



# **SECTION - IV**

# **GENERAL CONDITIONS OF CONTRACT (GCC)**

## TABLE OF CONTENTS

### [A] DEFINITIONS:

1. DEFINITION OF TERMS

### [B] GENERAL INFORMATIONS:

2. GENERAL INFORMATION
  - 2.1.a LOCATION OF SITE
  - 2.1.b ACCESS BY ROAD
- 2.2 SCOPE OF WORK
- 2.3 WATER SUPPLY
- 2.4 POWER SUPPLY
- 2.5 LAND FOR CONTRACTOR'S FIELD OFFICE, GODOWN & WORKSHOP
- 2.6 LAND FOR RESIDENTIAL ACCOMODATION

### [C] ADDITIONAL GENERAL INSTRUCTION TO BIDDERS:

3. DOCUMENTS
  - 3.1 CORRECTIONS & ERASURES
  - 3.2 WITNESS
  - 3.3 DETAILS OF EXPERIENCE
  - 3.4 LIABILITY OF GOVERNMENT OF INDIA
4. TRANSFER OF TENDER DOCUMENTS
5. RIGHT OF EMPLOYER TO ACCEPT OR REJECT TENDER
6. TIME SCHEDULE
7. CONFLICTS OF INTEREST AND BIDDER'S RESPONSIBILITY
8. RETIRED GOVERNMENT OR COMPANY OFFICERS
9. FIELD MANAGEMENT & CONTROLLING/ CO-ORDINATING AUTHORITY
10. NOTE TO SCHEDULE OF RATES
  - 11.1 POLICY FOR TENDERS UNDER CONSIDERATION
  - 11.2 ZERO DEVIATION
12. CLARIFICATION OF TENDER DOCUMENT
13. LOCAL CONDITIONS
14. ABNORMAL RATES

### [D] GENERAL OBLIGATIONS:

- 15.1 PRIORITY OF CONTRACT DOCUMENTS
- 15.2 HEADING & MARGINAL NOTES
- 15.3 SINGULAR AND PLURAL
- 15.4 INTERPRETATION
16. SPECIAL CONDITIONS OF CONTRACT
17. CONTRACTOR TO OBTAIN HIS OWN INFORMATION
18. TIME OF PERFORMANCE
  - 18.1 TIME FOR MOBILIZATION
  - 18.2 TIME SCHEDULE OF CONSTRUCTION
19. FORCE MAJEURE
  - 19.1 CONDITIONS FOR FORCE MAJEURE
  - 19.2 OUTBREAK OF WAR
20. LIQUIDATED DAMAGES (LD)
21. RIGHTS OF EMPLOYER TO FORFEIT CONTRACT PERFORMANCE SECURITY
22. FAILURE BY THE CONTRACTOR TO COMPLY WITH THE PROVISIONS OF

- THE CONTRACT
23. CONTRACTOR REMAINS LIABLE TO PAY COMPENSATION IF ACTION NOT TAKEN UNDER CLAUSE 29
  24. CHANGE IN CONSTITUTION
  - 25.1 TERMINATION OF CONTRACT FOR LIQUIDATION, BANKRUPTCY ETC.
  - 25.2 TERMINATION OF CONTRACT FOR NON-PERFORMANCE AND SUBSEQUENTLY PUTTING THE CONTRACTOR ON HOLIDAY
  26. MEMBERS OF THE EMPLOYER/ OWNER NOT INDIVIDUALLY LIABLE
  27. EMPLOYER NOT BOUND BY PERSONAL REPRESENTATIONS
  28. CONTRACTOR'S OFFICE AT SITE
  29. CONTRACTOR'S SUBORDINATE STAFF AND THEIR CONDUCT
  30. SUBLETTING OF WORKS
  - 30.1 SUB CONTRACTS FOR TEMPORARY WORKS ETC.
  - 30.2 LIST OF SUB-CONTRACTORS TO BE SUPPLIED
  - 30.3 CONTRACTOR'S LIABILITY NOT LIMITED BY SUB-CONTRACTORS
  - 30.4 EMPLOYER MAY TERMINATE SUB CONTRACTS
  - 30.5 NO REMEDY FOR ACTION TAKEN UNDER THIS CLAUSE
  31. POWER OF ENTRY
  32. CONTRACTOR'S RESPONSIBILITY WITH OTHER CONTRACTORS & AGENCIES
  33. OTHER AGENCIES AT SITE
  34. NOTICES
  - 34.1 TO THE CONTRACTOR
  - 34.2 TO THE EMPLOYER/ OWNER
  35. RIGHTS OF VARIOUS INTERESTS
  36. PATENTS AND ROYALTIES
  37. LIENS
  38. DELAYS BY EMPLOYER OR HIS AUTHORIZED REPRESENTATIVES
  39. PAYMENTS IF CONTRACT IS TERMINATED
  40. NO WAIVER OF RIGHTS
  41. CERTIFICATE NOT TO AFFECT RIGHT OF EMPLOYER AND LIABILITY OF CONTRACTOR
  42. LANGUAGES & MEASURES
  43. TRANSFER OF TITLE
  44. RELEASE OF INFORMATION
  45. BRAND NAMES
  46. COMPLETION OF CONTRACT
  47. SPARES

**[E] PERFORMANCE OF WORK:**

48. EXECUTION OF WORK
49. CO-ODINATION AND INSPECTION OF WORK
50. WORK IN MOSOON & DEWATERING
51. WORK ON SUNDAYS AND HOLIDAYS
52. GENERAL CONDITIONS FOR CONSTRUCTION & ERECTION WORK
53. ALTERATIONS IN SPECIFICATION, DESIGN & EXTRA WORK
54. DRAWINGS TO BE SUPPLIED BY THE EMPLOYER
55. DRAWINGS TO BE SUPPLIED BY THE CONTRACTOR
56. SETTING OUT WORKS
57. RESPONSIBILITY FOR LEVELS AND ALIGNMENT
58. MATERIALS TO BE SUPPLIED BY CONTRACTOR
59. STORES SUPPLIED BY EMPLOYER/ OWNER
60. CONDITIONS FOR ISSUE OF MATERIAL
61. MATERIALS PROCURED WITH ASSISTANCE OF EMPLOYER/ RETURN OF SURPLUS
62. MATERIALS OBTAINED FROM DISMANTLING

63. ARTICLES OF VALUE FOUND
64. DISCREPANCIES BETWEEN INSTRUCTIONS
65. ACTION WHERE NO SPECIFICATION IS ISSUED
66. INSPECTION OF WORKS
67. TESTS FOR QUALITY OF WORKS
68. SAMPLES FOR APPROVAL
69. ACTION & COMPENSATION IN CASE OF BAD WORK
70. SUSPENSION OF WORK
71. EMPLOYER/ OWNER MAY DO PART OF WORK
72. POSSESSION PRIOR TO COMPLETION
73. DEFECTS LIABILITY PERIOD
- 73.1 LIMITATION OF LIABILITY
74. CARE OF WORKS
- 74.1 DEFECTS PRIOR TO TAKING OVER
- 74.2 DEFECTS AFTER TAKING OVER
75. GUARANTEE/ TRANSFER OF GUARANTEE
76. TRAINING OF EMPLOYER'S/ OWNER'S PERSONNEL
77. REPLACEMENT OF DEFECTIVE PARTS & MATERIALS
78. INDEMNITY
79. CONSTRUCTIONS AIDS, EQUIPMENTS, TOOLS & TACKLES

**[F] CERTIFICATES AND PAYMENTS:**

80. SCHEDULE OF RATES AND PAYMENTS
- 80.1 CONTRACTOR'S REMUNERATION
- 80.2 SCHEDULE OF RATES TO BE INCLUSIVE
- 80.3 SCHEDULE OF RATES TO COVER CONSTRUCTION EQUIPMENT, MATERIALS LABOUR ETC.
- 80.4 SCHEDULE OF RATES TO COVER ROYALTIES, RENTS & CLAIMS
- 80.5 SCHEDULE OF RATES TO COVER TAXES AND DUTIES
- 80.6 SCHEDULE OF RATES TO COVER RISK OF DELAY
- 80.7 SCHEDULE OF RATES CANNOT BE ALTERED
81. PROCEDURE FOR MEASUREMENT AND BILLING
- 81.1 BILLING PROCEDURE
- 81.2 SECURED ADVANCE ON MATERIALS
- 81.3 DISPUTE IN MODE OF MEASUREMENT
- 81.4 ROUNDING OF AMOUNTS
82. LUMPSUM IN TENDER
83. RUNNING ACCOUNT PAYMENTS TO BE REGARDED AS ADVANCES
84. NOTICES OF CLAIMS FOR ADDITIONAL PAYMENTS
85. PAYMENT OF CONTRACTOR'S BILLS
86. RECEIPT FOR PAYMENT
87. COMPLETION CERTIFICATE
- 87.1 APPLICATION FOR COMPLETION CERTIFICATE
- 87.2 COMPLETION CERTIFICATE
- 87.3 COMPLETION CERTIFICATE DOCUMENTS
88. FINAL DECISION AND FINAL CERTIFICATE
89. CERTIFICATE AND PAYMENTS ON EVIDENCE OF COMPLETION
90. DEDUCTION FROM CONTRACT PRICE

