than THIRTY DAYS from the date of decision of the Standing Committee or the Corporation, as may be required under the Bombay Municipal Corporation Act, not to accept this tender.

I/We also agree to keep this tender open for acceptance for a period of 180 days from the due date of submission of tender and not to make any modifications in its terms and conditions which are not acceptable to the Corporation.

I/We agree that the Corporation, shall without prejudice to any other right or remedy, be at liberty to forfeit the said Earnest Money absolutely, if;

- (a) I/We fails to keep the tender open as aforesaid.
- (b) I/We fail to execute the formal contract or make the payment of the contract deposit when called upon to do so.
- (c) I/We do not commence the work on or before the date specified by the Engineer in his work order.

I/We hereby further agree to pay all the charges of whatsoever nature, in connection with the preparation, stamping and execution of the said contract.

I/We _____ have filled in the accompanying tender with full knowledge of liabilities and, therefore, we will not raise any objection or dispute in any manner relating to any action, including forfeiture of deposit and blacklisting, for giving any information, which is found to be incorrect and against the instructions and directions given in this tender.

I/We further agree and undertake that in the event it is revealed subsequently after the allotment of work/contract to me/us, that any information given by me/us in this tender is false or incorrect, I/We shall compensate the Municipal Corporation of Brihan Mumbai for any such losses or inconvenience caused to the Corporation in any manner and will not resist any claim for such compensation on any ground whatsoever.

I/We agree and undertake that I/We shall not claim in such case any amount, by way of damages or compensation for cancellation of the contract given to me/us or any work assigned to me/us or is withdrawn by the Corporation.

Yours Faithfully,

Seal & Signature of the Tenderer with date.

Address & Name

Private/Residential Address

of the Partners

Constituting the firm.

- 1.
- 2.
- 3

APPENDIX - I

1. Name & Style (of the Company
Firm, HUF or Individual) in which
the tenderer is assessed or
assessable to Income-tax & the
addresses for the purpose
of assessment.:

2. Name & Address of all Cos.
Firms or Associations or persons
in which the applicant is
substantially interested in
his individual or fiduciary
capacity.:

3. The Income Tax Circle/Ward/
District in which the tenderer is
assessed to Income-tax.:

4. Reference number of the
Assessment & assessment year:

Signature with Seal.

CONTRACT AGREEMENT FORM

(This form shall be filled in, signed and submitted on award of contract & to be executed on Rs.500/- Stamp paper and will attract stamp duty as per Stamp Act)

CONTRACT DATED _____

This Contract Agreement made and entered into at Mumbai this ___ day of _____ Two Thousand _____ BETWEEN “the Brihanmumbai Municipal Corporation, a body corporate having perpetual succession and a common seal constituted by the Mumbai Municipal Corporation Act, No.III of 1888, hereinafter referred to as “the BMC” (which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successor or successors, administrator and assigns) represented by

_____ the Deputy Municipal Commissioner (Special Engineering), hereinafter referred to as “the Deputy Municipal Commissioner” (which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include the successor or successors for the time being holding the office of the Deputy Municipal Commissioner) of the First Part AND M/s. _____, a Company incorporated under Companies Act, 1956, having its registered office at _____, hereinafter referred to as “the Contractor”, (which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successor or successors and assigns) of the Second Part.

WHEREAS the Municipal Commissioner for Brihan Mumbai has inter-alia deputed under Section 56 as enumerated in Chapter II of the Mumbai Municipal Corporation Act, 1888 his powers to the Deputy Municipal Commissioner.

AND WHEREAS on behalf of the BMC, and the Municipal Commissioner for Brihan Mumbai, had invited tenders for Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD.

AND WHEREAS on evaluation of the bids received in the matter of the execution of the contract work of the Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD Municipal Administration had recommended the bid submitted by the Contractor for approval of the Standing Committee of the BMC for award of the contract work.

AND WHEREAS Standing Committee of the BMC has approved the proposal of the Municipal Administration for awarding the contract **Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD** to the

Contractor vide Resolution bearing S.C.R. No. _____ of _____ at the

contract cost of Rs. _____/- (Rupees _____ Only)

subject to the Contractor agreeing to comply with the terms and conditions hereinafter appearing which the Contractor has agreed to comply.

