

# **INDIAN STRATEGIC PETROLEUM RESERVES LIMITED**

STRATEGIC CRUDE OIL STORAGE CAVERN FACILITIES

Lovagardens, Behind HSL Fabrication Yard,

Gandhigram Post, Post Box No: 999

VISAKHAPATNAM, ANDHRA PRADESH, INDIA

(TENDER NO. ISPRL/VSP/RCC ROAD LAYING TO HILL TOP /T9/16 dated 28.12.2016)



## **SECTION II**

### **GENERAL CONDITIONS OF CONTRACT (G.C.C)**

**BIDDING DOCUMENT FOR RCC ROAD TO GREEN BELT AT  
ISPRL, VISAKHAPATNAM**



**NAME OF WORK** : **RCC ROAD TO GREEN BELT AT INDIAN STRATEGIC PETROLEUM RESERVES LIMITED (ISPRL) AT VISAKHAPATNAM, A.P**

Name of the Agency :

Tender Closing Date & Time: : 06.02.2017 BY 1300 Hrs

Tender opening Date & Time : 06.02.2017 BY 1500 Hrs

Period of completion : 45 days

EMD : 1,00,000/-



## GENERAL TERMS & CONDITIONS OF CONTRACT

### 1 PRELIMINARY

1.1 Interpretation of Contract Documents: All documents forming part of the contract are to be taken mutually explanatory. Should there be any discrepancy, inconsistency, error or omission in the contract, the design of the Owner/Engineer-in-Charge shall be the final and the contractor by the decision. The decision shall not be arbitrable, Works shown upon the drawings but not mentioned in the specification or described in the specifications with out being shown on the drawings shall nevertheless be deemed to be included in the same manner as if they are shown in the drawings and described in the specifications.

1.2 Special conditions of Contract : The special conditions of contract, if any provided and whenever and wherever referred to shall be read in conjunction with General Terms and Conditions of contract, specifications, drawings, and any other documents forming part of this contract wherever the context so requires. Notwithstanding the subdivision of the documents into separate sections, parts volumes, every section, part or volume shall be deemed to be supplementary or complementary to each other and shall be read in whole. In case of any misunderstanding Arising the same shall be referred to decision of the Owner/Engineer-in-Charge/Site-in-Charge and their decision shall be final and binding and the decision shall not be arbitrable.

It is the clear understanding that wherever it is mentioned that the Contractor shall do/perform a work and/or provide facilities for the performance of the work, the doing or the performance or the providing of the facilities is at the cost and expenses of the work not liable to be paid or reimbursed by the Owner.

### 2. DEFINITIONS

In this contract unless otherwise specifically provided or defined and unless a contrary intention appears from the contract the following words and expressions are used in the following meanings;

2.1 The term "Agreement" wherever appearing in this document shall be read as "Contract".

2.2 The "Authority" for the purpose of this Contract shall be the "CEO&MD" or any other person so appointed or authorised.

2.3 The "CEO&MD" shall mean the Chief Executive Officer & Managing Director of Indian Strategic Petroleum Reserves Limited or any person so appointed, nominated or designated and holding the office of "CEO&MD"

2.4 The "Change Order" means an order given in writing by the Engineer-in-Charge or by Owner to effect additions to or deletion from or alterations into the Work.

2.5 The "Construction Equipment" means all appliances and equipment of whatsoever nature



for the use in or for the execution, completion, operation or maintenance of the work except those intended to form part of the Permanent Work.

- 2.6 The "**Contract**" between the Owner and the Contractor shall mean and include all documents like enquiry, tender submitted by the contractor and the purchase order issued by the owner and other documents connected with the issue of the purchase order and orders, instruction, drawings, change orders, directions issued by the Owner/Engineer-in-Charge/Site-in-Charge for the execution, completion and commissioning of the works and the period of contract mentioned in the Contract including such periods of time extensions as may be granted by the owner at the request of the contractor and such period of time for which the work is continued by the contractor for purposes of completion of the work.
- 2.7 "**The Contractor**" means the person or the persons, firm or Company whose tender has been accepted by the Owner and includes the Contractor's legal heirs, representative, successor(s) and permitted assignees.
- 2.8 The "**Drawings**" shall include maps, plans and tracings or prints thereof with any modifications approved in writing by the Engineer-in-Charge and such other drawings as may, from time to time, be furnished or approved in writing by the Engineer-in-Charge.
- 2.9 The "**Engineer-in-Charge or Site-in-Charge**" shall mean the person appointed or designated as such by the Owner and shall include those who are expressly authorised by the owner to act for and on its behalf.
- "**The Owner**" means the **Indian Strategic Petroleum Reserves Limited** incorporated in India having its Registered office at OIDB Bhawan, 3rd Floor, Plot No.2, Sector-73, Noida-201301 India or their successor or assignees.
- 2.11 The "**Permanent Work**" means and includes works which form a part of the work to be handed over to the Owner by the Contractor on completion of the contract.
- 2.12 The "**Project Manager**" shall mean the Project Manager of **ISPRL**, or any person so appointed, nominated or designated.
- 2.13 The "**Site**" means the land on which the work is to be executed or carried out and such other place(s) for purpose of performing the Contract.
- 2.14 The "**Specifications**" shall mean the various technical and other specifications attached and referred to in the tender documents. It shall also include the latest editions, including all addenda/corrigenda or relevant Indian Standard Specifications and Bureau Of Indian Standards.
- 2.15 The "**Sub-Contractor**" means any person or firm or Company (other than the Contractor) to whom any part of the work has been entrusted by the Contractor with the prior written consent of the Owner/Engineer-in-Charge/Site-in-Charge and their legal heirs, representatives, successors and permitted assignees of such person, firm or Company.
- 2.16 The "**Temporary Work**" means and includes all such works which are a part of the contract for execution of the permanent work but does not form part of the permanent work confirming to practices, procedures applicable rules and regulations relevant in that



behalf.

- 2.17 The "Tender" means the document submitted by a person or authority for carrying out the work and the Tenderer means a person or authority who submits the tender offering to carry out the work as per the terms and conditions.
- 2.18 The "Work" shall mean the works to be executed in accordance with the Contract or part thereof as the case may be and shall include extra, additional, altered or substituted works as maybe required for the purposes of completion of the work contemplated under the Contract.

### **3. SUBMISSION OF TENDER**

- 3.1 Before submitting the Tender, the Tenderer shall at their own cost and expenses visit the site, examine and satisfy as to the nature of the existing roads, means of communications, the character of the soil, state of land and of the excavations, the correct dimensions of the work facilities for procuring various construction and other material and their availability, and shall obtain information on all matters and conditions as they may feel necessary for the execution of the works as intended by the Owners and shall also satisfy of the availability of suitable water for construction of civil works and for drinking purpose and power required for fabrication work etc. Tenderer, whose tender may be accepted and with whom the Contract is entered into shall not be eligible and be able to make any claim on any of the said counts in what so ever manner for what so ever reasons at any point of time and such a claim shall not be raised as a dispute and shall not be arbitrable.
- 3.2 The Tenderer shall be deemed to have satisfied fully before tendering as to the correctness and sufficiency of his tender for the works and of the rates and prices quoted in the schedule of quantities which rates and prices shall except as otherwise provided cover all his obligations under the contract.
- 3.3 It must be clearly understood that the whole of the conditions and specifications are intended to be strictly enforced and that no work will be considered as extra work and allowed and paid for unless they are clearly outside the scope, spirit, meaning of the Contract and intent of the Owner and have been so ordered in writing by Owner and/or Engineer-in-Charge/Site-in-Charge, whose decision shall be final and binding.
- 3.4 Before filling the Tender the Contractor will check and satisfy all drawings and materials to be procured and the schedule of quantities by obtaining clarification from the Owner on all the items as may be desired by the Tenderer. No claim for any alleged loss or compensation will be entertained on this account, after submission of Tender by the Tenderer/Contractor and such a claim shall not be arbitrable.
- 3.6 The quantities indicated in the Tender are approximate. The approved schedule of rates of the contract will be applicable for variations upto plus or minus 25% of the contract value. No revision of schedule of rates will be permitted for such variations in the contract value, including variations of individual quantities, addition of new items, alterations, additions/deletions or substitutions of items, as mentioned above.



Quantities etc. mentioned and accepted in the joint measurement sheets shall alone be final and binding on the parties.

