

Request for Proposal
For
**Improvements of Roads/Foot Path/
Traffic Junctions (Package-I)**
on
DESIGN, BUILD AND OPERATE BASIS

Volume III : General Conditions of Contract



Doc. No.: 10477A-CV-3055-3601

GENERAL CONDITIONS OF CONTRACT

1. Security Deposit

All compensation or other sums of money payable by the Contractor to GSCL under the terms of his contract may be deducted from or paid by the sale of a sufficient part of his Security Deposit, or from interest arising there from, or from any sums, which may be due or may become due to the Contractor by GSCL on any account whatsoever, and in the event of his Security Deposit being reduced by reason of any such deduction or sale as aforesaid, the Contractor shall within ten days thereafter, make good in cash or Bank Guarantee of Nationalised bank, as aforesaid, any sum or sums which may have been deducted from or raised by sale of his Security Deposit or any part thereof. In case of Bank Guarantee of any Nationalised Bank is furnished by the Contractor to GSCL, as part of the Security Deposit and the bank goes into liquidation or, for any reason is unable to make payment against the said Bank Guarantee, the loss caused thereby shall fall on the Contractor and the Contractor shall forthwith, on demand, furnish additional security to GSCL to make good the deficit. The liability or obligation of the bank under the Guarantee Bond shall not be affected or suspended by any dispute between the Engineer-in-Charge and the Contractor, and the payment, under the Guarantee Bond by the bank to GSCL shall not wait till disputes are decided. The bank shall pay the amount under the Guarantee, without any demur, merely on a demand from GSCL stating that the amount claimed is required to meet the recoveries due or likely to be due from the Contractor.

The demand, so made, shall be conclusive as regards to amount due and payable by the bank, under the guarantee limited to the amount specified in the Guarantee Bond. The guarantee will not be discharged due to the change in the constitution of the Bank or the contractor. The Bank Guarantee shall remain valid upto the specified date unless extended on demand by the Engineer-in-Charge which shall include the period of completion of the contract and the defect removal period as per terms of the Agreement. Bank's liability shall stand automatically discharged unless a claim in writing is lodged with the Bank within the period stated in the Bank Guarantee including the extended period. After satisfactory completion of the contract and clearance of all dues by the Contractor, GSCL will discharge the Bank Guarantee after expiry of the original or the extended period, as the case may be. In case the date of expiry of the Bank Guarantee is a holiday, it will be deemed to expire on the close of the next working day. Authority is not concerned with any interest accruing to

the Contractor on any form of Security (primary or collateral) lodged by him with the bank or any sums payable to sureties obtained by the Bank as counter guarantee to secure its own position. This will matters between the Bank and the Contractor

The Security deposit shall be forfeited in any of the following cases:

- (a) If the successful Contractor modifies/ withdraws its Proposal
- (b) If the Contractor withdraws its Proposal during the interval between the Proposal due Date and expiration of the Proposal Validity Period; or
- (c) If the Successful Contractor fails to provide the Performance Security within the stipulated time or any extension thereof provided by GSCL or
- (d) If any information or document furnished by the Contractor turns out to be misleading or untrue in any material respect.

2. Compensation for delay

The time allowed for carrying out the work as entered in the proposal, shall be strictly observed by the Contractor. If the Contractor does not commence the work within the period specified in the work order, he shall stand liable for the forfeiture of the amount of Earnest Money and Security Deposit. Besides, appropriate action may be taken by the Engineer-in- Charge/Competent authority to debar him from taking part in future proposals for a specified period or black list him. The work shall, throughout the stipulated period of completion of the contract, be proceeded with all due diligence, time being essence of the contract, on the part of the Contractor.

3. Extension of time

If the Contractor shall desire an extension of the time for completion of the work on the ground of his having been unavoidably hindered in its execution or on any other grounds, he shall apply, in writing, to the Engineer-in-Charge within 5 working days for each location of the date of the hindrance, on account of which he desires such extension as aforesaid, and the Authority Competent to grant extension under the rules / delegations of power or other duly authorized Engineer shall, if in his opinion, (which shall be final) reasonable grounds be shown therefore, authorize such extension of time, if any, as may, in his opinion, be necessary or proper, if the period of completion of contract expires before the expiry of the period of 5 days provided in this clause, the application for extension shall be made before the expiry of the period stipulated for completion of the contract.

4. Work to be open to inspection: Contractor to be present

All work, under or in course of execution or executed in pursuance of the contract shall, at

all times, be opened to inspection and supervision of the GSCL, and his subordinates and any other authorized agency of GSCL and 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 or his subordinate and any other authorized agency of GSCL 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.

5. Settlement of Disputes

5.1. Amicable Resolution:

- (a) Save where expressly stated contrary to this terms and conditions and the RFP, any dispute, difference or controversy of whatever nature between the parties, howsoever arising under, out of or in relation to this Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth below.
- (b) Either Party may require such Dispute to be referred to the Chairperson, GSCL, and the Chief Executive Officer/Partner of the Contractor for the time being, for amicable settlement. In respect of disputes of a technical nature the Parties may engage an Expert.