AND WHEREAS, the Contractor having agreed to comply with the terms and conditions hereinafter appearing is desirous of recording the same subject to compliance of which the contract work as aforesaid has been agreed to be granted by the BMC to the Contractor.

NOW THESE PRESENTS WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS: -

1. The parties hereto agree and declare that the recitals hereinbefore enumerated shall be deemed to form part and parcel of the terms and conditions of this Agreement.
2. The Deputy Municipal Commissioner for and on behalf of the BMC hereby awards unto the Contractor the contract work of :- Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD on the terms and conditions appearing hereinafter.

3. The Contractor hereby agrees to undertake the contract work for Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD in accordance with and on the terms and conditions as contained in the documents hereinafter mentioned and on the terms and conditions hereinafter appearing.

4. The following documents are and shall be deemed to form part and parcel of this Agreement and shall be read and construed as being part of this Agreement as if they were incorporated in this Agreement namely :-

- a) Tender Notice,
- b) Tender Documents Volume I, Volume II, Volume III, Volume IV, Volume V and Volume VI,
- c) Addendum & Corrigendum, Pre Bid Queries if any.
- d) The Bid submitted by the Contractor, Packet A, Packet B Submittals and Packet C,
- e) Post Bid Correspondence,
- f) Letter of Acceptance,
- g) Compliance of LoA
- h) Work Order issued by the office of the Chief Engineer (MSDP) in favour of the Contractor

5. In consideration of the payment to be made by the BMC to the Contractor as hereinafter mentioned the Contractor hereby covenants with the BMC to undertake the contract work of Upgradation of Ghatkopar influent pumping station & carrying capacity of rising main to design PFF capacity of 699 MLD in conformity in all respects with the terms and conditions contained in the herein above referred documents and on the terms and conditions herein contained.

6. The BMC covenants to pay to the Contractor in consideration of the contract work undertaken by the Contractor the contract price of Rs. _____ (Rupees _____ Only) at the times and in the manner prescribed by and as enumerated in the hereinabove referred documents which are deemed to form part of this Agreement.

7. The Stamp Duty, the Registration Charges and other incidental charges of this Contract Agreement shall be borne and paid by the Contractor.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE PUT THEIR HANDS AND SEAL THE DAY AND YEAR FIRST HEREINABOVE WRITTEN.

THE COMMON SEAL OF THE)

Brihanmumbai Municipal Corporation)

hereto affixed)

in the presence of)

1.)

2.)

Two members of the Standing Committee)

who have affixed their respective)

signature in token thereof)

in the presence of)

MUNICIPAL SECRETARY)

SIGNED, SEALED AND DELIVERED)

By the within named)

Shri. _____)

Deputy Municipal Commissioner)

(Special Engineering) for and on behalf of)

the Brihanmumbai Municipal Corporation)

in the presence of)

1.)

2.)

THE COMMON SEAL OF)

M/s. _____)

has been hereunto affixed pursuant to the)

Resolution of Board of Directors)

meeting dated _____)

in the presence of)

1.)

2.)

The Directors of the Company)

in the presence of)

1.)

2.)

DATED THIS DAY OF 2020

BETWEEN

Brihanmumbai Municipal Corporation

AND

M/s. _____

A G R E E M E N T

Shri _____

Law Officer

Brihanmumbai Municipal Corporation Fort, Mumbai-400001

PERFORMANCE BANK GUARANTEE

(BANKERS' GUARANTEE IN LIEU OF PERFORMANCE SECURITY DEPOSIT FOR WORK)

(On Rs. 500/- Stamp Paper and BG will attract stamp duty as per Stamp Act.)

KNOW ALL MEN AND THESE PRESENTS WITNESS that WE

..... BANK , a Banking Corporation constituted by the Banking Companies (Acquisition and Transfer of undertaking) Act, 1970 carrying on business of Banking in Mumbai and at other places in India and having its Head Office atand Branch Office athereinafter referred to as 'the said Bank'.