**[G] TAXES AND INSURANCE:**

91. GOODS & SERVICE TAX (GST)/TAXES
92. GST/ TURNOVER TAX
93. STATUTORY VARIATIONS

- 94. INSURANCE
  - 94.1 EMPLOYEES STATE INSURANCE ACT
  - 94.2 WORKMEN COMPENSATION AND EMPLOYEE'S LIABILITY INSURANCE
  - 94.3 ACCIDENT OR INJURY TO WORKMEN
  - 94.4 TRANSIT INSURANCE
  - 94.5 AUTOMOBILE
  - 94.6 GENERAL LIABILITY
  - 94.7 ANY OTHER INSURANCE REQUIRED UNDER LAW OR REGULATIONS
- 95. DAMAGE TO PROPERTY OR TO ANY PERSON OR ANY THIRD PARTY

**[H] LABOUR LAWS:**

- 96. LABOUR LAWS
- 97. IMPLEMENTATION OF APPRENTICES ACT 1961
- 98. CONTRACTOR TO INDEMNIFY THE EMPLOYER/ OWNER
- 99. HEALTH AND SANITARY ARRANGEMENT FOR WORKERS

**[I] APPLICABLE LAWS AND SETTLEMENT OF DISPUTES:**

- 100. ARBITRATION
- 101. JURISDICTION

**[J] SAFETY CODES:**

- 102. GENERAL
- 103. SAFETY REGULATIONS
- 104. FIRST AID AND INDUSTRIAL INJURIES
- 105. GENERAL RULES
- 106. CONTRACTOR'S BARRICADES
- 107. SCAFFOLDING
- 108. EXCAVATION AND TRENCHING
- 109. DEMOLITION/ GENERAL SAFETY
- 110. CARE IN HANDLING INFLAMMABLE GAS
- 111. TEMPORARY COMBUSTIBLE STRUCTURES
- 112. PRECAUTIONS AGAINST FIRE
- 113. EXPLOSIVES
- 114. MINES ACT
- 115. PRESERVATION OF PLACE
- 116. OUTBREAK OF INFECTIOUS DISEASES
- 117. USE OF INTOXICANTS

## Preamble

This Section (Section - IV) of the Bidding Documents [named as General Conditions of Contract (GCC)] provides the performance of the Contractor, payments under the contract or matters affecting the risks, rights and obligations of the parties under the contract. This Section contains provisions that are to be used unchanged unless Section - V [named as Special Conditions of Contract (SCC)] states otherwise as any changes in GCC or any complementary information that may be needed has been shown in SCC. If there is a conflict between the provisions of Section - IV & Section - V, the provisions of Section - V shall prevail.

Bidders may note that the respective rights of the Employer/ Owner and Bidders/ Contractors shall be governed by the Tender Documents/ Contracts signed between the Employer/ Owner and the Contractor for the respective package(s). The provisions of Tender Documents shall always prevail over any other documents in case of contradiction.

Further in all matters arising out of the provisions of this Section - IV and the Section - V of the Tender Documents, the laws of the Union of India shall be the governing laws and courts of New Delhi shall have exclusive jurisdiction.

## [A] DEFINITIONS

### 1. Definition of Terms:

- 1.1 In this **TENDER** (as here-in-after defined) the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise required.
- 1.1.1 **AFFILIATE** shall mean a company that either directly or indirectly
- a. controls or
  - b. is controlled by or
  - c. is under common control with
- a Bidding Company and "control" means ownership by one company of at least twenty six percent (26%) of the voting rights of the other company.
- 1.1.2 **APPROVED** shall mean approved in writing including subsequent written confirmation of previous verbal approval and "APPROVAL" means approval in writing including as aforesaid.
- 1.1.3 **APPOINTING AUTHORITY** for the purpose of arbitration shall be the any person so designated by the Employer/ Owner.
- 1.1.4 **ASSOCIATE** means a party who has been conjoined by the Contractor to independently execute a pre-selected part of facilities of the Contract and grant him the associated Contractual rights and obligations, without diluting the overall responsibility of the Contractor in respect of the Facilities under the Contract.
- 1.1.5 **ARBITRATOR** means the person or persons appointed by agreement between the Employer and the Contractor to make a decision on or to settle any dispute or difference between the Employer and the Contractor referred to him or her by the parties.
- 1.1.6 **B.I.S.** means specifications of Bureau of Indian Standards (BIS).
- 1.1.7 **BID** means the Techno Commercial and Price Bid submitted by the Bidder along with all documents/ credentials/ attachments/ annexure etc., in response to the Tender, in accordance with the terms and conditions hereof.
- 1.1.8 **BID CAPACITY** means the capacity offered by the bidder in his Bid under Tender Document.
- 1.1.9 **BIDDER** means Bidding Company/ Expert submitting the Bid. Any reference to the Bidder includes Bidding Company/ Experts including its successors, executors and permitted assigns as the context may require.
- 1.1.10 **CAPACITY UTILIZATION FACTOR (CUF)** means the ratio of the actual output from a solar plant over the year (kWh) to the maximum possible output from it for a year (kWh) under ideal conditions.
- CUF = Actual Plant Output in kWh over the year / (Installed Plant Capacity in kW x 365 x 24).  
Monthly CUF = Monthly Plant output in kWh / (installed plant capacity in kW x number of days in a month x 24).
- 1.1.11 **CAPEX MODEL** shall mean, the bidder enters into an Agreement with the rooftop owner at the quoted project cost as per Tender Documents for the Scope of work not limited to that indicated in the Tender as per mutually agreed terms and conditions. This model also allows energy sale.



- 1.1.12 **CEA** means the Central Electricity Authority.
- 1.1.13 **CHARTERED ACCOUNTANT** means a person practicing in India or a firm whereof all the partners practicing in India as a Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949.
- 1.1.14 **COLLABORATOR** or **PARENT COMPANY** means the firms/ corporations who has provided technological support to the manufacturer for establishing production line for the specific Equipment.
- 1.1.15 **COMPANY** means a body incorporated in India under the Companies Act, 1956 or Companies Act, 2013 including any amendment thereto.
- 1.1.16 **CONTRACT** shall mean the Agreement between the Employer/ Owner and the Contractor for the execution of the works including therein all Contract documents.
- 1.1.17 **CONTRACTOR/ SUCCESSFUL BIDDER/ PROJECT DEVELOPER** means the person or the persons, Company or Corporation whose Tender has been accepted by the Employer/ Owner and includes the Contractor's legal representatives his/ her successors and permitted assigns.
- 1.1.18 **CONTRACT DOCUMENTS** mean collectively the Tender Documents, Designs, Drawings, Specification, Schedule of Quantities and Rates, Notification of Award/ Letter of Intent/ Letter of Acceptance and agreed variations if any, and such other documents constituting the Tender and acceptance thereof.
- 1.1.19 **CONTRACTOR'S EQUIPMENT** means all plant, facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Facilities that are to be provided by the Contractor, but does not include Plant and Equipment, or other things intended to form or forming part of the Facilities.
- 1.1.20 **CONTRACTOR'S REPRESENTATIVE** means any person nominated by the Contractor and approved by the Employer to perform the duties delegated by the Contractor.
- 1.1.21 **CONSULTANT** means Techno-Commercial experts who are the consulting engineer to the Employer/ Owner for this project.
- 1.1.22 **CONSTRUCTION EQUIPMENT** means all appliances/ equipment and things whatsoever nature for the use in or for the execution, completion, operation, or maintenance of the work or temporary works (as here in after defined) but does not include materials or other things intended to form or to be incorporated into the work, or camping facilities.
- 1.1.23 **COMMISSIONING** shall mean pressing into service of the system including the plant(s), equipment(s), machinery(ies), or any other section or sub-section of installation(s) pertaining to the work of the Contractor after successful testing and trial runs of the same. Commissioning can be either for a completed system or a part of system of a combination of systems or sub-systems and can be performed in any sequence as desired by Employer/ Owner and in a manner established to be made suited according to availability of pre-requisites. Any such readjustments made by Employer/ Owner in performance of Commissioning activity will not be construed to be violating Contract provisions and Contractor shall be deemed to have provided for the same.
- 1.1.24 **COMPLETION** means that the Facilities have been completed operationally and structurally and put in a tight and clean condition and that all works in respect of pre-commissioning of the Facilities has been completed (wherever required, as per Technical Specifications) and Commissioning followed by Trial - Operation has been completed.