- 3.7 Owner reserve their right to award the contract to any tenderer and their decision in this regard shall be final. They also reserve their right to reject any or all tenders received. No disputes could be raised by any tenderer(s) whose tender has been rejected.
- 3.8 The Rates quoted by the Tenderer shall include Costs and expenses on all counts viz. cost of materials, transportation of machine(s), tools, equipments, labour, power, Administration charges, price escalations, profits, etc. etc. except to the extent of the cost of material(s), if any, agreed to be supplied by Owner and mentioned specifically in that regard in condition of Contract, in which case, the cost of such material if taken for preparation of the Contractor's Bill(s) shall be deducted before making payment of the Bill(s) of the Contractor. The description given in The schedule of quantities shall unless otherwise stated be held to include wastage on materials, carriage and cartage, carrying in and return of empties, hoisting, setting, fitting and fixing in position and all other expenses necessary in and for The full and complete execution and completion of works and in accordance with good practice and recognised principles in that regard.
- 3.9 Employees of the State and Central Govt. and employees of the Public Sector Undertakings, including retired employees are covered under their respective service conditions/rules in regard to their submitting the tender. All such persons should ensure compliance to the respective/applicable conditions, rules etc. etc. Any person not complying with those rules etc. but submitting the tender in violation of such rules, after being so noticed shall be liable for the forfeiture of the Earnest Money Deposit made with the tender, termination of Contract and sufferance on account of forfeiture of Security Deposit and sufferance of damages arising as a result of termination of Contract.
- ®3.10 In consideration for having a chance to be considered for entering into a contract with the Owner, the Tenderer agrees that the Tender submitted by him shall remain valid for the period prescribed in the tender conditions, from the date of opening of the tender. The Tenderer shall not be entitled during the said validity period, to revoke or cancel the tender without the consent in writing from the Owner.**
- In case the tenderer revokes or cancels the tender or varies any of terms of the tender without the Consent of the Owner, in writing, the Tenderer forfeits the right to the refund of the Earnest Money paid along with the tender.
- ®3.11 The prices quoted by the Tenderer shall be firm during the validity period of the bid and Tenderer agrees to keep the bid alive and valid during the said period. The Tenderers shall particularly take note of this factor before submitting their tender(s).**
- 3.12 The works shall be carried out strictly as per approved specifications. Deviations, if any, shall have to be authorised by the Engineer-in-Charge/Site-in-Charge in writing prior to implementing deviations. The price benefit, if any, arising out of the accepted deviation shall be passed on to the Owner. The decision of Engineer-in-Charge



shall be final in this matter.

- 3.13 The contractor shall make all arrangements at his own cost to transport the required materials outside and inside the working places and leaving the premises in a neat and tidy condition after completion of the job to the satisfaction of Owner. All materials except those agreed to be supplied by the Owner shall be supplied by the contractor at his own cost and the rates quoted by the Contractor should be inclusive of all royalties, rents, taxes, duties, octroi, statutory levies, if any, etc. etc.
- 3.14 The Contractor shall not carry on any work other than the work under this Contract within the Owner's premises without prior permission in writing from the Engineer-in-Charge/Site-in-charge.
- 3.15 The Contractor shall be bound to follow and ensure compliance to all the safety and security regulations and other statutory rules applicable to the area. In the event of any damage or loss or sufference caused due to non-observance of such rules and regulations, the contractor shall be solely responsible for the same and shall keep the Owner indemnified against all such losses and claims arising from the same.
- 3.16 At any time after acceptance of tender, the Owner reserves the right to add, amend or delete any work item, the bill of quantities at a later date or reduce the scope of work in the overall interest of the work by prior discussion and intimation to the Contractor. The decision of Owner, with reasons recorded therefor, shall be final and binding on both the Owner and the Contractor. The Contractor shall not have right to claim compensation or damage etc. in that regard. The Owner reserves the right to split the work under this contract between two or more contractors without assigning any reasons.
- 3.17 Contractor shall not be entitled to sublet, sub contract or assign, the work under this Contract without the prior consent of the Owner obtained in writing.
- 3.18 All signatures in tender document shall be dated as well as all the pages of all sections of the tender documents shall be initialled at the lower position and signed, wherever required in the tender papers by the Tenderer or by a person holding Power of Attorney authorising him to sign on behalf of the tenderer before submission of tender.

The tender should be quoted in English, both in figures as well as in words. The rates and amounts tendered by the Tenderer in the Schedule of rates for each item and in such a way that insertion is not possible. The total tendered amount should also be indicated both in figures and words with the signature of tenderer.

® **If some discrepancies are found between the rates given in words and figures of the amount shown in the tender, the following procedure shall be applied :**

- (a) **When there is a difference between the rates in figures and words, the rate which corresponds to the amount worked out by the tenderer shall be taken as correct.**
- (b) **When the rate quoted by the tenderer in figures and words tallies but the amount is incorrect, the rate quoted by the tenderer shall be taken as correct.**



(c) **When it is not possible to ascertain the correct rate in the manner prescribed above the rate as quoted in words shall be adopted.**

- 3.20 All corrections and alterations in the entries of tender paper will be signed in full by the tenderer with date. No erasures or over writings are permissible.
- 3.21 Transfer of tender document by one intending tenderer to the another one is not permissible. The tenderer on whose name the tender has been sent only can quote.
- 3.22 The Tender submitted by a tenderer if found to be incomplete in any or all manner is liable to be rejected. The decision of the Owner in this regard is final and binding. In case of any error/discrepancy in the amount written in words and figures, the lower amount between the two shall prevail.

#### 4. **DEPOSITS**

a) **EARNEST MONEY DEPOSIT (EMD)**

The tenderer will be required to pay a sum as specified in the covering letter, as earnest money deposit along with the tender either thru a crossed demand draft or a non-revokable Bank Guarantee in favour of **ISPRL, Visakhapatnam** from any Scheduled Bank ( other than a Co-operative Bank) payable at Visakhapatnam in the proforma enclosed. The earnest mney deposit will be refunded after finalisation of the contract.

**Note:** Public sector enterprises and small scale units registered with National Small Scale Industries are exempted from payment of Earnest Money Deposit. Small scale units registered with National Small Scale Industries should enclose a photocopy of their registration certificate with their quotation to make their quotation eligible for consideration. The Registration Certificate should remain valid during the period of the contract that may be entered into with such successful bidder. Such tenderers should ensure validity of the Registration Certificate for the purpose.

® b) **SECURITY DEPOSIT:**

The tenderer, with whom the contract is decided to be entered into and intimation is so given will have to make a security deposit of one percent (1%) of the total contract value in the form of account payee crossed demand draft drawn in favour of the Owner, within 15 days from the date of intimation of acceptance of their tender, failing which the Owner reserves the right to cancel the Contract and forfeit the EMD.

**1% of PO/Contract value as Security deposit will be acceptable in the form of Demand draft upto Rs. 50,000/- and in the form of Demand draft / Bank guarantee beyond Rs. 50,000/-.**

**Composite Performance Bank Guarantee (CPBG) for 10% of PO value towards Performance Bank Guarantee inclusive of Security Deposit shall be accepted (in lieu of deduction of retention money); such CPBG shall be valid upto a period of 6 months beyond the expiry of defect liability period.**





**Demand Draft should be drawn on Scheduled Banks, other than co-operative bank.**

**5. EXECUTION OF WORK**

All the works shall be executed in strict conformity with the provisions of the contract documents and with such explanatory details, drawings, specifications and instructions as may be furnished from time to time to the Contractor by the Engineer-in-Charge/ Site-in-Charge, whether mentioned in the Contract or not. The Contractor shall be responsible for ensuring that works throughout are executed in the most proper and workman- like manner with the quality of material and workmanship in strict accordance with the specifications and to the entire satisfaction of the Engineer-in- Charge/Site-in-Charge.

The completion of work may entail working in monsoon also. The contractor must maintain the necessary work force as may be required during monsoon and plan to execute the job in such a way the entire project is completed within the contracted time schedule. No extra charges shall be payable for such work during monsoon. It shall be the responsibility of the contractor to keep the construction work site free from water during and off the monsoon period at his own cost and expenses.

For working on Sundays/Holidays, the contractor shall obtain the necessary permission from Engineer Incharge/Site Incharge in advance. The contractor shall be permitted to work beyond the normal hours with prior approval of Engineer-In-Charge/Site-In-Charge and the contractors quoted rate is inclusive of all such extended hours of working and no extra amount shall be payable by the owner on this account.

**5.a. SETTING OUT OF WORKS AND SITE INSTRUCTIONS**

5.a.1. The Engineer-in-Charge/Site-in-Charge shall furnish the Contractor with only the four corners of the work site and a level bench mark and the Contractor shall set out the works and shall provide an efficient staff for the purpose and shall be solely responsible for the accuracy of such setting out.

5.a.2. The Contractor shall provide, fix and be responsible for the maintenance of all necessary stakes, templates, level marks, profiles and other similar things and shall take all necessary precautions to prevent their removal or disturbance and shall be responsible for consequences of such removal or disturbance should the same take place and for their efficient and timely reinstatement. The Contractor shall also be responsible for the maintenance of all existing survey marks, either existing or supplied and fixed by the Contractor. The work shall be set out to the satisfaction of the Engineer-in-Charge/Site-in-Charge. The approval thereof or joining in setting out the work shall not relieve the Contractor of his responsibility.

5.a.3. Before beginning the works, the Contractor shall, at his own cost, provide all necessary reference and level posts, pegs, bamboos, flags ranging rods, strings and other materials for proper layout of the work in accordance with the scheme, for bearing marks acceptable to the Engineer-in-Charge/Site-in-Charge. The Centre longitudinal or face lines and cross lines shall be marked by means of small



masonry pillars. Each pillar shall have distinct marks at the centre to enable theodolite to be set over it. No work shall be started until all these points are checked and approved by the Engineer-in-Charge/Site-in-Charge in writing. But such approval shall not relieve the contractor of any of his responsibilities. The Contractor shall also provide all labour, materials and other facilities, as necessary, for the proper checking of layout and inspection of the points during construction.