Upon such reference, the two shall meet at the earliest mutual convenience and in any event within 15 days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 (fifteen) days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of Article below.

5.2. Arbitration:

In case, a dispute is referred to arbitration, the arbitration shall be under the Arbitration and Conciliation Act (Amendment Act), 2015 and any statutory modification or re-enactment thereof. If during the subsistence of this Contract or thereafter, any dispute between the Parties hereto arising out of or in connection with the validity, interpretation, implementation, material breach or any alleged material breach of any provision of this Contract or regarding any question, including as to whether the termination of this Contract by one Party hereto has been legitimate, the Parties hereto shall endeavour to settle such dispute amicably and/or by Conciliation to be governed by the Arbitration and Conciliation Act, 1996 or as may be agreed to between the Parties. The attempt to bring about an amicable settlement is considered to have failed as soon as one of the Parties hereto, after reasonable attempts; which attempt shall continue for not less than thirty (30) days, gives thirty (30) day notice to refer the dispute to arbitration to the other Party in writing.

The Arbitration proceedings shall be governed by the Arbitration and Conciliation Act (Amendment Act), 2015 and any statutory modification or re-enactment thereof. The Arbitration proceedings shall be held in Guwahati in Assam State, India.

The Arbitration proceeding shall be governed by the substantive laws of India. The proceedings of Arbitration shall be in Hindi/English language. Except as otherwise provided elsewhere in the contract if any dispute, difference, question or disagreement arises between the parties hereto or their respective representatives or assignees, at any time in connection with construction, meaning, operation, effect, interpretation or out of the contract or breach thereof the same shall be referred to a Tribunal of three (3) Arbitrators, constituted as per the terms of and under the (Indian) Arbitration and Conciliation Act 2015,. Each party to the contract shall appoint/ nominate one Arbitrator each, the two Arbitrators so appointed/ nominated by the Parties herein shall together choose the third Arbitrator, who shall be the Presiding Arbitrator of the Tribunal. The consortium of the three Arbitrators shall form the Arbitral Tribunal.

In case, a party fails to appoint an arbitrator within 30 days from the receipt of the request to do so by the other party or the two Arbitrators so appointed fail to agree on the appointment of third Arbitrator within 30 days from the date of their appointment upon request of a party, the Chief Justice of the Guwahati High Court or any person or institution designated by him shall appoint the Arbitrator/Presiding Arbitrator upon request of one of the parties.

Any letter, notice or other communications dispatched to contractor relating to either arbitration proceeding or otherwise whether through the post or through a representative on the address last notified to the Authority by Contractor shall be deemed to have been received by Contractor although returned with the remarks, refused 'undelivered' where about not known or words to that effect or for any other reasons whatsoever

If the Arbitrator so appointed dies, resigns, incapacitated or withdraws for any reason from the proceedings, it shall be lawful for the Authority to appoint another person in his place in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor had left if both parties consent for the same; otherwise, he shall proceed de novo.

It is a term of the contract that the party invoking arbitration shall specify all disputes to be referred to arbitration at the time of invocation of arbitration and not thereafter.

It is also a term of the contract that neither party to the contract shall be entitled for any interest on the amount of the award. The Arbitrator shall give reasoned award and the same shall be final, conclusive and binding on the parties.

The fees of the arbitrator, costs and other expenses incidental to the arbitration proceedings shall be borne equally by the parties.

6. Definition of Engineer-in-charge

The term “Engineer-in-charge” means the Designated person of GSCL who shall supervise and be in charge of the work on behalf of GSCL.

7. Contractor to adhere to labour laws/regulation

7.1. The Contractor shall adhere to the requirements of the Workmen's Compensation Act and Labour Legislation in force from time to time and be responsible for and shall pay any compensation to his workmen which would be payable for injuries under the Workmen's Compensation Act, here-in-after called the said Act. If such compensation is paid by the State as Principal employer under Sub Section (1) of section 12 of the said Act, on behalf of the Contractor it shall be recoverable by the State from the Contractor under Sub Section (2) of the said section.

7.2. Registration under Tax, Labour Laws, Electrical Laws, etc.

7.3. The Applicant should have a registered number of:

- i. VAT / Sales Tax where his business is located;
- ii. Service Tax;
- iii. Income Tax PAN;
- iv. The ESI & EPF registration as per Labour Laws;
- v. Registration of other Labour Licenses, as applicable

8. Cost of Water connection, execution of work

The cost of all water connections, necessary for the execution of work, and the cost of water consumed and hire charges of meters and the cost of electricity consumed in connection with the execution of work, shall be paid by the Contractor on commercial rates, except where otherwise specifically indicated.

9. Fair Wage Clause

(a) The Contractor shall pay not less than fair wages/minimum wages to labourers engaged by him on the work as revised from time to time by Authority, but Authority shall not be liable to pay anything extra for it .

Explanation: “Fair Wage” means minimum wages for time or piece work, fixed or revised, , under Minimum Wages Act, 1948 (Amended in 2015).