- 1.1.25 **COMMERCIAL OPERATION DATE (COD)** means date after which all testing and commissioning has been completed and is the initiation date for the plant handover for the Operation & Maintenance work.
- 1.1.26 **COMPLETION CERTIFICATE** shall mean the certificate to be issued by the Engineer-in-Charge when the works have been completed entirely in accordance with Contract Documents to his satisfaction.
- 1.1.27 **CONTROLLING OFFICER** means the authorized controlling person/ body of the respective department appointed by the Employer/ Owner to perform the duties delegated by the Employer/ Owner.
- 1.1.28 **CHANGE ORDER** means an order given in writing by the Engineer-in-Charge to effect additions to or deletion from and alteration in the works.
- 1.1.29 **DAY** means a day of 24 hours from midnight to midnight irrespective of the number of hours worked in that day.
- 1.1.30 **DEFECT LIABILITY PERIOD/ WARRANTY PERIOD** in relation to a work/ supply means the specified period from the date of Completion Certificate/ date of receipt of material up to the date of issue of Final Certificate during which the Contractor/ Supplier stands responsible for rectifying all defects/ rejection that may appear in the works executed by the Contractor in pursuance of the Contract and includes warranties against Manufacturing/ Fabrication/ Erection/ Construction defects covering all materials plants, equipment, components and the like supplied by the Contractor, works executed against workmanship defects.
- 1.1.31 **DRAWINGS** shall include maps, plans and tracings or prints or sketches thereof with any modifications approved in writing by the Engineer-in-Charge and such other drawing as may, from time to time, be furnished or approved in writing by the Engineer-in-Charge.
- 1.1.32 **EARNEST MONEY DEPOSIT (EMD)** means the unconditional and irrevocable Tender Security in the form of Demand Draft/ Banker's Cheque/ Bank Guarantee to be submitted along with the Bid by the Bidder as prescribed in the Tender.
- 1.1.33 **EMPLOYER** means the Company/ Corporation/ Government Entity, named in the **BDS/ SCC**, who is responsible for getting the Facilities implemented. The Employer may be Owner himself or an agency appointed by the Owner and shall include the legal successors or permitted assigns of the Employer.
- 1.1.34 **ENGINEER/ ENGINEER-IN-CHARGE** shall mean the person designated from time to time by the Employer/ Owner and shall include those who are expressly authorized by him to act for and on his behalf for operation of this Contract as defined in the SCC.
- 1.1.35 **EFFECTIVE DATE** means the date of issuance of Notification of Award/ Letter of Intent/ Letter of Allocation from which the Time for Completion shall be determined.
- 1.1.36 **EVALUATED BID VALUE (EBV)** means the Evaluated Price derived from the Total Price quoted by the Bidder for the indicated scope of work against the subject Tender inclusive of GST or as described under the Tender document.
- 1.1.37 **EVALUATED BID VALUE PER MILLION UNITS (EBVMU)** means the Evaluated Bid Price derived by division of Evaluated Bid Value with Quoted Annual Generation.

- 1.1.38 **FACILITY(IES)** means the Plant and Equipment to be supplied and installed, as well as all the Installation Services to be carried out by the Contractor under the Contract.
- 1.1.39 **FINAL CERTIFICATE** in relation to a work means the certificate regarding the satisfactory compliance of various provision of the Contract by the Contractor issued by the Engineer-in- Charge/ Employer after the period of liability is over.
- 1.1.40 **GOODS & SERVICE TAX (GST)** is an indirect tax throughout India to replace taxes levied by the central and state governments. Goods & Services Tax is a comprehensive, multi-stage, destination-based tax that will be levied on every value addition.
- 1.1.41 **GUARANTEE TEST(S)** means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Technical Specifications during/ after successful Commissioning followed by Trial - Operation.
- 1.1.42 **IEC** means specifications of International Electro-Technical Commission.
- 1.1.43 **INSTALLATION SERVICES** means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Contractor under the Contract; e.g., transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor's Equipment and the supply of all construction materials required), installation, testing, precommissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training, etc.
- 1.1.44 **kWp** means Kilo-Watt Peak.
- 1.1.45 **kWh** shall mean Kilo-Watt-hour.
- 1.1.46 **LANGUAGE FOR DRAWINGS AND INSTRUCTION** All the drawings, titles, notes, instruction, dimensions, etc. shall be in English Language only.
- 1.1.47 **LETTER OF ALLOCATION (LOA)/ LETTER OF INTENT (LOI)** shall mean intimation vide Letter/ E-mail to Bidder(s) indicating allocated capacity/ quantity that the Tender has been accepted in accordance with the provisions contained in the letter.
- 1.1.48 **LEVELLIZED TARIFF** means the tariff offered by the Bidder for the Scope of work subject to the maximum levlized tariff as indicated in the Tender Documents.
- 1.1.49 **MILLION UNITS (MU)** means the quantum of Energy produced in kWh within a specified period wherein One Million (1,000,000) is equal to the natural number following 999,999 and preceding 1,000,001.
- 1.1.50 **MNRE** means Ministry of New and Renewable Energy, Government of India.
- 1.1.51 **MOBILIZATION** shall mean establishment of sufficiently adequate infrastructure by the Contractor at Site comprising of construction equipments, aids, tools tackles including setting of site offices with facilities such as power, water, communication etc. establishing manpower organization comprising of Resident Engineers, Supervising Personnel and an adequate strength of skilled, semi-skilled and un-skilled workers, who with the so established infrastructure shall be in a position to commence execution of work at site(s), in accordance with the agreed Time Schedule of Completion of Work. Mobilization shall be considered to have been achieved, if the Contractor is able to establish infrastructure as per Time Schedule, where so warranted in accordance with agreed schedule of work implementation to the satisfaction of Engineer-in-Charge/ Employer/ Owner.

- 1.1.52 **METRIC SYSTEM** - All technical documents regarding the construction of works are given in the metric system and all work in the project should be carried out according to the metric system. All documents concerning the work shall also be maintained in the metric system.
- 1.1.53 **NET-WORTH** shall have same meaning as defined in Company Act 2013 and Amendment, if any.
- 1.1.54 **NOTICE IN WRITING OR WRITTEN NOTICE** shall mean a notice in written, typed or printed characters sent (unless delivered personally or otherwise proved to have been received by the addressee) by registered post to the latest known private or business address or registered office of the addressee and shall be deemed to have been received in the ordinary course of post it would have been delivered.
- 1.1.55 **NOTIFICATION OF AWARD (NOA)** means the official notice issued vide Letter/ E-mail by the Employer notifying the Contractor that his bid has been accepted.
- 1.1.56 **OPERATIONAL ACCEPTANCE** means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor's fulfilment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) after successful Commissioning followed by Trial - Operation. Commercial Operation Date should be read in conjunction with Operational Acceptance for this particular Tender document.
- 1.1.57 **O & M** means Operation & Maintenance of Commissioned Project/ Work/ Facilities under the Tender.
- 1.1.58 **OWNER** means the Company/ Corporation/ Government Entity, named in the **BDS/ SCC**, who has decided to set up the Facilities and shall include the legal successors or permitted assigns of the Owner.
- 1.1.59 **PARENT COMPANY** means a company that holds more than Fifty Percent (50%) of the paid-up equity capital directly or indirectly in the Bidding Company as the case may be.
- 1.1.60 **PERFORMANCE RATIO (PR)** means the ratio of plant output versus installed plant capacity at any instance with respect to the radiation measured.

$$PR = \frac{\text{Measured output in kW}}{\text{Installed Plant capacity in kW}} \times \frac{1000 \text{ W/m}^2}{\text{Measured radiation intensity in W/m}^2}$$

- 1.1.61 **PLANS** shall mean all maps, sketches and layouts as are incorporated in the Contract in order to define broadly the scope and specifications of the work or works, and all reproductions thereof.
- 1.1.62 **PLANT AND EQUIPMENT** means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the spare parts to be supplied by the Contractor), but does not include Contractor's Equipment.
- 1.1.63 **PPA** means Power Purchase Agreement to be executed between Contractor/ Project Developer and the rooftop owner.
- 1.1.64 **PRECOMMISSIONING** means the testing, checking and other requirements specified in the Technical Specifications that are to be carried out by the Contractor in preparation for Commissioning.