- 5.a.4. Pillars bearing geodetic marks located at the sites of units of works under construction should be protected and fenced by the Contractor.
- 5.a.5. On completion of works, the contractor shall submit the geodetic documents according to which the work was carried out.
- 5.a.6. The Engineer-in-Charge/Site-in-Charge shall communicate or confirm his instructions to the contractor in respect of the executions of work in a "work site order book" maintained in the office having duplicate sheet and the authorised representative of the contractor shall confirm receipt of such instructions by signing the relevant entries in the book.
- 5.a.7. All instructions issued by the Engineer-in-Charge/Site-in-Charge shall be in writing. The Contractor shall be liable to carry out the instructions without fail.
- 5.a.8. If the Contractor after receipt of written instruction from the Engineer-in-Charge/Site-in-Charge requiring compliance within seven days fails to comply with such drawings or 'instructions' or both as the Engineer-in-Charge/Site-in-Charge may issue, owner may employ and pay other persons to execute any such work whatsoever that may be necessary to give effect to such drawings or 'instructions' and all cost and expenses incurred in connection therewith as certified by the Engineer-in-Charge/Site-in-Charge shall be borne by the contractor or may be deducted from amounts due or that may become due to the contractor under the contract or may be recovered as a debt.
- 5.a.9. The Contractor shall be entirely and exclusively responsible for the horizontal and vertical alignment, the levels and correctness of every part of the work and shall rectify effectually any errors or imperfections therein. Such rectifications shall be carried out by the Contractor, at his own cost.
- 5.a.10. In case any doubts arise in the mind of the Contractor in regard to any expressions, interpretations, statements, calculations of quantities, supply of material rates, etc. etc., the contractor shall refer the same to the Site-in-Charge/ Engineer-in-Charge for his clarification, instructions, guidance or clearing of doubts. The decision of the Engineer-in-Charge/Site-in-Charge shall be final and the contractor shall be bound by such a decision.
- 5.a.11. "The Contractor shall take adequate precautions, to ensure that his operations do not create nuisance or misuse of the work space that shall cause unnecessary disturbance or inconvenience to others at the work site".
- 5.a.12. "All fossils, coins articles of value of antiquity and structure or other remains of geological or archaeological discovered on the site of works shall be declared to be the property of the Owner and Contractor shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such articles or thing and shall immediately inform the Owner/ Engineer-in-Charge/Site-in-



Charge."

- 5.a.13. "Contractor will be entirely and exclusively responsible to provide and maintain at his expenses all lights, guards, fencing, etc. when and where even necessary or/as required by the Engineer-in-Charge/Site-in-Charge for the protection of works or safety and convenience to all the members employed at the site or general public."

**5.b. COMMENCEMENT OF WORK**

The contractor shall after paying the requisite security deposit, commence work within 15 days from the date of receipt of the intimation of intent from the Owner informing that the contract is being awarded. The date of intimation shall be the date/day for counting the starting day/date and the ending day/date will be accordingly calculated. Penalty, if any, for the delay in execution shall be calculated accordingly.

Contractor should prepare detailed fortnightly construction programme for approval by the Engineer-in-Charge within one month of receipt of Letter Of Intent. The work shall be executed strictly as per such time schedule. The period of Contract includes the time required for testing, rectifications, if any, re-testing and completion of work in all respects to the entire satisfaction of the Engineer-in-Charge.

A Letter of Intent is an acceptance of offer by the Owner and it need not be accepted by the contractor. But the contractor should acknowledge a receipt of the purchase order within 15 days of mailing of Purchase Order and any delay in acknowledging the receipt will be a breach of contract and compensation for the loss caused by such breach will be recovered by the Owner by forfeiting earnest money deposit/bid bond.

**5.c. SUBLETTING OF WORK**

- 5.c.1. No part of the contract nor any share or interest thereof shall in any manner or degree be transferred, assigned or sublet, by the Contractor, directly or indirectly to any firm or corporation whatsoever, without the prior consent in writing of the Owner.

- 5.c.2. At the commencement of every month the Contractor shall furnish to the Engineer-in-charge/Site-in-Charge list of all sub-contractors or other persons or firms engaged by the Contractor.

- 5.c.3. The contract agreement will specify major items of supply or services for which the Contractor proposes to engage sub-Contractor/sub-Vendor. The contractor may from time to time propose any addition or deletion from any such list and will submit the proposals in this regard to the Engineer-in-charge/Designated officer-in-charge for approval well in advance so as not to impede the progress of work. Such approval of the Engineer-in-charge/Designated officer-in-charge will not relieve the contractor from any of his obligations, duties and responsibilities under the contract.

- 5.c.4. Notwithstanding any sub-letting with such approval as resaid and notwithstanding



that the Engineer-in-Charge shall have received copies of any sub-contract, the Contractor shall be and shall remain solely to be responsible for the quality and proper and expeditious execution of the works and the performance of all the conditions of the contract in all respects as if such subletting or sub-contracting had not taken place and as if such work had been done directly by the Contractor.

5.c.5 Prior approval in writing of the Owner shall be obtained before any change is made in the constitution of the contractor/Contracting agency otherwise contract shall be deemed to have been allotted in contravention of clause entitled “sub-letting of works” and the same action may be taken and the same consequence shall ensue as provided in the clause of “sub-letting of works”.

#### 5.d EXTENSION OF TIME

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- 1) **If the Contractor anticipates that he will not be able to complete the work within the contractual delivery/ completion date (CDD), then the Contractor shall make a request for grant of time extension clearly specifying the reasons for which he seeks extension of time and demonstrating as to how these reasons were beyond the control of the contractor or attributable to the Owner. This request should be made well before the expiry of the Contractual Delivery/ Completion Date (CDD).**
  - 2) **If such a request for extension is received with a Bank Guarantee for the full Liquidated Damages amount calculated on the Total Contract Value, the concerned General Manager of the Owner shall grant a Provisional extension of time, pending a decision on the request.**
  - 3) **The concerned General Manager of the Owner shall expeditiously decide upon the request for time extension and decide the levy of liquidated damages within a maximum period of 6 months from the CDD or date of receipt of the request, whichever is later.**
  - 4) **Grant of any extension of time shall be by means of issuance of a Change Order.**
  - 5) **In order to avoid any cash crunch to the Contractor, a Bank Guarantee could be accepted against LD, as stated above. Once a decision is taken, the LD shall be recovered from any pending bills or by encashment of the BG. Any balance sum of Contractor or the BG (if LD is fully recovered from the bills) shall be promptly refunded/returned to the Contractor.**

#### 5.e. SUSPENSION OF WORKS

5.e.1. Subject to the provisions of this contract, the contractor shall if ordered in writing by the Engineer- in-Charge/Site-in-Charge for reasons recorded suspend the works or any part thereof for such period and such time so ordered and shall not, after receiving such, proceed with the work therein ordered to uspended until he shall have received a written order to re-start. The Contractor shall be entitled to claim extension of time for that period of time the work was ordered to be suspended. Neither the Owner nor the Contractor shall be entitled to claim compensation or



damages on account of such an extension of time.

5.e.2. In case of suspension of entire work, ordered in writing by Engineer-in-Charge/Site-in-Charge, for a period of 30 days, the Owner shall have the option to terminate the Contract as provided under the clause for termination. The Contractor shall not be at liberty to remove from the site of the works any plant or materials belonging to him and the Employer shall have lien upon all such plant and materials.

5.e.3. The contractor shall, in case of suspension have the right to raise a dispute and have the same arbitrated but however, shall not have the right to have the work stopped from further progress and completion either by the owner or through other contractor appointed by the owner.

5.f. **OWNER MAY DO PART OF WORK**

Notwithstanding anything contained elsewhere in this contract, the owner upon failure of the Contractor to comply with any instructions given in accordance with the provisions of this contract, may instead of Contract and undertaking charge of entire work, place additional labour force, tools, equipment and materials on such parts of the work, as the Owner may decide or engage another Contractor to carry out the balance of work. In such cases, the Owner shall have the right to deduct from the amounts payable to the Contractor the difference in cost of such work and materials with ten percent overhead added to cover all departmental charges. Should the total amount thereof exceed the amount due to the contractor, the Contractor shall pay the difference to the Owner within 15 days of making demand for payment failing which the Contractor shall be liable to pay interest at 24% p.a. on such amounts till the date of payment.

5.g. **INSPECTION OF WORKS**

5.g.1. The Engineer-in-Charge/Site-in-Charge and Officers from Central or State Government will have full power and authority to inspect the works at any time wherever in progress, either on the site or at the Contractor's premises/workshops of any person, firm or corporation where work in connection with the contract may be in hand or where the materials are being or are to be supplied, and the Contractor shall afford or procure for the Engineer-in-Charge/Site-in-Charge every facility and assistance to carry out such inspection. The Contractor shall, at all times during the usual working hours and at all other times at which reasonable notice of the intention of the Engineer-in-Charge/Site-in-Charge or his representative to visit the works shall have 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 the 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. The Contractor shall give not less than seven days notice in writing to the

Engineer-in-Charge/Site-in-Charge before covering up or otherwise placing beyond reach of inspection and measurement any work in order that the same may be inspected and measured. In the event of breach of above, the same shall be uncovered at Contractor's expense for carrying out such measurement and/or inspection.