WHEREAS the Brihanmumbai Municipal Corporation hereafter referred to as BMC has Invited tenders for execution of work ofhereinafter referred to as the said work.

AND WHEREAS M/s.....has/ have responded to the said tender and having been declared as the successful tenderer has/have agreed to execute the contract for the said work as per the terms and conditions of the tender-document.

AND WHEREAS the terms of the tender document require that the successful tenderer shall furnish to the BMC a Performance Guarantee of Rs..... (Rs.....) for faithful compliance of the terms and conditions contained in the tender document the work awarded Under the tender and the agreement date.....

WE.....Bank to hereby undertake to pay on demand to the Brihanmumbai Municipal Corporation an amount not exceeding Rs.....(Rupees.....) upon BMC's first written demand and without cavil or argument, as aforesaid without BMC needing to prove or to show grounds or reasons for BMC demand for the sum specified therein and notwithstanding any objection by the Contractor.

WEdo hereby undertake and agree to pay to the Deputy Municipal Commissioner, of the BMC the amount due under this guarantee. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding

Rs.....Rupees
.....)

WE.....Bank, hereby further agree that the Guarantee herein contained shall remain in full force and effect during the period and till the work awarded under the tender /contract is faithfully executed the obligation under the tender/contract document and the agreement datedis discharged by M/s.....to the satisfaction of the

Deputy Municipal Commissioner (Special Engineering) of Brihanmumbai Municipal Corporation or till..... whichever is later.

WEBank further agree and undertake to extend the period of this guarantee from time to time.

WEBank, hereby further agree with the Deputy Municipal Commissioner or his successor or successors that the BMC shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the tender/contract document no..... and the Letter of Acceptance No..... dated and the contract agreement entered into with the M/s.....

WE Bank further undertake not to revoke this guarantee during its currency except with the previous consent of the Deputy Municipal Commissioner of BMC in writing.

Signed by:

(Signature For and on behalf of bank)

(official seal)

.....

(name)

Date this Day of

MOBILISATION ADVANCE BANK GUARANTEE

(To be executed on Rs.500/-Stamp Paper and BG will attract stamp duty as per Stamp Act.)

To:

**Chief Engineer (Mumbai Sewage Disposal Project),
2nd Floor, Engineering Hub Building,
Dr.E.Moses Road, Worli,
Mumbai – 400018, India**

SUBJECT–“.....”

In accordance with the provisions of the terms of payment (10% as per Mode of payment defined under General Conditions of Contract) of the above mentioned Contract, _____
(name and address of the Contractor) (hereinafter called “the Contractor”)
shall deposit with BRIHANMUMBAI MUNICIPAL CORPORATION a Bank Guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of (Rs.) (amount of guarantee) *(in words).

We, the _____ (Bank or financial institution) as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to BRIHANMUMBAI MUNICIPAL CORPORATION on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding Rs. (amount of guarantee) (in words).

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed there under or of any of the Contract documents which may be made between BRIHANMUMBAI MUNICIPAL CORPORATION and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall remain valid and in full effect from the date of the payment under the Contract until. BRIHANMUMBAI MUNICIPAL CORPORATION receives full repayment of the same amount from the Contractor.

Yours truly,

SIGNATURE AND SEAL:

Name of Bank/Financial Institution:

Address:

Date:

FORMAT OF AFFIDAVIT FOR “UNDERTAKING CUM INDEMNITY BOND”

“I/We 1) Mr. _____, 2) Mr. _____ & 3) Mr.