- 1.1.65 **PROJECT MANAGER/ OFFICER-IN-CHARGE** means the person appointed by the Employer/ Owner to perform the duties delegated by the Employer/ Owner.
- 1.1.66 **RESCO** means Renewable Energy Service Companies.
- 1.1.67 **RESCO MODEL** means where the bidders intend to take a rooftop owned by some other entity on mutually agreed terms and conditions including lease agreement from the roof top owner(s) and enters into the PPA with rooftop owner/ DISCOM/ others for supply of Solar Power at a tariff as per Tender Documents from the date of Commissioning of Project.
- 1.1.68 **ROOFTOP SOLAR PV** shall mean Solar PV Array/ System installed on the Flat/ Inclined Roof of the building/ elevated platform on metallic or concrete structure minimum 10 feet above ground level/ Ground Mounted System (in the places where sufficient shadow free rooftop area is not available). In such instance, up to 40% Solar PV Array/ System capacity can be accommodated on nearby unutilised land subject to the Employer's/ Owner's approval.
- 1.1.69 **SCC** means the Special Conditions of Contract.
- 1.1.70 **SECI** means Solar Energy Corporation of India Limited, New Delhi (A Government of India Enterprise) under MNRE.
- 1.1.71 **SITE** means the land and other places upon which the Facilities are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site.
- 1.1.72 **SNA** means State Nodal Agency.
- 1.1.73 **SPECIFICATION** shall mean all directions the various Technical Specifications, provisions attached and referred to the Tender Documents which pertain to the method and manner of performing the work or works to the quantities and qualities of the work or works and the materials to be furnished under the Contract for the work or works, as may be amplified or modified by the Employer/ Owner or Engineer-in-Charge during the performance of Contract in order to provide the unforeseen conditions or in the best interests of the work or works. It shall also include the latest edition of relevant Standard Specifications including all addenda/ corrigenda published before entering into Contract.
- 1.1.74 **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 written consent of the Engineer-in-Charge, and the legal representatives, successors and permitted assigns of such person, firm or company.
- 1.1.75 **TAKING OVER** means the Employer's/ Owner's written acceptance of the Facilities under the Contract, after successful Trial - Operation for the specified period in accordance with the Contract
- 1.1.76 **TEMPORARY WORKS** shall mean all temporary works of every kind required in or about the execution, completion or maintenance of works.
- 1.1.77 **TENDER** means the process whereby Employer/ Owner invite bids for Projects/ Works/ Facilities that are submitted within a finite deadline by the Bidder/ Contractor.
- 1.1.78 **TENDER DOCUMENTS/ BIDDING DOCUMENTS** means the entire set of documents vide which Employer/ Owner invite bids for Projects/ Works/ Facilities that are submitted within a finite deadline by the Bidder/ Contractor.

- 1.1.79 **TIME FOR COMPLETION** means the time within which Completion of the Facilities is to be attained in accordance with the specifications, as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) and "Taking Over" by the Employer/ Owner is to be attained.
- 1.1.80 **TOTAL CONTRACT PRICE** means the sum accepted or the sum calculated in accordance with the prices accepted in Tender and/or the Contract rates as payable to the Contractor for the entire execution and full completion of the work, including change order.
- 1.1.81 **ULTIMATE PARENT COMPANY** shall mean a company which directly or indirectly owns at least twenty-six percent (26%) paid up equity capital in the Bidding Company and/ or in the Financially Evaluated Entity and such Bidding Company and/ or the Financially Evaluated Entity shall be under the direct control or indirectly under the common control of such company.
- 1.1.82 **Wp** means Watt Peak.
- 1.1.83 **WORK** shall mean and include all items and things to be supplied/ done and services and activities to be performed by the Contractor in pursuant to and in accordance with Contract or part thereof as the case may be and shall include all extra, additional, altered or substituted works as required for purpose of the Contract.
- 1.1.84 **WEEK** means a period of any consecutive seven days.
- 1.1.85 **WORKING DAY** means any day which is not declared to be holiday or rest day by the Employer/ Owner.

## [B] GENERAL INFORMATION

### 2. General Information

#### 2.1.a Location of Site

The proposed location of Project site(s) is/ are defined in the Special Conditions of Contract (SCC).

#### 2.1.b Access by Road

Contractor, if necessary, shall build other temporary access roads to the actual site of construction for his own work at his own cost. The Contractor shall be required to permit the use of the roads so constructed by him for vehicles of any other parties who may be engaged on the project site. The Contractor shall also facilitate the construction of the permanent roads should the construction there of start while he is engaged on this work. He shall make allowance in his Tender for any inconvenience he anticipates on such account. Non-availability of access roads, railway siding and railway wagons for the use of the Contractor shall in no case condone any delay in the execution of work nor be the cause for any claim for compensation against the Employer/ Owner.

### 2.2 Scope of Work

The scope of work is defined in the Section - VII, Scope of Work and Technical Specifications (TS) of the Tender document. In addition, the Contractor shall provide all necessary materials, equipment, labour etc. for the execution and maintenance of the work till completion unless otherwise mentioned in the Tender Document.



## 2.3 Water Supply

Subject to availability, Owner will provide water to the contractor for his his labour camps and for works. All pumping installations, pipe network and distribution system will have to be carried out by the Contractor at his own risk and cost. The Owner will endeavor to provide water to the Contractor at the Owner's source of supply provided the Contractor makes his own arrangement for the water meter which shall be in custody of the Owner and other pipe networks from source of supply and such distribution pipe network shall have prior approval of the Engineer-in-Charge so as not to interfere with the layout and progress of the other construction works. However, the Employer/ Owner does not guarantee the supply of water and this does not relieve the Contractor of his responsibility in making his own arrangement and for the timely completion of the various works as stipulated.

## 2.4 Power Supply

- 2.4.1** Subject to availability, Employer/ Owner will supply power at 400/ 415/ 440V at only one point at the nearest sub-station, from where the Contractor will make his own arrangement for temporary distribution. The point of supply will not be more than 500 Mtr. away from the Contractor's premises. All the works will be done as per the applicable regulations and passed by the Engineer-in-Charge. The temporary line will be removed forthwith after the completion of work or if there is any hindrance caused to the other works due to the alignment of these lines, the Contractor will re-route or remove the temporary lines at his own cost. The Contractor at his own cost will also provide suitable electric meters, fuses, switches, etc. for purposes of payment to the Employer/ Owner which should be in the custody and control of the Owner. The Employer/ Owner shall not, however, guarantee the supply of electricity nor have any liability in respect thereof. No claim for compensation for any failure or short supply of electricity will be admissible.
- 2.4.2** It shall be the responsibility of the Contractor to provide and maintain the complete installation on the load side of the supply with due regard to safety requirement at site. All cabling, equipment, installations etc. shall comply in all respects with the latest statutory requirements and safety provisions i.e., as per the Central/ State Electricity Acts and Rules etc. The Contractor will ensure that his equipment and Electrical Wiring etc., are installed, modified, maintained by a licensed Electrician/ Supervisor. A test certificate is to be produced to the Engineer-in-Charge for his approval, before power is made available.
- 2.4.3** At all times, IEA regulations shall be followed failing which the Employer/ Owner has a right to disconnect the power supply without any reference to the Contractor. No claim shall be entertained for such disconnection by the Engineer-in-Charge. Power supply will be reconnected only after production of fresh certificate from authorized electrical supervisors.
- 2.4.4** The Owner is not liable for any loss or damage to the Contractor's equipment as a result of variation in voltage or frequency or interruption in power supply or other loss to the Contractor arising therefrom.
- 2.4.5** The power supply required for Contractor's colony near the plant site will be determined by the Employer/ Owner and shall be as per State Electricity Board's Rules and other statutory provisions applicable for such installations from time to time. In case of power supply to Contractor's colony, the power will be made available at a single point and the Contractor shall make his own arrangement at his own cost for distribution to the occupants of the colony as per Electricity Rules and Acts. The site and colony shall be sufficiently illuminated to avoid accidents.
- 2.4.6** The Contractor will have to provide and install his own lights and power meters which will be governed as per Central/ State Government Electricity Rules. The meters shall be sealed by the Employer/ Owner.

**2.4.7** In case of damage of any of the Employer's/ Owner's equipment on account of fault, intentional or unintentional on the part of the Contractor, the Employer/ Owner reserves the right to recover the cost of such damage from the Contractor's bill. Cost of HRC Fuses replaced at the Employer's/ Owner's terminals due to any fault in the Contractor's installation shall be to Contractor's account at the rates decided by the Engineer-in-Charge.

**2.4.8** The Contractor shall ensure at his cost that all electrical lines and equipment and all installations are approved by the State Electricity Inspector before power can be supplied to the Employer/ Owner.

## **2.5 Land for Contractor's Field Office, Godowns and Workshop**

The Owner will, at his own discretion and convenience and for the duration of the execution of the work make available near the site, land for construction of Contractor's Temporary Field Office, godowns workshops and assembly yard required for the execution of the Contract. The Contractor shall at his own cost construct all these temporary buildings and provide suitable water supply and sanitary arrangement and get the same approved by the Engineer-in-Charge. On completion of the works undertaken by the Contractor, he shall remove all temporary works erected by him and have the Site cleaned as directed by Engineer-in-Charge. If the Contractor shall fail to comply with these requirements, the Engineer-in-Charge may at the expenses of the Contractor remove such surplus, and rubbish materials and dispose off the same as he deems fit and get the site cleared as aforesaid; and Contractor shall forthwith pay the amount of all expenses so incurred and shall have no claim in respect of any such surplus materials disposed off as aforesaid. But the Employer/ Owner reserves the right to ask the Contractor any time during the pendency of the Contract to vacate the land by giving 07 (Seven) day notice on security reasons or on national interest or otherwise. Rent may be charged for the land so occupied from Contractor by the Employer/ Owner. The Contractor shall put up temporary structures as required by them for their office, fabrication shop and construction stores only in the area allocated to them on the project site by the Employer/ Owner or his authorized representative. No tea stalls/ canteens should be put up or allowed to be put up by any Contractor in the allotted land or complex area without written permission of the Employer/ Owner. No unauthorized buildings, constructions or structures should be put up by the Contractor anywhere on the project site. For uninterrupted fabrication work, the Contractor shall put up temporary covered structures at his cost within Area in the location allocated to them in the project site by the Employer/ Owner or his authorized representative. No person except for authorized watchman shall be allowed to stay in the plant area/ Contractor's area after completion of the day's job without prior written permission from Engineer-in-Charge.