5.g.2. No material shall be removed and despatched by the Contractor from the site



without the prior approval in writing of the Engineer-in-charge. The contractor is to provide at all times during the progress of the work and the maintenance period proper means of access with ladders, gangways, etc. and the necessary attendance to move and adapt as directed for inspection or measurements of the works by the Engineer-in-Charge/Site-in-Charge.

5.h. **SAMPLES**

5.h.1. The contractor shall furnish to the Engineer-in-charge/Site-in-Charge for approval when requested or required adequate samples of all materials and finishes to be used in the work.

5.h.2. Samples shall be furnished by the Contractor sufficiently in advance and before commencement of the work so as the Owner can carry out tests and examinations thereof and approve or reject the samples for use in the works. All material samples furnished and finally used/applied in actual work shall fully be of the same quality of the approved samples.

5.i. **TESTS FOR QUALITY OF WORK**

5.i.1. All workmanship shall be of the respective kinds described in the contract documents and in accordance with the instructions of the Engineer-in-Charge / Site-in-Charge and shall be subjected from time to time to such tests at Contractor's cost as the Engineer-in-Charge/Site-in-Charge may direct at the place of manufacture or fabrication or on the site or at all or any such places. The Contractor shall provide assistance, instruments, labour and materials as are normally required for examining, measuring and testing any workmanship as may be selected and required by the Engineer-in-Charge/Site-in-Charge.

5.i.2. All the tests that will be necessary in connection with the execution of the work as decided by the Engineer-in-charge/Site-in-Charge shall be carried out at the contractors cost and expenses.

5.i.3. If any tests are required to be carried out in connection with the work or materials or workmanship to be supplied by the owner, such tests shall be carried out by the Contractor as per instructions of Engineer-in-Charge/Site-in-Charge and expenses for such tests, if any, incurred by the contractor shall be reimbursed by the Owner. The contractor should file his claim with the owner within 15 (fifteen) days of inspection/test and any claim made beyond that period shall lapse and be not payable.

5.j. **ALTERATIONS AND ADDITIONS TO SPECIFICATIONS, DESIGNS AND WORKS**

5.j.1. The Engineer-in-Charge/Site-in-Charge shall have powers to make any alterations, additions and/or substitutions to the schedule of quantities, the original specifications, drawings, designs and instructions that may become necessary or advisable or during the progress of the work and the Contractor shall be bound to carryout such altered/extra/new items of work in accordance with instructions which may be given to him in writing signed by the Engineer-in-Charge/Site-in-Charge. Such alterations, omissions, additions or substitutions shall not invalidate the contract. The altered,





additional or substituted work which the Contractor may be directed to carry on in the manner as part of the work shall be carried out by the Contractor on the same conditions in all respects on which he has agreed to do the work. The time for completion of such altered added and/or substituted work may be extended for that part of the particular job. The rates for such additional altered or substituted work under this Clause shall, be worked out in accordance with the following provisions:

- 5.j.2. If the rates for the additional, altered or substituted work are specified in the contract for similar class of work, the Contractor is bound to carry out the additional, altered or substituted work at the same rates as are specified in the contract.
- 5.j.3. If the rates for the additional, altered or substituted work are not specifically provided in the contract for the work, the rates will be derived from the rates for similar class of work as are specified in the contract for the work. In the opinion of the Engineer-in-Charge/Site-in-Charge as to whether or not the rates can be reasonably so derived from the items in this contract, will be final and binding on the Contractor.
- 5.j.4. If the rates for the altered, additional or substituted work cannot be determined in the manner specified above, then the Contractor shall, within seven days of the date of receipt of order to carry out the work, inform the Engineer-in-Charge/ Site-in-Charge of the rate at which he intends to charge for such class of work, supported by analysis of the rate or rates claimed and the Engineer-In-Charge/ Site-in-Charge shall determine the rates on the basis of the prevailing market rates for both material and labour plus 10% to cover overhead and profit of labour rates and pay the Contractor accordingly. The opinion of the Engineer-in-Charge/Site-in-Charge as to current market rates of materials and the quantum of labour involved per unit of measurement will be final and binding on the contractor.
- 5.j.5. In case of any item of work for which there is no specification supplied by the Owner and is mentioned in the tender documents, such work shall be carried out in accordance with Indian Standard Specifications and if the Indian Standard Specifications do not cover the same, the work should be carried out as per standard Engineering Practice subject to the approval of the Engineer-in-Charge/ Site-in-Charge.

5.k. **PROVISIONAL ACCEPTANCE**

Acceptance of sections of the works for purposes of equipment erection, piping, electrical work and similar usages by the Owner and payment for such work or parts of work shall not constitute a waiver of any portion of this contract and shall not be construed so as to prevent the Engineer from requiring replacement of defective work that may become apparent after the said acceptance and also shall not absolve the Contractor of the obligations under this contract. It is made clear that such an acceptance does not indicate or denote or establish to the fact of execution of that work or the Contract until the work is completed in full in accordance with the provisions of this Contract.

5.l. **COMPLETION OF WORK AND COMPLETION CERTIFICATE**

As soon as the work is completed in all respects, the contractor shall give notice of such completion to the site in charge or the Owner and within thirty days of receipt



of such notice the site in charge shall inspect the work and shall furnish the contractor with a certificate of completion indicating:

- a) defects, if any, to be rectified by the contractor
- b) items, if any, for which payment shall be made in reduced rates
- c) the date of completion.

**5.m. USE OF MATERIALS AND RETURN OF SURPLUS MATERIALS**

5.m.1. Notwithstanding anything contained to the contrary in any or all of the clauses of this contract, where any materials for the execution of the contract are procured with the assistance of Government either by issue from Government stocks or purchase made under orders or permits or licences issued by Government, the contractor shall use the said materials economically and solely for the purpose of the contract and shall not dispose them of without the permission of the Owner.

5.m.2. All surplus(serviceable) or unserviceable materials that may be left over after the completion of the contract or at its termination for any reason whatsoever, the Contractor shall deliver the said product to the Owner without any demur. The price to be paid to the Contractor, if not already paid either in full or in part, however, shall not exceed the amount mentioned in the Schedule of Rates for such material and in cases where such rates are not so mentioned, shall not exceed the CPWD scheduled rates. In the event of breach of the aforesaid condition the contractor shall become liable for contravention of the terms of the Contract.

5.m.3. The surplus (serviceable) and unserviceable products shall be determined by joint measurement. In case where joint measurement has failed to take place, the Owner may measure the same and determine the quantity.

5.m.4. It is made clear that the Owner shall not be liable to take stock and keep possession and pay for the surplus and unserviceable stocks and the Owner may direct the Contractor to take back such material brought by the Contractor and becoming surplus and which the Owner may decide to keep and not to pay for the same.

**5.n. DEFECT LIABILITY PERIOD**

The contractor shall guarantee the work executed for a period of 12 months from the date of completion of the job. Any damage or defect that may arise or lie undiscovered at the time of completion of the job shall be rectified or replaced by the contractor at his own cost. The decision of the Engineer In-charge/Site-Incharge/Owner shall be the final in deciding whether the defect has to be rectified or replaced.

Equipment or spare parts replaced under warranty/guarantees shall have further warranty for a mutually agreed period from the date of acceptance.

The owner shall intimate the defects noticed in writing by a Registered A.D. letter or otherwise and the contractor within 15 days of receipt of the intimation shall start the rectification work and complete within the time specified by the owner failing which the owner will get the defects rectified by themselves or by any other contractor and the expenses incurred in getting the same done shall be paid by the Contractor under the provision of the Contract.





Thus, defect liability is applicable only in case of job/works contract (civil, mechanical, electrical, maintenance etc. ) where any damage of defect may arise in future (i.e. within 12 months from the date of completion of job) or lie undiscovered at the time of completion of job.

In other words, in case of service contracts (like car hire etc.) where there is no question of damage or defect arising in future, the defect liability clause is not applicable.

#### **5.o. DAMAGE TO PROPERTY**

5.o.1. Contractor shall be responsible for making good to the satisfaction of the Owner any loss of and any damage to all structures and properties belonging to the Owner or being executed or procured by the Owner or of other agencies within the premises of the work of the Owner, if such loss or damage is due to fault and/or the negligence or willful acts or omission of the Contractor, his employees, agents, representatives or sub-contractors.

5.o.2. The Contractors shall indemnify and keep the Owner harmless of all claims for damage to Owner's property arising under or by reason of this contract.

#### **6. DUTIES AND RESPONSIBILITIES OF CONTRACTOR**

##### **6.a. EMPLOYMENT LIABILITY TOWARDS WORKERS EMPLOYED BY THE CONTRACTOR**

6.a.1. The Contractor shall be solely and exclusively responsible for engaging or employing persons for the execution of work. All persons engaged by the contractor shall be on Contractor's payroll and paid by Contractor. All disputes or differences between the Contractor and his/their employees shall be settled by Contractor.