- (b) The Contractor shall notwithstanding the provisions of any contract to the contrary, cause to be paid fair wages to labourers indirectly engaged on the work, including any labour engaged by his sub-Contractor in connection with the said work as if the labourers have been immediately or directly employed by him.
- (c) In respect of all labourers immediately or directly employed on the work, for the purpose of the Contractor part of this agreement, the Contractor shall comply with or cause to be complied Authorities' Contract's Labour Regulations made, or that may be made by Authority, from time to time, in regard to payment of wages, wages period, deductions from wages, recovery of wages not paid, and unauthorized deductions, maintenance of wages register, wage card, publication or scale of wages and other terms of employment, inspection and submission of periodical returns and other matters of a like nature.
- (d) The Engineer-in-charge shall have right to deduct from the security money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers, by reasons of non-fulfilment of the conditions of the contract, for the benefit of the worker or workers, non-payment of wages or of deductions made there from, which are not justified by the terms of the contract, or as a result of non-observance of the aforesaid regulations.
- (e) GSCL, the Contractor shall be primarily liable for all payments to be made and for the observance of the regulations aforesaid, without prejudice to his right to claim indemnity from his sub-Contractor.
- (f) The regulations, aforesaid, shall be deemed to be part of this contract and any breach, thereof, shall be deemed to be breach of the Contract.

10. Safety code

The Contractor shall follow the safety code (s) of Authority and as specified in special conditions of contract.

11. Retired Gazetted Officers barred for 2 years

No Engineer of Gazetted rank or other Gazetted officer, employed in Engineering or Administrative duties in GSCL or Government of Assam, is allowed to work as a Contractor for a period of 2 years of his retirement from Government service without the previous permission of GSCL /Government of Assam. This contract is liable to be cancelled, if either the Contractor or any of his employee is found, at any time, to be such a person, who had not obtained the r e q u i s i t e permission, as aforesaid, before submission of the proposal or engagement in the Contractor's service, as the case may be.

12. Quality Control

Authority(GSCL) shall have the right to exercise proper Quality Control measures. The Contractor shall provide all assistance to conduct such tests.

13. Force Majeure

Neither party shall be liable to each other, for any loss or damage, occasioned by or arising out of acts of God such as unprecedented floods, volcanic eruptions, earthquake or other invasion of nature and other acts.

14. Jurisdiction of court

In the event of any dispute arising between the parties hereto, in respect of any of the matters comprised in this agreement, the same shall be settled by a competent Court having jurisdiction over the place, where agreement is executed and by no other court, after completion of proceedings.

15. Operation & Maintenance

- a) The Contractor shall operate and maintain the the tendered works in accordance with the RFP.
- b) The Contractor shall, during the Operations Period:
 - i. Have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project Facilities, to deal with the personnel deployed by GSCL for monitoring proper operations and maintenance of the Project, consistent with requirements of the RFP, and to be responsible for all necessary exchange of information required pursuant to this Agreement;
- c) The Contractor shall be deemed to be in material breach of requirements of the RFP, if GSCL , acting reasonably and in accordance with the provisions of this Agreement, has determined that due to breach of its obligations by the Contractor ,
 - i. The maintenance of the Tendered works or any part thereof has deteriorated to a level which is below the acceptance level prescribed by the RFP;
 - ii. There has been a serious or persistent breach in adhering to the requirements of the RFP;
- d) Upon occurrence of a Material Breach of requirements of the RFP, GSCL shall, without prejudice to and notwithstanding any other consequences provided therefore under this Agreement, be entitled to terminate this Agreement

SPECIAL CONDITIONS OF CONTRACT (PART- A).

1. DEFINITIONS

- i. **“GSCL”** means the Guwahati Smart City Limited.
- ii. **“Materials”** means things of all kinds (other than equipment) intended to form or forming part of the permanent works, including the supply of materials to be supplied by the Contractor under the contract.
- iii. **“Equipment”** means the apparatus, machinery, articles and things of all kinds to be provided under the contract or intended to form or forming part of the permanent works.
- iv. **“Contractors documents”** means the calculations, drawings, manuals, models, other software, drawings, manuals, models and other documents of the technical nature supplied by the Contractor under the contract.
- v. **“Specifications”** means the specification according to which the works are to be executed as referred to in the agreement documents and any other specifications agreed thereon.
- vi. **“Authorized Representative”** refers to Representative Appointed by GSCL
- vii. **“Contract rate(s)”** means the item rate quoted in the proposal/or for which acceptance is given later by the Applicant.
- viii. **“Scope of Work”** means the Improvement of Roads consisting of Up gradation and Augmentation of Foot path & Traffic Junctions and other Miscellaneous works along with Operation and Maintenance of Tendered works for Period of Five Years on Design, Build, Operate Basis for Guwahati smart city. However the general principals given in the scope of work in Volume II and the specifications shall be applicable for all work orders given.
- ix. **“Contract Period”** Means the duration from Commencement Date upto satisfactory Completion of Operation and Maintenance Period.