## **2.6 Land for Residential Accommodation**

No Land shall be made available for residential accommodation for staff and labour of Contractor.

## **[C] ADDITIONAL GENERAL INSTRUCTIONS TO BIDDERS**

### **3. Documents**

**3.1 Corrections and Erasures:** All correction(s) and alteration(s) in the entries of Tender paper shall be signed in full by the bidder with date. No erasure or over writing is permissible.

**3.2 Witness:** Witness and sureties shall be persons of status and property and their names, occupation and address shall be stated below their signature.

<b>8 MWp Solar GC RTPV Project</b>	<b><u>Tender No</u></b> <b><u>SECI/C&amp;P/BHU/VAR/062017/08</u></b>	<b><u>GCC</u></b> <b><u>Page 15 of 61</u></b>	<b><u>Signature of Bidder</u></b>
------------------------------------	---	--	-----------------------------------



**3.3 Details of Experience:** The bidder should furnish, along with his Tender, details of previous experience in having successfully completed in the recent past works of this nature, together with the names of Employers/ Owners, location of sites and value of Contract, date of commencement and completion of work, delays if any, reasons of delay and other details along with documentary evidence(s).

**3.4 Liability of Government of India:** It is expressly understood and agreed by and between bidder or/ Contractor and Employer/ Owner that, Employer/ Owner is entering into this agreement solely on its own behalf. In particular, it is expressly understood and agreed that the Government of India has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that Employer/ Owner is an independent legal entity with power and authority to enter into Contracts solely on its own behalf under the applicable Laws of India and general principles of Contract Law. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, bidder/ Contractor hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this Contract and covenants not to sue to Government of India as to any manner, claim, cause of action or thing whatsoever arising of or under this agreement.

#### 4. Transfer of Tender Documents

4.1 Transfer of Tender Documents purchased by one intending bidder to another is not permissible.

#### 5. Right of Employer to Accept or Reject Tender

5.1 The right to accept the Tender will rest with the Employer/ Owner. The Employer/ Owner, however, does not bind himself to accept the lowest Tender, and reserves to itself the authority to reject any or all the Tenders received without assigning any reason whatsoever. At the option of the Employer/ Owner, the work for which the Tender had been invited, may be awarded to one Contractor or split between more than one bidders, in which case the award will be made for only that part of the work, in respect of which the bid has been accepted. The quoted rates should hold good for such eventualities. Tenders in which any of the particulars and prescribed information are missing or are incomplete in any respect and/ or the prescribed conditions are not fulfilled are liable to be rejected. The Tender containing uncalled for remarks or any additional conditions are liable to be rejected. Canvassing in connection with Tenders is strictly prohibited and Tenders submitted by the Tenderers who resort to canvassing will be liable to rejection.

#### 6. Time Schedule

6.1 The work shall be executed strictly as per the Time Schedule specified in Section - V, Special Conditions of Contract (SCC). The period of construction given in Time Schedule includes the time required for mobilization as well as testing, rectifications if any, retesting and completion in all respects to the entire satisfaction of the Engineer-in- Charge.

6.2 A joint programme of execution of the work will be prepared by the Engineer-in- Charge and Contractor based on priority requirement of this project. This programme will take into account the time of completion mentioned in 6.1 above and the time allowed for the priority works by the Engineer-in- Charge.

6.3 Monthly/ Weekly construction programme will be drawn up by the Engineer-in- Charge jointly with the Contractor, based on availability of work fronts and the joint construction programme as per 6.2

8 MWp Solar GC RTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 16 of 61</u>	<u>Signature of Bidder</u>
-----------------------------	--	-----------------------------	----------------------------

above. The Contractor shall scrupulously adhere to these targets/ programmes by deploying adequate personnel, construction tools and tackles and he shall also supply himself all materials of his scope of supply in good time to achieve the targets/ programmes. In all matters concerning the extent of targets set out in the weekly and monthly programmes and the degree of achievements the decision of the Engineer-in- Charge will be final and binding on the Contractor.

## 7. Conflict of Interest and Bidder's Responsibility

7.1 A bidder shall not have a Conflict of Interest. All bidders found to have Conflict of Interest shall be disqualified. A bidder may be considered to have a Conflict of Interest with one or more parties in this bidding process, if :

- (a) They have a controlling partner in common ; or
- (b) They receive or have received any direct or indirect subsidy from any of them ; or
- (c) They have the same legal representative for the purposes of this bid ; or
- (d) They have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another bidder, or influence the decision of the Employer/ Owner regarding this bidding process ; or
- (e) A bidder submits more than one bid in this bidding process, either individually [including bid submitted as an agent/ authorized representative on behalf of one or more bidders or through license - licensor route, wherever permitted as per the provision of the Qualification Requirement for the bidders in the Annexure to Bid Data Sheet (BDS)] or as a partner in a Joint Venture/ Consortium, except for alternative offers permitted under Tender. This will result in the disqualification of all such bids ; or
- (f) A bidder or any of its Affiliates participated as a consultant in the preparation of the Design or Technical Specification or Detailed Project Report (DPR) of the Plant and Installation of services\*/ goods and related services\*\* that are the subject of the bid ; or
- (g) A bidder or any of its Affiliate has been hired (or is proposed to be hired) by the Employer/ Owner as a Project Manager for the Contract

### Unquote:

- \* Applicable for Supply & Installation Contracts
- \*\* Applicable for Supply & Supply cum Supervision of Installation Contracts

7.2 The intending Tenderers shall be deemed to have visited the Site and familiarized submitting the Tender. Non-familiarity with the site conditions will not be considered a reason either for extra claims or for not carrying out the works in strict conformity with the Drawings and Specifications or for any delay in performance.

## 8. Retired Government or Company Officers

8.1 No Engineer of Gazetted rank or other Gazetted Officer employed in Engineering or Administrative duties in an Engineering Department of the States/ Central Government or of the Employer/ Owner is allowed to work as a Contractor for a period of two years after his retirement from Government Service, or from the employment of the Employer/ Owner without the previous permission of the Employer/ Owner. The Contract, if awarded, is liable to be cancelled if either the Contractor or any of his employees is found at any time to be such a person, who has not obtained the permission of the State/ Central Government or of the Employer/ Owner as aforesaid before submission of Tender, or engagement in the Contractor's service as the case may be.

## 9. Field Management & Controlling/ Coordinating Authority

8 MWp Solar GCRTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 17 of 61</u>	<u>Signature of Bidder</u>
-------------------------------	--	-----------------------------	----------------------------

- 9.1 The field management will be the responsibility of the Engineer-in-Charge, who will be nominated by the Employer/ Owner. The Engineer-in-Charge may also authorize his representatives to assist in performing his duties and functions.
- 9.2 The Engineer-in-Charge shall coordinate the works of various agencies engaged at site to ensure minimum disruption of work carried out by different agencies. It shall be the responsibility of the Contractor to plan and execute the work strictly in accordance with site instructions to avoid hindrance to the work being executed by other agencies.

## 10. Note to Schedule of Rates

- 10.1 The Schedule of Rates should be read in conjunction with Section - VIII of the Tender documents.
- 10.2 The bidder shall be deemed to have studied the Drawings, Specifications and details of work to be done within Time Schedule and to have acquainted himself of the condition prevailing at site.
- 10.3 Rates must be filled in the Schedule of Rates of original Tender Documents. If quoted in separate typed sheets no variation in item description or specification shall be accepted. Any exceptions taken by the bidder to the Schedule of Rates shall be brought out in the terms and conditions of the bid.

## 11. Policy for Tenders under Consideration

- 11.1 Only Those Tenders which are complete in all respects and are strictly in accordance with the Terms and Conditions and Technical Specifications of Tender Document, shall be considered for evaluation. Such Tenders shall be deemed to be under consideration immediately after opening of Tender and until such time an official intimation of acceptance/ rejection of Tender is made by Employer to the Bidder.
- 11.2 Zero Deviation: Bidders to note that this is a Zero Deviation Tender. Employer/ Owner will appreciate submission of bids based on the terms and conditions in the enclosed General Conditions of Contract (GCC), Special Conditions of Contract (SCC), Instructions to Bidders (ITB), Scope of Work, technical specifications etc. to avoid wastage of time and money in seeking clarifications on technical/ commercial aspects of the bids. Bidder may note that no technical and commercial clarifications will be sought for after the receipt of the bids. In case of any deviation/ nonconformity observed in the bid, it will be liable for rejection.