6.a.2. Owner has absolutely no liability whatsoever concerning the employees of the Contractor. The Contractor shall indemnify Owner against any loss or damage or liability arising out of or in the course of his/their employing persons or relation with his/their employees. The Contractor shall make regular and full payment of wages and on any complaint by any employee of the Contractor or his sub contractor regarding non-payment of wages, salaries or other dues, Owner reserves the right to make payments directly to such employees or sub-contractor of the Contractor and recover the amount in full from the bills of the Contractor and the contractor shall not claim any compensation or reimbursement thereof. The Contractor shall comply with the Minimum Wages Act applicable to the area of work site with regard to payment of wages to his employees and also to employees of his sub contractor.

6.a.3. The Contractor shall advise in writing or in such appropriate way to all of his employees and employees of sub-contractors and any other person engaged by him that their appointment/employment is not by the Owner but by the Contractor and that their present appointment is only in connection with the construction contract



with Owner and that therefore, such an employment/appointment would not enable or make them eligible for any employment/appointment with the Owner either temporarily or/and permanent basis.

**6.b. NOTICE TO LOCAL BODIES**

The contractor shall comply with and give all notices required under any Government authority, instruction, rule or order made under any act of parliament, state laws or any regulations or by-laws of any local authority relating to the works.

**6.c. FIRST AID AND INDUSTRIAL INJURIES**

6.c.1 Contractor shall maintain first aid facility for his employees and those of his sub-contractors.

6.c.2. Contractor shall make arrangements for ambulance service and for the treatment of all types of injuries. Names and telephone numbers of those providing such services shall be furnished to Owner prior to start of construction and their name board shall be prominently displayed in Contractor's field office.

6.c.3. All industrial injuries shall be reported promptly to owner and a copy of contractor's report covering each personal injury requiring the attention of a physician shall be furnished to the Owner.

**6.d. SAFETY CODE**

6.d.1. The Contractor shall at his own expenses arrange for the Safety provisions as may be necessary for the execution of the work or as required by the Engineer-in-Charge in respect of all labours directly or indirectly employed for performance of the works and shall provide all facilities in connections therewith. In case the contractor fails to make arrangements and provide necessary facilities as aforesaid, the Owner shall be entitled to do so and recover the cost thereof from the Contractor.

6.d.2. From the commencement to the completion of the works, the contractor shall take full responsibility for the care thereof and of all the temporary works (defined as meaning all temporary works of every kind required in or for the execution, completion or maintenance of the works). In case damage, loss or injury shall happen to the works or to any part thereof or to temporary works or to any cause whatsoever repair at his (Contractor's) own cost and make good the same so that at the time of completion, the works shall be in good order and condition and in conformity in every respect with the requirement of the contract and Engineer-in-Charge's instructions.

6.d.3. In respect of all labour, directly or indirectly employed in the work for the performance of the Contractor's part of this agreement, the contractor shall at his own expense arrange for all the safety provisions as per relevant Safety Codes of C.P.W.D Bureau of Indian Standards, the Electricity Act/I.E. Rules. The Mines Act and such other Acts as applicable.



- 6.d.4. The Contractor shall observe and abide by all fire and safety regulations of the Owner. Before starting construction work, the Contractor shall consult with Owner's Safety Engineer or Engineer-in-Charge/Site-in-Charge and must make good to the satisfaction of the Owner any loss or damage due to fire to any portion of the work done or to be done under this agreement or to any of the Owner's existing property.
- 6.d.5. The Contractor will be fully responsible for complying with all relevant provisions of the Contract Labour Act and shall pay rates of Wages and observe hours of work/conditions of employment according to the rules in force from time to time.
- 6.d.6. The Contractor will be fully responsible for complying with the provision including documentation and submission of reports on the above to the concerned authorities and shall indemnify the Corporation from any such lapse for which the Government will be taking action against them.
- 6.d.7. Owner shall on a report having been made by an inspecting Office as defined in the Contract Labour Regulations have the power to deduct from the money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker(s) by reasons of non-fulfillment of conditions of contract for the benefit of workers no-payment of wages or of deductions made from his or their wages which are not justified by the terms of contract or non observance of the said contractor's labour Regulation.

6.e. **INSURANCE AND LABOUR**

Contractor shall at his own expense obtain and maintain an insurance policy with a Nationalised Insurance Company to the satisfaction of the Owner as provided hereunder.

6.e.1. **EMPLOYEES STATE INSURANCE ACT**

- i. The Contractor agrees to and does hereby accept full and exclusive liability for the compliance with all obligations imposed by Employees State Insurance Act, 1948, and the Contractor further agrees to defend indemnify and hold Owner harmless from any liability or penalty which may be imposed by the Central, State or local authority by reason of any asserted violation by Contractor, or sub-contractor of the Employees' State Insurance Act, 1948 and also from all claims, suits or proceedings that may be brought against the Owner arising under, growing out of or by reason of the work provided for by this contract whether brought by employees of the Contractor, by third parties or by Central or State Government authority or any political sub-division thereof.
- ii. The Contractor agrees to file with the Employees State Insurance Corporation, the Declaration forms and all forms which may be required in respect of the Contractor's or sub-contractor's employee whose aggregate emuneration is within the specified limit and who are employed in the work provided or those covered by ESI Act under any amendment to the Act from time to time.

The Contractor shall deduct and secure the agreement of the sub-contractor to deduct the employee's contribution as per the first schedule of the Employee's State Insurance Act from wages and affix the employee's contribution cards at wages payment intervals. The Contractor shall remit and secure the agreement



of the sub contractor to remit to the State Bank of India, Employee's State Insurance Corporation Account, the Employee's contribution as required by the Act.

iii. The Contractor agrees to maintain all records as required under the Act in respect of employees and payments and the Contractor shall secure the agreement of the sub contractor to maintain such records. Any expenses incurred for the contributions, making contribution or maintaining records shall be to the Contractor's or sub-contractor's account.

iv. The Owner shall retain such sum as may be necessary from the total contract value until the Contractor shall furnish satisfactory proof that all contributions as required by the Employees State Insurance Act, 1948, have been paid.

v. **WORKMAN'S COMPENSATION AND EMPLOYEE'S LIABILITY INSURANCE**

Provide Insurance for all the Contractor's employees engaged in the performance of this contract. If any of the work is sublet, the Contractor shall ensure that the sub contractor provides workmen's compensation and Employer's Liability Insurance for the latter's employees who are not covered under the Contractor's insurance.

vi. **AUTOMOBILE LIABILITY INSURANCE**

Contractor shall take out an Insurance to cover all risks to Owner for each of his vehicles plying on works of this contract and these insurances shall be valid for the total contract period. No extra payment will be made for this insurance. Owner shall not be liable for any damage or loss not made good by the Insurance Company, should such damage or loss result from unauthorised use of the vehicle. The provisions of the Motor Vehicle Act would apply.

vii. **FIRE INSURANCE**

Contractor shall within two weeks after award of contract insure the Works, Plant and Equipment and keep them insured until the final completion of the Contract against loss or damage by accident, fire or any other cause with an insurance company to be approved by the Employer/Consultant in the joint names of the Employer and the Contractor (name of the former being placed first in the Policy). Such Policy shall cover the property of the Employer only.

6.e.2. **ANY OTHER INSURANCE REQUIRED UNDER LAW OR REGULATION OR BY OWNER**

- i. Contractor shall also provide and maintain any and all other insurance which may be required under any law or regulations from time to time. He shall also carry and maintain any other insurance which may be required by the Owner.
- ii. The aforesaid insurance policy/policies shall provide that they shall not be cancelled till the Engineer-in-Charge has agreed to their cancellation.



- iii. The Contractor shall satisfy to the Engineer-in-Charge/Site-in-Charge from time to time that he has taken out all insurance policies referred to above and has paid the necessary premium for keeping the policies alive till the expiry of the defects liability period.
- iv. The contractor shall ensure that similar insurance policies are taken out by his sub-contractor (if any) and shall be responsible for any claims or losses to the Owner resulting from their failure to obtain adequate insurance protections in connection thereof. The contractor shall produce or cause to be proceed by his sub-contractor (if any) as the case may be, the relevant policy or policies and premium receipts as and when required by the Engineer-in-Charge/Site-in-Charge.