2. COMMUNICATION BETWEEN GSCL AND THE CONTRACTOR

2.1. Addresses for notices

Notices with legal and contractual issues shall be addressed to the Managing Director, Guwahati Smart City Limited, Statfed Building, Bhangagarh, Guwahati-781005

All certificates, notices given by the Contractor under terms of the contract shall be sent by post, courier, email, or fax to or left at the office of the Managing Director, Guwahati Smart City Limited, Statfed Building, Bhangagarh, Guwahati-781005 only.

All certificates, notices or instructions to be given to the Contractor by the Authority under the terms of the contract shall be sent by post, courier, email, or fax to or left at the Contractors principal address or the addresses as the Contractor shall indicate for this purpose only. It shall be essential for the Contractor to obtain a receipt of authorized officer otherwise the notice shall be treated as “null and void”.

3. CONTRACT

3.1. Priority of contract

The documents forming part of the agreement are to be taken as mutually explanatory documents of one another.

In case there is a contradiction between the sections, the below hierarchy of sections in order of precedence:

1. The Contract Agreement (including addenda, clarification, when signed by all parties concerned)
2. The Letter of Acceptance
3. Volume III Special Conditions of Contract
4. Volume III : General Conditions of Contract
5. Volume II : Works Requirement / Technical Specification
6. The Bid (accepted Price Proposal)
7. Bid Drawings
8. Completed Technical Schedules
9. Bidder's Technical Proposal other than Completed Technical Schedules
10. Any other documents issued by the Employer before signing the Contract Agreement and forming the part of the Contract

3.2. Agreement

Successful Bidder shall to execute an agreement in the prescribed form on non-judicial stamp paper of **Rs. 100 or as revised by GSCL** on the date of agreement, with the any other officer authorized by GSCL within a period of 10 days of the date of issue of letter of acceptance/ work order. The expenses of completing and stamping the agreement shall be paid by Contractor. The successful bidder shall submit following documents with proposal/agreement.

- (i) All pages of the letter of acceptance copy including amendment and terms & conditions of the NIT duly signed.
- (ii) Notarized copy of Article of Associations and Memorandum/ Partnership deed
- (iii) In case of partnership firm, notarized copy of registration certificate issue by registrar of firms.
- (iv) Notarized copy of power of attorney to authorized signatory to execute agreement and copy of resolution of directors of board (in case of limited company). Power of Attorney should be signed by all partners in case of partnership firm (if not provided with proposal).

- (v) Copy of valid S.T. clearance certificate attested by notary public valid at the time of opening of first envelope (if not provided with proposal).
- (vi) Copies of list of fixed assets and balance sheet duly notarized (if not provided with proposal) for the latest preceding financial year for which returns have been submitted.

4. MONTHLY REPORTS AND MEETINGS

4.1. Monthly reports

Monthly progress reports shall be prepared by the Contractor and submitted to the GSCL. The first report shall cover the period up to the end of the first calendar month following the commencement date. Reports shall be submitted monthly thereafter, each within two working days after the last day of the month to which it related.

Reporting shall continue during both construction and operation period. Each report shall include the following but shall not be limited to:

The reporting format shall be developed by the Contractor in consultation with the Engineer-in-charge (and consultants appointed if any) within 10 days of commencement. In consultation with Authority, the report format may evolve as required during the course of execution.

4.2. Meetings

Meetings shall be held in the office of Engineer-in-Charge or at other places as mutually fixed in advance. The proposed agenda for the meetings shall be exchanged at least two days in advance. It is required that a decision-maker of the Contractor is present at the meetings so that binding decisions can be taken about outstanding issues. Generally, the following issues shall be discussed.

- I. Progress of the work, difficulties
- II. Revision of time schedule
- III. Payment issues
- IV. Disputes
- V. Claims

5. Contractor's general obligations

The Contractor shall be responsible for Improvement of Roads consisting of Up gradation and Augmentation of Foot path & Traffic Junctions and other Miscellaneous works along with Operation and Maintenance of Tendered works for Period of Five Years on Design, Build, Operate Basis as per Employers requirement and Specification given in Tender document

After the satisfactory completion and commissioning of all tendered works, the Contractor is required to take-up the O&M of the as per the scope of work as approved by GSCL .

5.2. Contractor's Representative

The Contractor shall appoint the Contractor's representative in consultation with the GSCL and shall give them all authority necessary to act on the Contractor's behalf under the contract. He shall similarly submit the name and particulars of other persons appointed for the work. The Contractor shall not, without the prior consent of the GSCL, revoke the appointment of the Contractor's representative or appoint a replacement. The Contractor's representative shall, on behalf of the Contractor, receive instructions. The Contractor's representative may delegate any powers, functions, and authority to any person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the GSCL has received prior notice signed by the Contractor's representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

5.3. Setting out

The Contractor shall set up the works in relation to original points, lines and levels of reference specified in the RFP.

5.4. The Safety Procedures

The Contractor shall:

- i. Comply with all applicable safety regulations,
- ii. Take care for the safety of all person's entitled to be on the site,
- iii. Choose reasonable efforts to keep the site and work clear of Unnecessary obstruction so as to avoid danger to these persons,
- iv. Provide any temporary works (including road ways, foot ways, guards and fences) which may be necessary, because of the execution of works, for the use and protection of the public and of owners and occupy a server adjacent land.