## 12. Clarification of Tender Document

- 12.1 Verbal clarification and information given by Employer/ Owner or its employee(s) or its representatives shall not in any way be binding on Employer/ Owner.

## 13. Local Conditions

- 13.1 It will be imperative on each bidder to inform himself of all local conditions and factors which may have any effect on the execution of work covered under the Tender Document. In their own interest, the bidder(s) is/ are requested to familiarize themselves with the Indian Income Tax Act 1961, Indian Companies Act 1956, and Indian Customs Act 1962 and other related Acts and Laws and Regulations of India with their latest amendments, as applicable Employer/ Owner shall not entertain any requests for clarifications from the bidder regarding such local conditions.
- 13.2 It must be understood and agreed that such factors have properly been investigated and considered while submitting the Tender. No claim for financial or any other adjustments to Value of Contract, on lack of clarity of such factors shall be entertained.

8 MWp Solar GC RTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 18 of 61</u>	Signature of Bidder
-----------------------------	--	-----------------------------	---------------------

#### 14. Abnormal Rates

- 14.1 The bidder is expected to quote rate for each item after careful analysis of cost involved for the performance of the complete system/ package/ project considering all specifications and Conditions of Contract. This will avoid loss of profit or gain in case of curtailment or change of specification for any item. In case it is noticed that the rates quoted by the bidder for any item are unusually high or unusually low, it will be sufficient cause for the rejection of the Tender unless the Employer/ Owner is convinced about the reasonableness after scrutiny of the analysis for such rate(s) to be furnished by the bidder (on demand).

### [D] GENERAL OBLIGATIONS

#### 15.1 Priority of Contract Documents

Several documents forming the Contract are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies the same shall be explained and adjusted by the Engineer-in-Charge who shall thereupon issue to the Contractor instructions thereon and in such event, unless otherwise provided in the Contract, the priority of the documents forming the Contract shall be as follows:

- 1) The Contract Agreement;
- 2) The Notification of Award/ Letter of Intent/ Letter of Allocation;
- 3) Special Conditions of Contract (SCC);
- 4) Bid Data Sheet (BDS) and Instructions to Bidders (ITB);
- 5) General Conditions of Contract (GCC);
- 6) Any other document forming part of the Contract.

Works shown in the Drawing but not mentioned in the Specifications or described in the Specifications without being shown in the Drawings shall nevertheless be deemed to be included in the same manner as if they had been specifically shown upon the Drawings and described in the Specifications.

#### 15.2 Headings and Marginal Notes

All headings and marginal notes to the clauses of these General Conditions of Contract or to the Specifications or to any other Tender Document are solely for the purpose of giving a concise indication and not a summary of the contents thereof, and they shall never be deemed to be part thereof or be used in the interpretation or construction thereof the Contract.

#### 15.3 Singular and Plural

In Contract Documents unless otherwise stated specifically, the singular shall include the plural and vice versa wherever the context so requires.

#### 15.4 Interpretation

Words implying 'Persons' shall include relevant Corporate Companies/ Registered Associations/ Body of Individuals/ Firm of Partnership' as the case may be.

#### 16 Special Conditions of Contract (SCC)

8 MWp Solar GCRTPV Project	<u>Tender No</u> <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	<u>GCC</u> <u>Page 19 of 61</u>	<u>Signature of Bidder</u>
-------------------------------	---	------------------------------------	----------------------------

- 16.1 Special Conditions of Contract shall be read in conjunction with the General Conditions of Contract, Specification of Work, Drawings and any other documents forming part of this Contract wherever the context so requires.
- 16.2 Notwithstanding the sub-division of the documents into these separate sections and volumes every part of each shall be deemed to be supplementary to and complementary of every other part and shall be read with and into the Contract so far as it may be practicable to do so.
- 16.3 Where any portion of the General Condition of Contract is repugnant to or at variance with any provisions of the Special Conditions of Contract, unless a different intention appears the provisions of the Special Conditions of Contract shall be deemed to over-ride the provisions of the General Conditions of Contract and shall to the extent of such repugnancy, or variations, prevail.
- 16.4 Wherever it is mentioned in the specifications that the Contractor shall perform certain Work or provide certain facilities, it is understood that the Contractor shall do so at his cost and the Value of Contract shall be deemed to have included cost of such performance and provisions, so mentioned.
- 16.5 The materials, design and workmanship shall satisfy the relevant Indian Standards, the Job Specifications contained herein and Codes referred to. Where the job specification stipulate requirements in addition to those contained in the standard codes and specifications, these additional requirements shall also be satisfied.

## 17 Contractor to obtain his own Information

- 17.1 The Contractor in fixing his rate shall for all purpose whatsoever reason may be, deemed to have himself independently obtained all necessary information for the purpose of preparing his tender and his tender as accepted shall be deemed to have taken into account all contingencies as may arise due to such information or lack of same. The correctness of the details, given in the Tender Document to help the Contractor to make up the tender is not guaranteed. The Contractor shall be deemed to have examined the Contract Documents, to have generally obtained his own information in all matters whatsoever that might affect the carrying out of the works at the schedules rates and to have satisfied himself to the sufficiency of his tender. Any error in description of quantity or omission therefrom shall not vitiate the Contract or release the Contractor from executing the work comprised in the Contract according to Drawings and Specifications at the scheduled rates. He is deemed to have known the scope, nature and magnitude of the Works and the requirements of materials and labour involved etc., and as to what all works he has to complete in accordance with the Contract documents whatever be the defects, omissions or errors that may be found in the Documents. The Contractor shall be deemed to have visited surroundings, to have satisfied himself to the nature of all existing structures, if any, and also as to the nature and the conditions of the Railways, Roads, Bridges and Culverts, means of transport and communication, whether by land, water or air, and as to possible interruptions thereto and the access and egress from the site, to have made enquiries, examined and satisfied himself as to the sites for obtaining sand, stones, bricks and other materials, the sites for disposal of surplus materials, the available accommodation as to whatever required, depots and such other buildings as may be necessary for executing and completing the works, to have made local independent enquiries as to the sub-soil, subsoil water and variations thereof, storms, prevailing winds, climatic conditions and all other similar matters effecting these works. He is deemed to have acquainted himself as to his liability of payment of Government Taxes, Customs duty and other charges, levies etc. Any neglect or omission or failure on the part of the Contractor in obtaining necessary and reliable information upon the foregoing or any other matters affecting the Contract shall not relieve him from any risks or liabilities or the entire responsibility from completion of the works at the scheduled rates and times in strict accordance with the Contract. It is, therefore, expected that should the Contractor have any doubt as to the meaning of any portion of the Contract Document he shall set forth the particulars thereof in writing to Employer in duplicate, before submission of tender. The Employer may provide such clarification as may be necessary in writing to Contract, such clarifications as provided by Employer shall form



part of Contract Documents. No verbal agreement or inference from conversation with any effect or employee of the Employer either before, during or after the execution of the Contract Agreement shall in any way affect or modify and of the terms or obligations herein contained. Any change in layout due to site conditions or technological requirement shall be binding on the Contractor and no extra claim on this account shall be entertained.

## **18 Time of Performance**

### **18.1 Time for Mobilization**

The work covered by this Contract shall be commenced immediately upon issuance of the NOA/ LOI/ LOA and be completed in stages on or before the dates as mentioned in the Time Schedule of Completion of Work under Section - V, Special Conditions of Contract (SCC). The Contractor should bear in mind that time is the essence of this agreement. Request for revision of construction time after tenders are opened will not receive consideration. The mobilization period is included within the overall Completion Schedule, not over and above the completion time to any additional work or any other reasons.

### **18.2 Time Schedule of Construction**

18.2.1 The general time schedule of construction is given in the Section - V, Special Conditions of Contract (SCC) of the Tender Documents. Contractor should prepare a detailed monthly or weekly construction program jointly with the Engineer-in-Charge. The Work shall be executed strictly as per the Time Schedule given in the Tender Documents. The period of construction given includes the time required for mobilization testing, rectifications, if any, retesting and completion in all respects in accordance with Contract Document to the entire satisfaction of the Engineer-in-Charge.

18.2.2 The Contractor shall submit a detailed PERT network within the time frame agreed consisting of adequate number of activities covering various key phases of the Work such as Design, Procurement, Manufacturing, Shipment and Field Erection activities. This network shall also indicate the interface facilities to be provided by the Employer/ Owner, if any and the dates by which such facilities are needed.