#### 6.e.3. LABOUR AND LABOUR LAWS

- i. The contractor shall at his own cost employ persons during the period of contract and the persons so appointed shall not be construed under any circumstances to be in the employment of the Owner.
- ii. All payments shall be made by the contractor to the labour employed by him in accordance with the various rules and regulations stated above. The contractor shall keep the Owner indemnified from any claims whatsoever inclusive of damages/costs or otherwise arising from injuries or alleged injuries to or death of a person employed by the contractor or damages or alleged damages to the property.
- iii. No labour below the age of eighteen years shall be employed on the work. The Contractor shall not pay less than what is provided under the provisions of the contract labour (Regulations and Abolition) Act, 1970 and the rules made thereunder and as may be amended from time to time. He shall pay the required deposit under the Act appropriate to the number of workman to be employed by him or through sub contractor and get himself registered under the Act. He shall produce the required Certificates to the Owner before commencement of the work. The Owner recognises only the Contractor and not his sub contractor under the provisions of the Act. The Contractor will have to submit daily a list of his workforce. He will also keep the wage register at the work site or/and produce the same to the Owner, whenever desired. A deposit may be taken by the Owner from the Contractor to be refunded only after the Owner is satisfied that all workmen employed by the Contractor have been fully paid for the period of work in Owner's premises at rates equal to or better than wages provided for under the Minimum Wages Act. The contractor shall be responsible and liable for any complaints that may arise in this regard and the consequences thereto.
- iv. The Contractor will comply with the provisions of the Employee's Provident Fund Act and the Family Pension Act as may be applicable and as amended from time to time.
- v. The Contractor will comply with the provisions of the payment of Gratuity Act, 1972, as may be applicable and as amended from time to time.



vi. **IMPLEMENTATION OF APPRENTICES ACT, 1961**

The Contractor shall comply with the provisions of the Apprentices Act, 1961 and the Rules and Orders issued thereunder from time to time. If he fails to do so, his failure will be a breach of the contract and the Engineer-in-Charge may, at his discretion, cancel the contract. The Contractor shall also be liable for any pecuniary liability arising on account of any violation by him of the provision of the Act.

vii. **MODEL RULES FOR LABOUR WELFARE**

The Contractor shall at his own expenses comply with or cause to be complied with Model rules for Labour Welfare as appended to those conditions or rules framed by the Government from time to time for the protection of health and for making sanitary arrangements for worker employed directly or indirectly on the works. In case the contractor fails to make arrangements as aforesaid the Engineer-in-Charge/Site-in-Charge shall be entitled to do so and recover the cost thereof from the contractor.

6.f. **DOCUMENTS CONCERNING WORKS**

6.f.1. All documents including drawings, blue prints, tracings, reproducible models, plans, specifications and copies, thereof furnished by the Owner as well as all drawings, tracings, reproducible, plans, specifications design calculations etc. prepared by the contractor for the purpose of execution of works covered in or connected with this contract shall be the property of the Owner and shall not be used by the contractor for any other work but are to be delivered to the Owner at the completion or otherwise of the contract.

6.f.2. The Contractor shall keep and maintain secrecy of the documents, drawings etc. issued to him for the execution of this contract and restrict access to such documents, drawings etc. and further the Contractor shall execute a SECRECY agreement from each or any person employed by the Contractor having access to such documents, drawings etc. The Contractor shall not issue drawings and documents to any other agency or individual without the written approval by the Engineer-in-Charge/Site-in-Charge.

6.f.3. Contractor will not give any information or document etc. concerning details of the work to the press or a news disseminating agency without prior written approval from Engineer-in-charge/Site-in-Charge. Contractor shall not take any pictures on site without written approval of Engineer-in-Charge/Site-in-Charge.

7. **PAYMENT OF CONTRACTOR'S BILLS**

®7.1. **Payments will be made against Running Accounts bills certified by the Owner's Engineer-in-Charge/Site-in-Charge within 30 days from the date of receipt of the bill..**

7.2. Running Account Bills and the final bill shall be submitted by the Contractor together with the duly signed measurements sheet(s) to the Engineer-in-Charge/ Site-in-Charge of the Owner in quadruplicate for certification.



The Bills shall also be accompanied by quantity calculations in support of the quantities contained in the bill along with cement consumption statement, actual/theoretical, wherever applicable duly certified by the Engineer-in-Charge/ Site-in-Charge of the Owner.

7.3. All running account payments shall be regarded as on account payment(s) to be finally adjusted against the final bill payment. Payment of Running Account Bill(s) shall not determine or affect in any way the rights of the Owner under this Contract to make the final adjustments of the quantities of material, measurements of work and adjustments of amounts etc.etc. in the final bill.

7.4. The final bill shall be submitted by the Contractor within one month of the date of completion of the work fully and completely in all respects. If the Contractor fails to submit the final bill accordingly Engineer-in-Charge/Site-in-Charge may make the measurement and determine the total amount payable for the work carried out by the Contractor and such a certification shall be final and binding on the Contractor. The Owner/Engineer-in-Charge/Site-in-Charge may take the assistance of an outside party for taking the measurement, the expenses of which shall be payable by the Contractor.

7.5. Payment of final bill shall be made within 30 days from the date of receipt of the certified bill by the Disbursement Section of the owner.

**7.6 Wherever possible, payment shall be tendered to the contractor in electronic mode(e-payment) through any of the designated banks. The contractor will comply by furnishing full particulars of Bank account (mandate) to which the payments will be routed. Owner reserves the right to make payment in any alternate mode also.**

#### 7.a. MEASUREMENT OF WORKS

7.a.1. All measurements shall be in metric system. All the works will be jointly measured by the representative of the Engineer-in-Charge/Site-in-Charge and the Contractor or their authorised agent progressively. Such measurement will be recorded in the Measurement Book/Measurement Sheet by the Contractor or his authorised representative and signed in token of acceptance by the Owner or their authorised representative.

7.a.2. For the purpose of taking joint measurement, the Contractor/representative shall be bound to be present whenever required by the Engineer-in-Charge/Site-in-Charge.

If, however, they are absent for any reasons whatsoever, the measurement will be taken by the Engineer-in-Charge/Site-in-Charge or his representative and the same would be deemed to be correct and binding on the Contractor.

7.a.3. In case of any dispute as to the mode of measurement for any item of work, the latest Indian Standard Specifications shall be followed. In case of any further dispute on the same the same shall be as per the certification of an outside qualified Engineer/ Consultant. Such a measurement shall be final and binding on the Owner and the Contractor.

#### 7.b. BILLING OF WORKS EXECUTED





The Contractor will submit a bill in approved proforma in quadruplicate to the Engineer-in-Charge/Site-in-Charge of the work giving abstract and detailed measurement for the various items executed during a month, before the expiry of the first week of the succeeding month. The Engineer-in-Charge/Site-in-Charge shall take or cause to be taken the requisite measurements for the purpose of having the bill verified and/or checked before forwarding the same to the disbursement office of the Owner for further action in terms of the Contract and payment thereafter. The Engineer-in-Charge/Site-in-Charge shall verify the bills within 7 days of the submission of the Bill by the Contractor.

7.c. **RETENTION MONEY**

10% of the total value of the Running Account and Final Bill will be deducted and retained by the Owner as retention money on account of any damage/defect liability that may arise for the period covered under the defect liability period clause of the Contract free of interest. Any damage or defect that may arise or lie undiscovered at the time of issue of completion certificate connected in any way with the equipment or materials supplied by contractor or in workmanship shall be rectified or replaced by the contractor at his own expense failing which the Owner shall be entitled to rectify the said damage/defect from the retention money. Any excess of expenditure incurred by the Owner on account of damage or defect shall be payable by the Contractor. The decision of the Owner in this behalf shall not be liable to be questioned but shall be final and binding on the Contractor.

Thus, deduction towards retention money is applicable only in case of job/works contracts (civil, mechanical, electrical, maintenance etc.) where any damage or defect may arise in future (i.e. within 12 months from the date of completion of job) or lie undiscovered at the time of issue of completion certificate.

®7.d. **STATUTORY LEVIES**

7.d.1 The Contractor accepts full and exclusive liability for the payment of any and all taxes, duties, octroi, rates, cess, levies and statutory payments payable under all or any of the statutes etc.

® **Variations of taxes and duties arising out of the amendments to the Central / State enactments, in respect of sale of goods / services covered under this bid shall be to ISPRL's account, so long as :**

- **They relate to the period after the opening of the price bid, but before the contracted completion period ( excluding permitted extensions due to delay on account of the contractors, if any) or the actual completion period, whichever is earlier; and**
- The vendor furnishes documentary evidence of incurrence of such variations, in addition to the invoices/documents for claiming Cenvat /Input Tax credit, wherever applicable.

All contributions and taxes for unemployment compensation, insurance and old age





pensions or annuities now or hereafter imposed by Central or State Governmental authorities which are imposed with respect to or covered by the wages, salaries or other compensations paid to the persons employed by the Contractor and the Contractor shall be responsible for the compliance with all obligations and restrictions imposed by the Labour Law or any other law affecting employer-employee relationship and the Contractor further agrees to comply and to secure the compliance of all sub-contractors with all applicable Central, State, Municipal and local laws, and regulations and requirements of any Central, State or Local Government agency or authority.

Contractor further agrees to defend, indemnify and hold harmless from any liability or penalty which may be imposed by the Central, State or Local authorities by reason of any violation by Contractor or sub-contractor of such laws, regulations or requirements and also from all claims, suits or proceedings that may be brought against the Owner arising under, growing out of, or by reasons of the work provided for by this contract by third parties, or by Central or State Government authority or any administrative sub-division thereof. The Contractor further agrees that in case any such demand is raised against the Owner, and Owner has no way but to pay and pays/makes payment of the same, the Owner shall have the right to deduct the same from the amounts due and payable to the Contractor. The Contractor shall not raise any demand or dispute in respect of the same but may have recourse to recover/receive from the concerned authorities on the basis of the Certificate of the Owner issued in that behalf.

7.d.2. The rates quoted should be inclusive of all rates, cess, taxes and sales tax on works contracts wherever applicable. However, wherever the sales tax on works contract is applicable and is to be deducted at source, the same will be deducted from the bills of the Contractor and paid to the concerned authorities. The proof of such payments of sales tax on works contract will be furnished to the contractor.