_____ aged 1) ____ yrs 2) ____ yrs & 3)____yrs respectively;

Proprietor / Partners / directors / Power of Attorney holder of the firm

_____ having its office at

_____ hereby gives an

UNDERTAKING CUM INDEMNITY BOND as under:

AND WHEREAS we are registered contractor/s with the Brihanmumbai Municipal Corporation and / or (Name of authority - _____)

having registration no. _____ valid up to _____ AND WHEREAS the Brihanmumbai Municipal Corporation had published the tender notice for the work of

_____ in _____ ward

/ _____ Department. AND WHEREAS I/We want to participate in the said Tender procedure, I/We hereby gives an Undertaking-Cum-Indemnity Bond as hereinafter appearing: -

I/We hereby agree and undertake that my/our firm is not under any penal action such as Demotion, Suspension, Blacklisting, de-registration etc. by any Government, Semi Government and Government Undertaking etc. I/We hereby further agree and undertake that at any stage of tendering procedure, if the said information is found incorrect, it should be lawful for the BMC to forthwith debar me/us from the tendering procedure and initiate appropriate penal action. The Undertaking-cum-Indemnity Bond is binding upon us/our heirs, executors, administrators and assigns and/or successor and assigns.

I declare that I have perused and examined the tender document including addendum, condition of contract, specifications, drawings, bill of quantity etc. forming part of tender and accordingly, I submit my offer to execute the work as per tender documents at the rates quoted by me in capacity as _____ of _____.

I further declare that if I am allotted the work and I failed to carry out the allotted work in accordance with the terms and conditions and within the time prescribed and specified, BMC is entitled to carry out the work allotted to me by any other means at my risk and cost, at any stage of the contract.

I also declare that I will not claim any charge/damages/compensation for non-availability of site for the contract work at any time.

I declare that I will positively make the arrangements of the required equipment on the day of commencement or with respect to the progress of the work in phases, as per the instructions of site in charge.

Place: _____

Dated: _____

(Seal of Firm / Co.)

Identified by me

BEFORE ME.

DECLARATION FORM FOR BUYBACK**BRIHANMUMBAI MUNICIPAL CORPORATION**
(MUMBAI SEWERAGE DISPOSAL DEPARTMENT)

To,

The Municipal Commissioner
Brihanmumbai Municipal Corporation
Mahapalika Marg, Fort
Mumbai 400 001.

Subject :	Upgradation of Ghatkopar Influent Pumping Station & carrying capacity of rising main to design PFF capacity of 699 MLD
------------------	--

Bid No.7200037194

Tender Due on: 28/10/2022

Dear Sir,

REBATE FOR TAKING AWAY OLD EXISTING REMOVED MATERIAL

SR NO.	DESCRIPTION	QUANTITY	BUYBACK RATE IN Rs.	BUYBACK AMOUNT IN Rs.
1	Rebate for the old existing mechanical, electrical & Instrumentation material complete, which are replaced under the contract.	LOT
TOTAL			
In Words,				

Tenderer's full address Tenderer's Signature

Tel. No. if any : (Office stamp)

Vendor No.

Note:-

1. Tenderer shall take out print of this page, fill in, sign manually, scan and upload the same in Folder named C in e-tendering system.
2. The Tenderer shall quote the buyback values in above schedule, which shall not be less than INR 6,60,86,500 (INR Six Crore Sixty Lakh Eighty Six Thousand Five Hundred only).
3. The buyback values of items to be filled in the declaration form for Buyback will be deducted from the total cost as per Sr.no.9 of Packet C (Volume VI).
4. Contractor shall pay the buyback value as mentioned in the duly filled "Declaration Form for Buyback" to BMC by the way of paying the buyback amount to any of the Citizen Facility Centre (CFC) of BMC as per BMC procedure.
5. Applicable taxes including GST for Buyback, if any, on the Buyback value shall be borne by the successful tenderer.
6. Any equipment / machinery if replaced by BMC prior to one year of award of Tender will remain the property of BMC.

APPENDIX - II**ELIGIBILITY CONDITIONS AND REQUIREMENTS AS PER GOI CIRCULAR**

The qualification shall be also governed by the requirements prescribed in the order no. 1 under reference F.No.6/18/2019-PPD of Ministry of Finance, Government of India (subject: "Insertion of Rule 144 (xi) in the general Financial Rules (GFRs), 2017") dated 23rd July 2020 and the clarifications issued vide Order no. 2 under even number dated 23rd July 2020 and Order No. 3 under even number dated 24th July 2020.