5.5. Quality Assurance

In addition to the provisions of agreement of general conditions of contract, the Contractor shall institute a quality assurance system to demonstrate compliance with requirements of the RFP. The system shall be in accordance with the details stated in the contract and the **quality assurance program will be got approved from the competent authority**. GSCL shall be **entitled to audit any aspect** of the system.

Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the contract.

5.6. Un-Foreseeable Difficulties

- (a) The Contractor shall be deemed to have obtained all necessary information as to risk, contingencies and other circumstances that may influence or affect the works;
- (b) By signing the contract, the Contractor accepts the total responsibility for having sustained all difficulties and costs of successfully completing the work
- (c) The contract rates shall not be adjusted to take account of any unforeseen difficulties or costs.

5.7. Rights of Way And Facilities

The Contractor shall bear all costs and charges for special and/or temporary rights of way, which he may require, including those for access to the site. The Contractor shall also obtain, at risk and costs, any additional facilities outside the side which he may require further purposes of the works.

5.8. Avoidance of Interference

The Contractor shall not interfere unnecessarily or improperly with:

- (a) the convenience of the public, or
- (b) In the access to and use and occupation of all roads and other land, irrespective of whether they are public or in the possession, of the GSCL or others. The Contractor shall indemnify and hold the GSCL free against any form of damages, losses and expenses (including legal fees and expenses) resulting from any omission or commission of Contractor during the period of the concession.

5.9. Security of The Site

Unless otherwise stated in particular conditions:

- (a) The Contractor shall be responsible for keeping unauthorized persons off the site offices, campus etc. within the scope of work and
- (b) Authorized person's shall be limited to the Contractor personnel and the GSCL's personnel; and to any other personnel notified to the Contractor, by (or on behalf of) the GSCL

5.10. Contractor's operations On-Site

The Contractor shall confine his operations to the site, and to any additional areas which may be obtained by the Contractor and agreed by the GSCL as working areas. The Contractor shall take all necessary precautions to keep Contractor's equipment and Contractor personnel within the site and these additional areas, and to keep them off adjacent land. The Contractor shall keep the site free from all unnecessary obstruction, and shall store or dispose of any Contractor's equipment or

surplus materials. The Contractor shall clear away and remove from the site any wreckage, rubbish and temporary works which are no longer required.

6. REFUND OF SECURITY DEPOSIT

The security deposit submitted by the Successful Bidder would be released upon furnishing of the Performance Security in the form and manner stipulated in the Agreement

7. OPERATION AND MAINTENANCE MANUALS

Prior to the commencement of the tests on completion, the Contractor shall supply to the GSCL provisional operation & maintenance manuals in sufficient detail. The work shall not be considered to be completed for the purposes of completion of works until the GSCL has received final operation & maintenance manuals in such detail.

8. PERFORMANCE GUARANTEE OF SERVICES

The bidder shall guarantee that all the works executed shall comply with the agreed requirements and operate satisfactorily at the time of commissioning and thereafter during Operation and Maintenance period and also at that time of handing over, with the desired performance level.

9. Bank Guarantee against Performance of Contract

(Performance Guarantee)

Bidder has to provide contract performance guarantee in the form of Bank guarantee as mentioned in Contract

10. FORFEITURE OF SECURITY DEPOSIT (PERFORMANCE SECURITY)

Security amount in full or part may be forfeited in the following cases:-

- a) When any terms and conditions of the contract is breached.
- b) When the Applicant fails to make complete work/ O&M satisfactorily.

11. CHANGE IN CONSTITUTION OF FIRM

- (a) Any change in the constitution of the firm/company etc. shall be notified forthwith by the firm in writing to the GSCL within a period of 30 days from the date of its occurrence & such changes shall not relieve any new member or the member of the firm at the time of proposal from any liability under the contract.
- (b) No new partner/partners shall be accepted in the firm/company by the Applicant in respect of the contract unless he/they agree(s) to abide by all its terms and conditions and deposit with the GSCL on a written agreement to this effect. The firm's receipt of acknowledgement

or that of any partner(s) subsequently accepted as above shall bind all of them and will be sufficient to discharge any liability under this contract

12. REPUDIATION OF CONTRACT

The contract can be repudiated at any time by the GSCL after giving an opportunity to the Contractor of being heard, if the work is not completed or maintained to its satisfaction. The reasons for repudiation shall be recorded by the GSCL.

13. LEGAL PROCEEDINGS

All Legal proceedings, if necessary arises to institute may by any of the parties (Government or Contractor) shall have to be lodged in Court situated in Guwahati and not elsewhere.

14. FAILURE OR BREACH OF CONTRACT

In case of breach of the contract, full/part of Performance guarantee can be forfeited and the action against defaulting firms may be taken like Black listing, suspension of business, banning of business etc. along with termination of the contract by GSCL, without any compensation to the Contractor.