7.d.3. Income tax will be deducted at source as per rules at prevailing rates, unless certificate, if any, for deduction at lesser rate or nil deduction is submitted by the Contractor from appropriate authority.

**# 7.d.4 The contractor shall provide accurate particulars of PAN number as required, under Section 206AA of Income Tax Act 1961.**

**7.e. MATERIALS TO BE SUPPLIED BY CONTRACTOR**

7.e.1. The Contractor shall procure and provide the whole of the materials required for construction including tools, tackles, construction plant and equipment for the completion and maintenance of the works except the materials viz. steel and cement which may be agreed to be supplied as provided elsewhere in the contract. The contractor shall make arrangement for procuring such materials and for the transport thereof at their own cost and expenses.

7.e.2. The Owner may give necessary recommendation to the respective authority if so desired by the Contractor but assumes no responsibility of any nature. The Contractor shall procure materials of ISI stamp/certification and supplied by reputed suppliers borne on DGS&D list.

7.e.3. All materials procured should meet the specifications given in the tender document.



The Engineer-in-charge may, at his discretion, ask for samples and test certificates for any batch of any materials procured. Before procuring, the Contractor should get the approval of Engineer-in-Charge/Site-in-Charge for any materials to be used for the works.

- 7.e.4. Manufacturer's certificate shall be submitted for all materials supplied by the Contractor. If, however, in the opinion of the Engineer-in-Charge/Site-in-Charge any tests are required to be conducted on the material supplied by the Contractor, these will be arranged by the Contractor promptly at his own cost.

## 8. PAYMENT OF CLAIMS AND DAMAGES

- 8.1. Should the Owner have to pay money in respect of claims or demands as aforesaid the amount so paid and the costs incurred by the Owner shall be charged to and paid by the Contractor and the Contractor shall not be entitled to dispute or question the right of the Owner to make such payments notwithstanding the same may have been without his consent or authority or in law or otherwise to the contrary.

- 8.2. In every case in which by virtue of the provisions of Workmen's Compensation Act, 1923, or other Acts, the Owner is obliged to pay Compensation to a Workman employed by the Contractor in execution of the works, the Owner will recover from the Contractor the amount of compensation so paid and without prejudice to the rights of Owner under the said Act. Owner shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due to the Contractor whether under this contract or otherwise. The Owner shall not be bound to contest any claim made under Section 12 sub section (1) of the said Act, except on the written request of the Contractor and upon his giving to the Owner full security for all costs for which the owner might become liable in consequence of contesting such claim.

### 8.a. ACTION AND COMPENSATION IN CASE OF BAD WORK

If it shall appear to the Engineer-in-Charge/Site-in-Charge that any work has been executed with bad, imperfect or unskilled workmanship, or with materials, or that any materials or articles provided by the Contractor for execution of the work are not of standards specified/inferior quality to that contracted for, or otherwise not in accordance with the contract, the CONTRACTOR shall on demand in writing from the Engineer-in-Charge/Site-in-Charge or his authorised representative specifying the work, materials or articles complained of, notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith rectify or remove and reconstruct the work so specified and at his own charge and cost and expenses and in the event of failure to do so within a period of 15 days of such intimation/information/knowledge, the Contractor shall be liable to pay compensation equivalent to the cost of reconstruction by the Owner. On expiry of 15 days period mentioned above, the Owner may by themselves or otherwise rectify or remove and re-execute the work or remove and replace with others, the materials or articles complained of as the case may be at the risk and expenses in all respects of the Contractor. The decision of the Engineer-in-Charge/ Site-in-Charge as to any question arising under this clause shall be final and conclusive and shall not be raised as a dispute or shall be arbitrable.



#### 8.b. INSPECTION AND AUDIT OF CONTRACT AND WORKS

This project is subject to inspection by various Government agencies of Government of India. The contractor shall extend full cooperation to all the Government and other agencies in the inspection of the works, audit of the Contract and the documents of Contract Bills, measurements sheets etc. etc. and examination of the records of works and make enquiries interrogation as they may deem fit, proper and necessary. Upon inspection etc. by such agencies if it is pointed out that the contract work has not been carried out according to the prescribed terms and conditions as laid down in the tender documents and if any recoveries are recommended, the same shall be recovered from the contractors running bills/final bill/from ordered/suggested Security Deposit/retention money. The Contractor shall not rise any dispute on any such account and the same shall not be arbitrable.

#### 9. CONTRACTOR TO INDEMNIFY THE OWNER

The Contractor shall indemnify the Owner and every member, officer and employee of the Owner, also the Engineer-in-Charge/Site-in-Charge and his staff against all the actions, proceedings, claims, demands, costs, expenses, whatsoever arising out of or in connection with the works and all actions, proceedings, claims, demands, costs, expenses which may be made against the Owner for or in respect of or arising out of any failure by the Contractor in the performance of his obligations under the contract. The Contractor shall be liable for or in respect of or in consequence of any accident or injury to any workmen or other person in the employment of the Contractor or his sub contractor and Contractor shall indemnify and keep indemnified the Owner against all such damages, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

#### 10. LIQUIDATED DAMAGES

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- i) In case of any delay in completion of the work beyond the CDD, the Owner shall be entitled to be paid Liquidated Damages by the Contractor.  
The liquidated damages shall be initially at the rate of 0.5% (half percent) of the total contract value for every week of the delay subject to a maximum of 5% of the total contract value. The liquidated damages shall be recovered by the Owner out of the amounts payable to the Contractor or from any Bank Guarantees or Deposits furnished by the Contractor or the Retention Money retained from the Bills of the Contractor, either under this contract or any other contract.**
  - ii) The Contractor shall be entitled to give an acceptable unconditional Bank Guarantee in lieu of such a deduction if Contractor desires any decision on a request for time extension.**
  - iii) Once a final decision is taken on the request of the Contractor or otherwise, the LD shall be applicable only on the basic cost of the contract and on each full completed week(s) of delay (and for part of the week, a pro-rata LD amount shall be applicable).**



- iv) **This final calculation of LD shall be only on the value of the unexecuted portion/quantity of work as on the CDD.**
- v) **Contractor agrees with the Owner, that the above represents a genuine pre-estimate of the damages which the Owner will suffer on account of delay in the performance of the work by Contractor. The Contractor further agrees that the LD amount is over and above any right which owner has to risk purchase under Clause 12.4 and any right to get the defects in the work rectified at the cost of the contractor.**

#### **11. DEFECTS AFTER TAKING OVER OR TERMINATION OF WORK CONTRACT BY OWNER**

The Contractor shall remain responsible and liable to make good all losses or damages that may occur/appear to the work carried out under this Contract within a period of 12 months from date of issue of the Completion Certificate and/or the date of Owner taking over the work, whichever is earlier. The Contractor shall issue a Bank Guarantee to the Owner in the sum of 10% of the work entrusted in the Contract, from any nationalised Bank acceptable to the Owner and if however, the Contractor fails to furnish such a Bank Guarantee the Owner shall have right to retain the Security Deposit and Retention Money to cover the 10% of the Guarantee amount under this clause and to return/refund the same after the expiry of the period of 12 months without any interest thereon.

#### **12. TERMINATION OF CONTRACT**

- 12.1 The owner may terminate the contract at any stage of the construction for reasons to be recorded in the letter of termination.
- 12.2 The Owner inter alia may terminate the Contract for any or all of the following reasons that the contractor
  - a) has abandoned the work/Contract.
  - b) has failed to commence the works, or has without any lawful excuse under these conditions suspended the work for 15 consecutive days.
  - c) has failed to remove materials from the site or to pull down and replace the work within 15 days after receiving from the Engineer written notice that the said materials or work were condemned and/or rejected by the Engineer under specified conditions.
  - d) has neglected or failed to observe and perform all or any of the terms acts, matters or things under this Contract to be observed and performed by the Contractor.
  - e) has to the detriment of good workmanship or in defiance of the Engineer's instructions to the contrary sub-let any part of the Contract.
  - f) has acted in any manner to the detrimental interest, reputation, dignity, name or prestige of the Owner.



- g) has stopped attending to work without any prior notice and prior permission for a period of 15 days.
- h) has become untraceable.
- i) has without authority acted in violation of the terms and conditions of this contract and has committed breach of terms of the contract in best judgement of the owner.
- j) has been declared insolvent/bankrupt.
- k) in the event of sudden death of the Contractor.

12.3 The owner on termination of such contract shall have the right to appropriate the Security Deposit, Retention Money and invoke the Bank Guarantee furnished by the contractor and to appropriate the same towards the amounts due and payable by the contractor as per the conditions of Contract and return to the contractor excess money, if any, left over.

**12.4 In case of Termination of the contract, Owner shall have the right to carry out the unexecuted portion of the work either by themselves or through any other contractor(s) at the risk and cost of the Contractor. In view of paucity of time, Owner shall have the right to place such unexecuted portion of the work on any nominated contractor(s). However, the overall liability of the Contractor shall be restricted to 100 % of the total contract value.**

12.5 The contractor within or at the time fixed by the Owner shall depute his authorised representative for taking joint final measurements of the works executed thus far and submit the final bill for the work as per joint final measurement within 15 days of the date of joint final measurement. If the contractor fails to depute their representative for joint measurement, the owner shall take the measurement with their Engineer-in-Charge/Site-in-Charge or any other outside representatives. Such a measurement shall not be questioned by the Contractor and no dispute can be raised by the Contractor for purpose of Arbitration.