In addition to the clauses in Instructions to Tenderers Clause 3.3, the following conditions shall also apply in determining the eligibility of the bidders:

- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
- II. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder from a country which shares a land border with India" for the purpose of this Order means:
 - a. An entity incorporated, established or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - d. An entity whose beneficial owner is situated in such a country; or
 - e. An Indian (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country; or
 - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- IV. The beneficial owner for the purpose of (III) above will be as under:
 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation -

- a. "Controlling ownership interest" means ownership of or entitlement to more than twenty five per cent. of shares or capital or profits of the company;

- b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership or entitlement to more than fifteen percent of capital or profits of the partnership;
 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- VI. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.

The following certificates shall be signed and submitted duly notarised on a Rs.500/- non-judicial stamp paper.

A. Applicable for Tenderers / JV Members

CERTIFICATE

I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached]

I also certify that this bidder will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [*Where applicable, evidence of valid registration by the Competent Authority shall be attached.*]"

Signature

Authorised Signatory

Address _____

Date _____

B. Applicable for Consultants / Sub Contractors / Service Providers

CERTIFICATE

I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; I certify that this firm/Company is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this firm/Company fulfils all requirements in this regard and is eligible to be considered. [*Where applicable, evidence of valid registration by the Competent Authority shall be attached.*]"

It is clarified that the bids of the parties that do not comply to the above requirements as of the final bid submission date shall be summarily rejected.

APPENDIX – III

ASSESSED AVAILABLE BID CAPACITY

[The following table shall be filled in by the Bidder]

Date: *[insert day, month, year]*

Tenderer's Legal Name: *[insert full name]*

Title: *[insert title of works]*

Page *[insert page number]* of *[insert total number]* pages

Assessed Available Bid Capacity = $(A * N * 2 - B)$, where

- A = Average value of works executed during the last Ten years which will take into account the completed as well as works in progress (e.g. = $(\sum(A_1 \text{ to } A_{10})/10)$);
- B = Value at current price level of the existing commitments and on-going works to be completed during the next 2.5 years; and
- N = Number of years prescribed for completion of the works for which the Tender Submissions i.e. 2.5 years.

Information	Year	Amount and Currency	INR * equivalent	Escalation factor**	Escalated Turnover
Value of works executed. (Completed and work in progress) = A ₁		<i>[insert amount and indicate currency]</i>	<i>[insert amount in INR equiv.]</i>		
-----“----- = A ₂					
-----“----- = A ₃					
-----“----- = A ₄					
-----“----- = A ₁₀					
TOTAL $\sum(A_1 \text{ to } A_{10})$					
AVERAGE = $(\sum(A_1 \text{ to } A_{10})/10)$					

Information	Year	Amount and Currency	INR equivalent
Value at current price level of existing commitments and on-going works to be completed during the next 2.5 years = B			
Available Tender Capacity = $(A * N * 2 - B)$, where N= 2.5			

* INR equivalent shall be calculated at the Daily Foreign Exchange Spot selling rates published by the Reserve Bank of India at the date of audited financial statements.

** Escalation rates

- | | |
|------------------|------------------|
| FY 2012-13: 2.35 | FY 2016-17: 1.60 |
| FY 2013-14: 2.13 | FY 2017-18: 1.46 |
| FY 2014-15: 1.94 | FY 2018-19: 1.33 |
| FY 2015-16: 1.76 | FY 2019-20: 1.21 |
| | FY 2020-21: 1.10 |
| | FY 2021-22: 1.00 |

The last 10 years applicable for a bidder who has the 2021-22 financial statements ready as per the tender requirements shall be from 2012-13 to 2020-21. For others, the 10 years applicable shall be considered as 2011-12 to 2020-21

Note:

1. Tenderer shall submit the duly filled Appendix – III: Assessed Available Bid Capacity along with necessary documentation and upload the same in Packet ‘A’ in the e-tender.
2. For the companies which exist for the last 5 to 10 years, average value of executed works will be considered for that many years (5 to 10 years) while calculating ABC.