15. TERMINATION

15.1. Contractor's default

The GSCL shall be entitled to terminate this Contract for the following reasons attributable to the Bidder, unless arising as a result of a Force Majeure Event,

- b) Non-performance of material obligations or failure to perform material obligations under this Contract i.e. for not maintaining the desired output parameters of bio tank
- c) Not providing timely repairs and Maintenance during Operation and Maintenance Period Not providing the required lab & testing facilities or if it is established that the intentional false reporting is done by the Contractor
- d) Repeated non-performance even after giving notices.

15.2. Consequences of termination by GSCL

If the GSCL, with reasonable grounds, terminates the contract, the Security Deposit (Performance Security) and any other sums of the Contractor with the GSCL, shall be forfeited and action shall be taken against him as per General Conditions of Contract, if deemed appropriate.

16. INDEMNIFICATION

The Contractor to indemnify the GSCL against the following:

- (a) The Contractor shall at its own expense make good any physical loss or damage t occasioned by it in the course of the performance of its obligations under this Contract if and to the extent such loss or damage is caused by the wilful misconduct or failure to follow Good Engineering Practices of the Contractor,
- (b) The Bidder shall indemnify, defend and hold harmless the GSCL and its officers, employees, agents and affiliates against any and all claims of loss, damage and expense of whatever kind and nature, including all related costs and expenses incurred in connection therewith, in respect of personal injury to or death of third parties and in respect of loss of or damage to any third party to the extent that the same arises out of:
 - (ii) Any breach by the Contractor of its obligations here under,
 - (iii) Any negligent act or omission on the part of the Contractor, its subcontractors or their respective agents or employees, and
 - (iv) Any wilful misconduct or breach of statutory duty on the part of the Bidder, its subcontractors or their respective agents and employees.
 - (v) Any other event where such indemnification has been expressly mentioned in this Conditions of Contract for Operation and Maintenance.

17. PLANNING ,DESIGNING AND EXECUTION OF THE WORKS

The Contractor shall carry out, and be responsible for the design of the Works, including any site surveys, subsoil investigations, materials testing, and all other things necessary for proper planning and design.

With 10 days from Award of work, the Contractor shall start submitting drawings, construction documents, etc., for review and approval by the Employer's Representative. The Contractor will be fully responsible for ensuring that its designs, drawings, and construction documents satisfy all requirements for constructing Works that are complete and fully functional in all respects.

The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the exact as-built locations, sizes and details of the work as executed. These records shall be kept on the Site and Two sets of such records shall be Submitted to Employer.

In addition, the Contractor shall supply to the Employer's Representative as-built drawings of the Works, showing all Works as executed.

Contractor shall be responsible for Preparing Baseline Programme , upon acceptance of the Baseline Programme by the GSCL, the Contractor shall adhere to it strictly. The Contractor shall ensure that preparation, updating and revision of programme of works are carried out by experienced and qualified personnel.

18. ELECTRIC POWER SUPPLY

The Contractor shall make all the necessary arrangement for procurement of electric power required for the work. The Contractor shall submit his requirement of Electric Power Supply for carrying out permanent works, operating plants and equipments, labourers camp and field offices etc., as a part of his work plan. If necessary the employer will issue the necessary certificates, letters of recommendation etc., to the Contractor for obtaining the power supply. However, the employer shall accept no responsibility for any delays in obtaining the power connections. In addition, the Contractor shall maintain standby diesel generators of adequate capacity. Non-availability of electric power will not be considered as a reason for delay in progress.

19. WATER SUPPLY FOR CONSTRUCTION, LABOUR CAMPS, OFFICES ETC.

The Contractor shall make all necessary arrangements for the procurement of water required for construction and labour. The employer shall issue on request from contractor, the necessary certificates, letters of recommendation etc., for obtaining the necessary permissions. The employer shall assume no responsibility for delay in progress due to delay in obtaining the permissions. The Contractor may drill bore wells as a source of construction water. The water shall be got tested by the Contractor at approved laboratory at his own expense and certificates regarding the suitability for construction shall be submitted to the Engineer's Representative regularly as per his requirements.

20. TELEPHONES / WIRELESS COMMUNICATION FACILITIES

These will be arranged by Contractor at his own cost. The employer shall give the necessary certificates and letters of recommendation if necessary etc., to the Contractor.

21. LAND FOR TEMPORARY USE

Land for labour camps, storage yards temporary site sheds, batching plant, casting yard shall be arranged by the contractor at the site or nearby plot with the consent of EIC/ GSCL at his own cost.

22. CONTRACTOR'S MATERIALS, LABOUR ETC.

The Contractor shall provide everything necessary for the proper execution of the works according to the intent and meaning of the Drawings, Notes, and Specifications taken together, whether the same is or is not particularly shown or described therein; provided the same can be reasonably enforced there from. If the Contractor finds any discrepancy therein he shall immediately and in writing refer the same to the Engineer's Representative. The decision of the Engineer's Representative shall be final and binding on the Contractor. Figured dimensions shall be followed and the drawings shall not be scaled from.