## **19. Force Majeure**

### **19.1 Conditions for Force Majeure**

In the event of either party being rendered unable by Force Majeure to perform any obligations required to be performed by them under the Contract the relative obligation of the party affected by such Force Majeures shall upon notification to the other party be suspended for the period during which Force Majeures event lasts. The cost and loss sustained by the either party shall be borne by the respective parties. The term "Force Majeures" as employed herein shall mean acts of God, earthquake, war (declared or undeclared), revolts, riots, fires, floods, rebellions, explosions, hurricane, sabotage, civil commotions and acts and regulations of respective Government of the two parties, namely the Employer/ Owner and the Contractor. Upon the occurrence of such cause(s) and upon its termination, the party alleging that it has been rendered unable as aforesaid thereby, shall notify the other party in writing immediately but not later than 72 (Seventy-Two) hours of the alleged beginning and ending thereof giving full particulars and satisfactory evidence in support of its claim. Time for performance of the relative obligation suspended by the Force Majeures shall then stand extended by the period for which such cause lasts. If deliveries of bought out items and/ or works to be executed by the Contractor are suspended by Force Majeure conditions lasting for more than 2 (two) months, the Employer/ Owner shall have the option to terminate the Contract or re-look into the Contract provisions.

## 19.2 Outbreak of War

- 19.2.1 If during the currency of the Contract there shall be an out-break of war whether declared or not, in that part of the World which whether financially or otherwise materially affect the execution of the Work the Contractor shall unless and until the Contract is terminated under the provisions in this clause continue to use his best endeavor to complete the execution of the Work, provided always that the Employer/ Owner shall be entitled, at any time after such out-break of war to terminate or re-look into the Contract by giving notice in writing to the Contractor and upon such notice being given the Contract shall, save as to the rights of the parties under this clause and to the operation of the clauses entitled settlement of Disputes and Arbitration hereof, be terminated but without prejudice to the right of either party in respect of any antecedent breach thereof.
- 19.2.2 If the Contract shall be terminated under the provisions of the above clause, the Contractor shall with all reasonable diligence remove from the Site all the Contractor's equipment and shall give similar facilities to his Sub-Contractors to do so.

## 20. Liquidated Damages (LD)

- 20.1 Subject to Force Majeure Clause, if the Contractor fails to comply with the Time for Completion in accordance with SCC Clause for the whole of the facilities, (or a part for which a separate time for completion is agreed) then the Contractor shall pay to the Employer/ Owner a sum equivalent to half percent (0.5%) of the Contract Price for the whole of the facilities, (or a part for which a separate time for completion is agreed) as liquidated damages for such default and not as a penalty, without prejudice to the Employer's/ Owner's other remedies under the Contract, for each week or part thereof which shall elapse between the relevant Time for Completion and the date stated in Taking Over Certificate of the whole of the Works (or a part for which a separate time for completion is agreed) subject to the limit of five percent (5%) of Contract Price for the whole of the facilities, (or a part for which a separate time for completion is agreed). The Employer/ Owner may, without prejudice to any other method of recovery, deduct the amount of such damages from any amount due or to become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract. Once the maximum limit is reached, Employer/ Owner may consider the termination of contract.
- 20.2 The Employer/ Owner shall as an alternative to the Liquidated Damages at its option, get work executed from elsewhere at the risk and cost of the Contractor irrespective of the fact whether the scope of Contract is identical to the original scope of Contract and in case the Employer/ Owner chooses the alternative course as mentioned, it will be entitled to recover compensation/ damages from the Contractor irrespective of maximum limit prescribed under Clause 20.1.
- 20.3 The Employer/ Owner may by giving 02 (Two) weeks' notice to the Contractor cancel the Contract without prejudice to the Employer's/ Owner's right under Clauses 20.1 and 20.2 any other provisions contained in the Contract to determine the Contract and claim damaged from the Contractor.
- 20.4 The Contractor shall not raise the question of proving actual loss suffered by the Employer/ Owner consequent on the said delay in Completion.

## 21. Rights of the employer to forfeit Contract Performance Security

- 21.1 Whenever any claim against the Contractor for the payment of a sum of money arises out or under the Contract, the Employer/ Owner shall be entitled to recover such sum by appropriating in part or whole the Contract Performance Security of the Contractor. In the event of the security being insufficient or if no security has been taken from the Contractor, then the balance or the total sum



recoverable, as the case may be shall be deducted from any sum then due or which at any time thereafter may become due to the Contractor. The Contractor shall pay to the Employer/ Owner on demand any balance remaining due.

## **22. Failure by the Contractor to comply with the provisions of the Contract**

22.1 If the Contractor refuses or fails to execute the Work or any separate part thereof with such diligence as will ensure its completion within the time specified in the Contract or extension thereof or fails to perform any of his obligation under the Contract or in any manner commits a breach of any of the provisions of the Contract it shall be open to the Employer/ Owner at its option by written notice to the Contractor:

**a)** To Determine the Contract in which event the Contract shall stand terminated and shall cease to be in force and effect on and from the date appointed by the Employer/ Owner on that behalf, whereupon the Contractor shall stop forthwith any of the Contractor's work then in progress, except such work as the Employer/ Owner may, in writing, require to be done to safeguard any property or work, or installations from damage, and the Employer/ Owner, for its part, may take over the work remaining unfinished by the Contractor and complete the same through a fresh Contractor or by other means, at the risk and cost of the Contractor, and any of his sureties if any, shall be liable to the Employer/ Owner for any excess cost occasioned by such work having to be so taken over and completed by the Employer/ Owner over and above the cost at the rates specified in the schedule of quantities and rate/prices.

**b)** Without Determining the Contract to take over the work of the Contractor or any part thereof and complete the same through a fresh Contractor or by other means at the risk and cost of the Contractor. The Contractor and any of his sureties are liable to the Employer/ Owner for any excess cost over and above the cost at the rates specified in the Schedule of Rates/ Price Schedule, occasioned by such works having been taken over and completed by the Employer/ Owner.

22.2 In such events of Clause 22.1(a) or (b) above.

**a)** The whole or part of the Contract Performance Security furnished by the Contractor is liable to be forfeited without prejudice to the right of the Employer/ Owner to recover from the Contractor the excess cost referred to in the sub-clause aforesaid, the Employer/ Owner shall also have the right of taking possession and utilizing in completing the works or any part thereof, such as materials equipment and plants available at work site belonging to the Contractor as may be necessary and the Contractor shall not be entitled for any compensation for use or damage to such materials, equipment and plant.

**b)** The amount that may have become due to the Contractor on account of work already executed by him shall not be payable to him until after the expiry of 06 (Six) calendar months reckoned from the date of termination of Contract or from the taking over of the Work or part thereof by the Employer/ Owner as the case may be, during which period the responsibility for faulty materials or workmanship in respect of such work shall, under the Contract, rest exclusively with the Contractor. This amount shall be subject to deduction of any amounts due from the Contract to the Employer/ Owner under the terms of the Contract authorized or required to be reserved or retained by the Employer/ Owner.

22.3 Before determining the Contract as per Clause 22.1(a) or (b) provided in the judgement of the Employer/ Owner, the default or defaults committed by the Contractor is/ are curable and can be cured by the Contractor if an opportunity given to him, then the Employer/ Owner may issue Notice in writing calling the Contractor to cure the default within such time specified in the Notice.

22.4 The Employer/ Owner shall also have the right to proceed or take action as per 22.1(a) or (b) above, in the event that the Contractor becomes bankrupt, insolvent, compounds with his creditors, assigns

the Contract in favor of his creditors or any other person or persons, or being a company or a corporation goes into voluntary liquidation, provided that in the said events it shall not be necessary for the Employer/ Owner to give any prior notice to the Contractor.

- 22.5 Termination of the Contract as provided for in sub- clause 22.1(a) above shall not prejudice or affect their rights of the Employer/ Owner which may have accrued up to the date of such termination.

### **23. Contractor remains liable to pay compensation if**

- 23.1 In any case in which any of the powers conferred upon the Employer/ Owner by Clause 22.0 thereof shall have become action not taken under clause 22 exercisable and the same had not been exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions hereof and such powers shall notwithstanding be exercisable in the event of any further case of default by the Contractor for which by any clause or clauses hereof he is declared liable to pay compensation amounting to the whole of his Contract Performance Security, and the liability of the Contractor for past and future compensation shall remain unaffected. In the event of the Employer/ Owner putting in force the power under above sub-clause (a), (b) or (c) vested in him under the preceding clause he may, if he so desired, take possession of all or any tools, and plants, materials and stores in or upon the works or the site thereof belonging to the Contractor or procured by him and intended to be used for the execution of the Work or any part thereof paying or allowing for the same in account at the Contract rates or in case of these not being applicable at current market rates to be certified by the Engineer-in-Charge whose certificate thereof shall be final, otherwise the Engineer-in-Charge may give notice in writing to the Contractor or his clerk of the works, foreman or other authorized agent, requiring him to remove such tools, plant, materials or stores from the premises (within a time to be specified in such notice), and in the event of the Contractor failing to comply with any such requisition, the Engineer-in-Charge may remove them at the Contractor's expense or sell them by auction or private sale on account of the Contractor and at his risk in all respects without any further notice as to the date, time or place of sale and the certificate of the Engineer-in-Charge as to the expenses of any such removal and the amount of the proceeds and expenses of any such sale shall be final and conclusive against the Contractor.