12.6 The Owner may enter upon and take possession of the works and all plant, tools, scaffoldings, sheds, machinery, power operated tools and steel, cement and other materials of the Contract at the site or around the site and use or employ the same for completion of the work or employ any other contractor or other person or persons to complete the works. The Contractor shall not in any way object or interrupt or do any act, matter or thing to prevent or hinder such actions, other Contractor or other persons employed for completing and finishing or using the materials and plant for the works. When the works shall be completed or as soon thereafter the Engineer shall give a notice in writing to the Contractor to remove surplus materials and plant, if any, and belonging to the Contractor except as provided elsewhere in the Contract and should the Contractor fail to do so within a period of 15 days after receipt thereof the Owner may sell the same by public auction and shall give credit to the contractor for the amount realised. The Owner shall thereafter ascertain and certify in writing under his hand what (if anything) shall be due or payable to or by the Owner for the value of the plant and materials so taken possession and the expense or loss which the Owner shall have been put to in procuring the works, to be so completed, and the amount if any, owing to the



Contractor and the amount which shall be so certified shall thereupon be paid by the Owner to the Contractor or by the Contractor to the Owner, as the case may, and the Certificate of the Owner shall be final and conclusive between the parties.

12.7 When the contract is terminated by the Owner for all or any of the reasons mentioned above the Contractor shall not have any right to claim compensation on account of such termination.

### 13. FORCE MAJEURE

13.1. Any delay in or failure of the performance of either part hereto shall not constitute default hereunder or give rise to any claims for damage, if any, to the extent such delays or failure of performance is caused by occurrences such as Acts of God or an enemy, expropriation or confiscation of facilities by Government authorities, acts of war, rebellion, sabotage or fires, floods, explosions, riots, or strikes. The Contractor shall keep records of the circumstances referred to above and bring these to the notice of the Engineer-in-Charge/Site-in-Charge in writing immediately on such occurrences. The amount of time, if any, lost on any of these counts shall not be counted for the Contract period. Once decision of the Owner arrived at after consultation with the Contractor, shall be final and binding. Such a determined period of time be extended by the Owner to enable the Contractor to complete the job within such extended period of time.

13.2. If Contractor is prevented under this Agreement by or delayed from the performing any of its obligations Force Majeure, then Contractor shall notify Owner the circumstances constituting the Force Majeure and the obligations performance of which is thereby delayed or prevented, within seven days of the occurrence of the events.

### 14. ARBITRATION

14.1 All disputes and differences of whatsoever nature, whether existing or which shall at any time arise between the parties hereto touching or concerning the agreement, meaning, operation or effect thereof or to the rights and liabilities of the parties or arising out of or in relation thereto whether during or after completion of the contract or whether before after determination, foreclosure, termination or breach of the agreement (other than those in respect of which the decision of any person is, by the contract, expressed to be final and binding) shall, after written notice by either party to the agreement to the other of them and to the Appointing Authority hereinafter mentioned, be referred for adjudication to the Sole Arbitrator to be appointed as hereinafter provided.

**®14.2 The appointing authority shall either himself act as the Sole Arbitrator or nominate some officer/retired officer of Indian Strategic Petroleum Reserves Limited (referred to as owner or ISPRL) or a retired officer of any other Government Company in the Oil Sector of the rank of Ch. Manager & above or any retired officer of the Central Government not below the rank of a Director, to act as the Sole Arbitrator to adjudicate the disputes and differences between the parties. The contractor/vendor shall not be entitled to raise any objection to the appointment of such person as the Sole Arbitrator on the ground that the said person is/was an officer and/or shareholder of the owner, another Govt.**





Company or the Central Government or that he/she has to deal or had dealt with the matter to which the contract relates or that in the course of his/her duties, he/she has/had expressed views on all or any of the matters in dispute or difference.

- 14.3 In the event of the Arbitrator to whom the matter is referred to, does not accept the appointment, or is unable or unwilling to act or resigns or vacates his office for any reasons whatsoever, the Appointing Authority aforesaid, shall nominate another person as aforesaid, to act as the Sole Arbitrator.
- 14.4 Such another person nominated as the Sole Arbitrator shall be entitled to proceed with the arbitration from the stage at which it was left by his predecessor. It is expressly agreed between the parties that no person other than the Appointing Authority or a person nominated by the Appointing Authority as aforesaid, shall act as an Arbitrator. The failure on the part of the Appointing Authority to make an appointment on time shall only give rise to a right to a Contractor to get such an appointment made and not to have any other person appointed as the Sole Arbitrator.
- 14.5 The Award of the Sole Arbitrator shall be final and binding on the parties to the Agreement.
- 14.6 The work under the Contract shall, however, continue during the Arbitration proceedings and no payment due or payable to the concerned party shall be withheld (except to the extent disputed) on account of initiation, commencement or pendency of such proceedings.
- 14.7 The Arbitrator may give a composite or separate Award(s) in respect of each dispute or difference referred to him and may also make interim award(s) if necessary.
- ®14.8 The fees of the Arbitrator and expenses of arbitration, if any, shall be borne equally by the parties unless the Sole Arbitrator otherwise directs in his award with reasons. **The lumpsum fees of the Arbitrator shall be Rs. 40,000/- per case for transportation contracts and Rs. 60,000/- for engineering contracts and if the sole Arbitrator completes the arbitration including his award within 5 months of accepting his appointment, he shall be paid Rs. 10,000/- additionally as bonus. Reasonable actual expenses for stenographer, etc. will be reimbursed. Fees shall be paid stagewise i.e. 25% on acceptance, 25% on completion of pleadings/documentation, 25% on completion of arguments and balance on receipt of award by the parties**
- 14.9 Subject to the aforesaid, the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof and the rules made thereunder, shall apply to the Arbitration proceedings under this Clause.
- 14.10 The Contract shall be governed by and constructed according to the laws in force in India. The parties hereby submit to the exclusive jurisdiction of the Courts situated at New Delhi for all purposes. The Arbitration shall be held at New Delhi and conducted in English language.
- 14.11 The Appointing Authority is the Functional Director of Indian Strategic Petroleum Reserves Limited.

(Note:- \* = While printing the GTCs, each Purchasing Authorities at various location, may



mention the correct place before printing the GTC and not leave Clause 14.10 blank or as stated above. Bracketed portion is to be removed.

**15. GENERAL**

- 15.1. Materials required for the works whether brought by the \_\_\_\_\_ or supplied by the Owner shall be stored by the \_\_\_\_\_ contractor only at places approved by Engineer-in-Charge/Site-in-Charge. Storage and safe custody of \_\_\_\_\_ the material shall be the responsibility of the Contractor.
- 15.2. Owner \_\_\_\_\_ and/or \_\_\_\_\_ Engineer-in-Charge/Site-in-Charge connected with the contract, shall be entitled at any time to inspect and examine any materials intended to be used in or on the works, either on the site \_\_\_\_\_ or at factory \_\_\_\_\_ or workshop or at other place(s) manufactured \_\_\_\_\_ or at any places where these are laying or from \_\_\_\_\_ which these are being obtained and the contractor shall give \_\_\_\_\_ facilities as may be required for such inspection and examination.
- 15.3. In case of any class of work for which there is no such specification supplied by the owner as is mentioned in \_\_\_\_\_ the tender documents, such work shall be carried out in accordance with Indian Standard Specifications and if \_\_\_\_\_ the Indian Standard Specifications do not cover the same \_\_\_\_\_ the work should be carried out as per \_\_\_\_\_ standard Engineering practice subject to the approval of \_\_\_\_\_ the Engineer-in-Charge/Site-in-Charge.
- 15.4. Should the work be suspended by reason of rain, strike, \_\_\_\_\_ lockouts \_\_\_\_\_ or other cause the contractor shall take all precautions necessary for the protection \_\_\_\_\_ of the work and at his own expense shall make good any damages arising \_\_\_\_\_ from \_\_\_\_\_ any of these causes.
- 15.5. The contractor shall cover up and protect from injury from \_\_\_\_\_ any cause all new work also for supplying all temporary doors, protection to windows and \_\_\_\_\_ any other requisite protection for the whole of the works executed whether by himself or special tradesmen or sub- contractors and any damage caused must be \_\_\_\_\_ made good by the contractors at his own expense.
- 15.6. If the contractor has quoted the items under the deemed exports, then it will be the responsibility of the contractor to get all the benefits under deemed exports from the Government. The Owner's responsibility shall only be limited to the issuance of required certificates. The quotation will be unconditional and phrases like "subject to availability of deemed exports benefit" etc. will not find place in it.
- ®16. Integrity Pact : Effective 1<sup>st</sup> September, 2007, all tenders and contracts shall comply with the requirements of the Integrity Pact (IP) if the value of such tenders or contracts exceed Rs.1 crore. Failure to sign the Integrity Pact shall lead to outright rejection of bid.