23. MATERIALS:

1. Steel, cement and other materials necessary for execution of this work shall not be supplied by GSCL (GSCL) and same shall be procured by the contractor at his own cost. Procurement of and testing certificates for cement and reinforcement steel round bars or high yield strength steel deformed bars as required shall be arranged by the contractor at his own cost from standard, reputed manufacturers only as per approved list. The contractor shall submit statement of sources for procurement of materials. The suitability of the same for the required quality, quantity, transport facilities etc. may be ascertained by the tenderer themselves before tendering and rates be quoted accordingly.
2. Procurement of all constructional materials as required shall be arranged by the contractor at his own cost from standard, reputed manufacturers / suppliers as may be approved by the client. The royalty receipts, Challans etc., shall have to be submitted by the contractor from time to time to the GSCL.
3. The contractor will have to make his own arrangement for plants, equipments, machineries to be used in the execution of this work well in time after award of the contract.

24. TEMPORARY DIVERSIONS, MAINTANENCE OF SAME AND TRAFFIC MANAGEMENT

The Contractor shall be responsible for Temporary diversion and Traffic Management during execution of works

25. OPPORTUNITIES AND FACILITIES FOR OTHER CONTRACTORS AGENCIES ETC.

The Contractor shall, in accordance with the requirements of the Engineer's Representative afford all reasonable opportunities for carrying out their work to any other Contractors employed by the Employer and their workmen and to the workmen of the Employer and of any other duly constituted authorities who may be employed in the execution on or near the site of any work not included in the Contract or of any contract which the Employer may enter into in connection with or ancillary to the works. If, however, the Contractor shall on the written request of the Engineer or Engineer's representative make available to any such other Contractor or to the Employer or any such authority any roads or ways for the maintenance of which the Contractor is responsible or permit the use of by any such of the Contractor's scaffolding or any other plant on the site or provide any other service of whatsoever nature, for any such the Employer shall pay to the Contractor in respect of such use of service such sum or sums as shall in the opinion of the Engineer be reasonable.

26. ENVIRONMENTAL SAFEGUARDS

The Contractor shall take action of following points and note the stipulations as under as regards environmental safeguards as stipulated by the Ministry of Environment and Forests.

26.1 Appropriate measures shall be undertaken while undertaking digging activities to avoid degradation of water quality.

26.2 Borrow pits and other scars created during the road construction shall be properly levelled and treated.

26.3 Adequate provision for infrastructures facilities, i.e. water supply, fuel, sanitation, etc. shall be ensured for labourers during construction period in order to avoid damage to the environment.

26.4 No excavation from or dumping of waste materials into any water body / wetlands shall be done.

26.5 Borrow sites for earth, quarry sites for road construction and dump site shall be Identified keeping in view:

a) No excavation or dumping on private property is carried out without written consent of the owner.

- b) No excavation or dumping shall be allowed or wetlands, forests areas or other ecologically valuable or sensitive locations.
- c) The excavation work shall be done in consultation with soil conservation and watershed development agencies working in the area:
- d) Construction spoil/soil including bituminous material and other hazardous material must not be allowed to contaminate water course and the dump sites for such materials must be identified well in advances before construction and lined properly so that they do not leach into the ground water.
- e) Any approvals required for the same shall be arranged by the contractor.

27. SITE OFFICE

Contractor shall have to establish well furnished Site Office for his supervisory Staff and for project meetings with Client / Consultant. Site Office shall be as approved by the Client

28. SHIFTING OF UTILITIES

- (a) Contractor is required to liaison with concerned department for identifying exact location of the utility services. Any damages by the contractor while carrying outwork to the utilities shall be repaired at his own cost.
- (b) Deposits / Supervision charges levied by Govt. dept. & paid by the contractor for the purpose of shifting of utilities shall be reimbursable after due assessment, verification and scrutiny except for street light poles, set of signal poles, road signs/sign boards & consumer connection for water connections(Domestic/commercial).

29. REMOVAL / DIVERSION OF UTILITY SERVICE

If the over ground / underground utility services like electric poles, telephone poles, water supply pipe lines, sewer lines, oil pipe lines, cables, gas ducts etc. owned by various authorities including Public Undertakings and local authorities shall be diverted by the Contractor. In case in the opinion of the Engineer it is not possible to divert the utilities, the Contractor shall make necessary modifications in the structure at no extra cost to the client.

30. UTILITY SERVICES

The Bidder shall coordinate with Utility Providers for proper Shifting/ Relocating of the Utilities. The work shall be carried as per approval of Utility Provider. All the Charges required for Shifting / relocating of Utilities shall be included in the Quoted Rate and the Contractor shall not be paid extra for the same

31. TAXES

The rates to be quoted by the tenderer shall be inclusive of all taxes like VAT, sales tax, labor, construction cess, income tax, duties, etc., including such other taxes, duties, tolls, octroi, freshly levied taxes under any rules and no claim whatsoever in this context shall be entertained.

32. IMPACT OF GST LAW

If any change in existing tax liability is created , the same shall be reimbursed/recovered to/from the contractor, on proof of payments.

33. LABOUR EMPLOYMENT

The Contractor shall furnish to the Engineer-in-charge every week during the progress of the works classified weekly returns of the number of the people employed on the work during the week. The report of skilled and unskilled labors shall be given in the prescribed form. The contractor shall have to obtain labor license from concerned Government department and shall have to submit to Employer.

The contractor shall strictly observe all the requirements laid down in the contract labour (Regulation and Abolition) Act, 1979 and the and other acts as amended from time to time so far as applicable.

34. TREASURE TROVE

In the event of the discovery by the Contractor or his employees during the progress of the works of any treasure, coins, antiquities, fossils, minerals or other articles or things of value or interest, whether geological, archaeological or any other such treasure or other things shall be deemed to be the absolute property of client.

The contractor shall take all reasonable precautions to prevent his workmen or any other persons from removing such things as above and shall immediately upon discovery thereof and before

removal, acquaint the Engineer-in-charge/ GSCL of such discovery and carry out his orders as to the disposal of the same which will be at the contractor's expense.

35. INSURANCE FOR WORKS

The Contractor shall effect and maintain at its own cost the insurances as per the requirements of Authority and Law. Within 10 (Ten) days from the commencement date, the Contractor shall furnish to the GSCL notarised true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty-five) days after notice of such proposed cancellation, modification or nonrenewal has been delivered by the Contractor to the GSCL. The Contractor shall act in accordance with the directions of the GSCL, provided that the Contractor shall produce to the GSCL the insurance policies in force and the receipts for payment of the current premium. Insurance shall be for the entire duration of Contract i.e including Operation and Maintenance period.

The Contractor shall effect and maintain during the Agreement insurance against accident to Workers as maybe required to insure the Contractor's personnel and any other persons employed by it on the Work from and against any liability incurred. The Contractor's personnel/any person employed by the Contractor shall include the Sub-contractor and its personnel

36. Defects Liability Period

Defects Liability period shall be for Five Years after satisfactory completion of all works and issuance of Completion certificate.

The Contractor shall repair or rectify all Defects and deficiencies observed by the Authority during the Defects Liability Period within reasonable period as may be determined by the Authority

In the event that the Contractor fails to repair or rectify such Defect or deficiency within the period specified, the Authority shall be entitled to get the same repaired, rectified or remedied at the Contractor's cost so as to make the Work conform to the Specifications and Standards and the provisions of this Agreement.

37. Interim and Final Payment Certificate

Interim Payment : Contractor shall submit monthly payment certificate for the work executed. Payment shall be made no later than 30 (thirty) days from the date of submission of such Interim Payment Statement by the Contractor to the Authority for certification subject to, the submission being not required to be referred back to contractor for corrections. All these running bills shall be accompanied by satisfactory , third party, quality test reports, third party inspections if any and meeting all specifications.

Final Payment : After completion of all works and on issuance of Completion certificate, the Contractor shall submit Final payment certificate to the Authority. Payment shall be made not later than 60 days from date of submission of Final payment certificate

38. Payment during Operation and Maintenance

Contractor shall quote for yearly Operation and Maintenance Charges. The same shall be paid on Quarterly instalments year wise (i.e after every 3 months) only after satisfying the maintenance requirement as approved by GSCL.

39. ADDITIONAL CONDITIONS

- (a) Any damage caused to either private or public property, services, structures etc. shall be made good by Contractor without any extra cost to the employer
- (b) Contractor need to ensure proper and adequate traffic safety signboards, barricades, lighting at night shall be displayed during day and night to ensure that no accidents take place.
- (c) Contractor shall submit Quality Assurance plan based on ISO 9000 series document to form the basis evolving the quality system, applicable for all quality related activities.
- (d) No excavated material shall allowed to be stacked on roadside/ footpaths/public premises without written permission from competent authority.
- (e) Whenever new drains are constructed, the flow in the old drain will have to be suitably diverted to maintain the continuity of flow.

40. GENERAL INFORMATION

Canvassing in connection with the tender is strictly prohibited, and such canvassed tenders submitted by the contractor will be liable to be rejected and his earnest money shall be absolutely forfeited.

On acceptance of the tender, the name of the accredited representative of the contractor who will be responsible for taking instructions from the Executive Engineer shall be communicated to the Executive Engineer in writing.

GSCL reserves the right to engage suitable Project Management Consultant &/or third Party Inspection agency to Engineering Review, monitor & supervise the said work. PMC-TPI will performs its duties caring out jobs as per scope of works /TOR of RFP proposed by GSCL. The selected contractor has to submit DBR (design basis report), drawings etc. to GSCL -PMC and to take approval well in advance before start of the work. The selected contractor has to submit all the details ,drawings and materials ,which is essential to carry out the assignment/project for the better performance to the GSCL ,along with the set of copies to PMC –TPI also.

Tenders which do not fulfill all or any of conditions or are submitted incomplete in any respect will be rejected. GSCL, Reserves the rights to increase / decrease the scope of work and contract without assigning any reason thereof. No claim to that effect shall be entertained.

Conditional tenders will not be accepted and will be rejected outright.

In case of any dispute or clarification in specification of any tender items the decision of GSCL shall be final.

No advance such as machinery advance, mobilization advance or materials advance will be given.(Except specified in the tender). The technical bid shall be opened first on due date and time as mentioned above. The time and date of opening of financial bid of contractors qualifying the technical bid shall be communicated to them later on.