### **24. Change in Constitution**

- 24.1 The prior approval of the Employer/ Owner shall be obtained in writing, before any change is made in the constitution of the Company. If prior approval as aforesaid is not obtained, the CONTRACT shall be deemed to have been allotted in contravention of Clause 30 hereof and the same action may be taken and the same consequence shall ensure as provided in the said clause.

### **25. Termination of contract**

#### **25.1 Termination of Contract in Case of Liquidation/ Bankruptcy etc.**

If the Contractor shall dissolve or become bankrupt or insolvent or cause or suffer any receiver to be appointed of his business or any assets thereof compound with his Creditors, or being a corporation commence to be wound up, not being a member's voluntary winding up for the purpose of amalgamation or reconstruction, or carry on its business under a Receiver for the benefits of its Creditors any of them, Employer/ Owner shall be at liberty :- To terminate the contract forthwith upon coming to know of the happening of any such event as aforesaid by notice in writing to the Contractor or to give the Receiver or liquidator or other person, the option of carrying out the contract subject to his providing a guarantee up to an amount to be agreed upon by Employer/ Owner for due and faithful performance of the contract.

<b>8 MWp Solar GCRTPV Project</b>	<b><u>Tender No</u></b> <b><u>SECI/C&amp;P/BHU/VAR/062017/08</u></b>	<b><u>GCC</u></b> <b><u>Page 24 of 61</u></b>	<b><u>Signature of Bidder</u></b>
-----------------------------------	---	--	-----------------------------------

**25.2 Termination of Contract for Non-Performance and Subsequently Putting the Contractor on Banning List :**

In case of termination of Contract herein set forth (under clause 22.0) except under conditions of Force Majeure and termination after expiry of contract, the Contractor shall be put under Banning List [i.e. neither any enquiry will be issued to the party by Employer/ Owner against any type of tender nor their offer will be considered by Employer/ Owner against any ongoing tender(s) where contract between Employer/ Owner and that particular Contractor (as a bidder) has not been finalized] for a period as decided by the Employer/ Owner to such Contractor.

**26. Members of the Employer/ Owner not individually Liable**

26.1 No Director, or official or employee of the Employer/ Owner shall in any way be personally bound or liable for the acts or obligations under the Contract or answerable for any default or omission in the observance or performance of any of the acts, matters or things which are herein contained.

**27. Employer not bound by Personal Representations**

27.1 The Contractor shall not be entitled to any increase on the scheduled rates or any other right or claim whatsoever by reason of any representation, explanation statement or alleged representation, promise or guarantees given or alleged to have been given to him by any person.

**28. Contractor's office at Site**

28.1 The Contractor shall provide and maintain an office at the site for the accommodation of his agent and staff and such office shall be open at all reasonable hours to receive instructions, notice or other communications. The Contractor at all time shall maintain a site instruction book and compliance of these shall be communicated to the Engineer-in-Charge from time to time and the whole document to be preserved and handed over after completion of works.

**29. Contractor's Subordinate Staff and their Conduct**

29.1 The Contractor, on or after award of the Work shall name and depute a qualified Engineer having sufficient experience in carrying out work of similar nature, to whom the equipments, materials, if any, shall be issued and instructions for works given. The Contractor shall also provide to the satisfaction of the Engineer-in-Charge sufficient and qualified staff to superintend the execution of the Work, competent sub-agents, foremen and leading hands including those specially qualified by previous experience to supervise the types of works comprised in the Contract in such manner as will ensure work of the best quality, expeditious working. Whenever in the opinion of the Engineer-in-Charge additional properly qualified supervisory staff is considered necessary, they shall be employed by the Contractor without additional charge on accounts thereof. The Contractor shall ensure to the satisfaction of the Engineer-in-Charge that Sub-Contractors, if any, shall provide competent and efficient supervision, over the work entrusted to them.

29.2 If and whenever any of the Contractor's or Sub-Contractor's agents, sub-agents, assistants, foremen, or other employees shall in the opinion of Engineer-in-Charge be guilty of any misconduct or be incompetent or insufficiently qualified or negligent in the performance of their duties of that in the opinion of the Employer/ Owner or the Engineer-in-Charge, it is undesirable for administrative or any other reason for such person or persons to be employed in the works, the Contractor, is so directed by the Engineer-in-Charge, shall at once remove such person or persons from employment thereon. Any person or persons so removed from the works shall not again be employed in connection with the Works without the written permission of the Engineer-in-Charge. Any person so removed from the Work shall be immediately re-placed at the expense of the Contractor by a

qualified and competent substitute. Should the Contractor be requested to repatriate any person removed from the works he shall do so and shall bear all costs in connection here with.

- 29.3 The Contractor shall be responsible for the proper behavior of all the staff, foremen, workmen, and others, and shall exercise a proper degree of control over them and in particular and without prejudice to the said generality, the Contractor shall be bound to prohibit and prevent any employees from trespassing or acting in any way detrimental or prejudicial to the interest of the community or of the properties or occupiers of land and properties in the neighborhood and in the event of such employee so trespassing, the Contractor shall be responsible therefore and relieve the Employer/ Owner of all consequent claims or actions for damages or injury or any other grounds whatsoever. The decision of the Engineer-in-Charge upon any matter arising under this clause shall be final. The Contractor shall be liable for any liability to Employer/ Owner on account of deployment of Contractor's staff etc. or incidental or arising out of the execution of Contract. The Contractor shall be liable for all acts or omissions on the part of his staff, Foremen and Workmen and others in his employment, including misfeasance or negligence of whatever kind in the course of their work or during their employment, which are connected directly or indirectly with the Contract.
- 29.4 If and when required by the Employer/ Owner and Contractor's personnel entering upon the Employer's/ Owner's premises shall be properly identified by badges of a type acceptable to the Employer/ Owner which must be worn at all times on Employer's/ Owner's premises. Contractor may be required to obtain daily entry passes for his Staff/ Employees from Employer/ Owner to work within operating areas. These being safety requirements, no relaxations on this account shall be given to Contractor.

### 30. Sub-letting of Works

- 30.1 No part of the Contract nor any share or interest therein shall in any manner or degree be transferred, assigned or sublet by the Contractor directly or indirectly to any person, firm or corporation whatsoever without the consent in writing, of the Employer/ Owner except as provided for in the succeeding sub-clause.

#### i) Sub-Contracts for Temporary Works etc.

The Employer/ Owner may give written consent to Sub-Contract for the execution of any part of the Work at the site, being entered in to by Contractor provided each individual Sub-contract is submitted to the Engineer-in-Charge before being entered into and is approved by him.

#### ii) List of Sub-Contractors to be Supplied

At the commencement of every month the Contractor shall furnish to the Engineer-in-Charge list of all Sub-Contractors or other persons or firms engaged by the Contractor and working at the Site during the previous month with particulars of the general nature of the Subcontract or works done by them.

#### iii) Contractor's Liability not Limited by Sub-Contractors

Notwithstanding any sub-letting with such approval as aforesaid and notwithstanding that the Engineer-in-Charge shall have received copies of any Subcontracts, the contractor shall be and shall remain solely responsible for the quality, proper and expeditious execution of the Contract in all respects as if such sub-letting or Subcontracting had not taken place, and as if such work had been done directly by the Contractor. The Contractor shall bear all responsibility for any act or omission on the part of sub-contractors in regard to work to be performed under the Contract.

#### iv) Employer May Terminate Sub-Contracts

8 MWp Solar GCRTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 26 of 61</u>	<u>Signature of Bidder</u>
----------------------------	--	-----------------------------	----------------------------



If any Sub-Contractor engaged upon the works at the site executes any works which in the opinion of the Engineer-in-Charge is not in accordance with the Contract documents, the Employer/ Owner may by written notice to the Contractor request him to terminate such subcontract and the Contractor upon the receipt of such notice shall terminate such Subcontract and dismiss the Sub-Contractor(s) and the later shall forthwith leave the works, failing which the Employer/ Owner shall have the right to remove such Sub-Contractor(s) from the site.

**v) No Remedy for Action Taken under this Clause**

No action taken by the Employer/ Owner under the clause shall relieve the Contractor of any of his liabilities under the Contract or give rise to any right or compensation, extension of time or otherwise failing which the Employer/ Owner shall have the right to remove such Sub-Contractor(s) from the site.

**vi) Termination/ Cancellation of Contract**

Employer/ Owner is nowhere liable for the communication, acts and deeds and performance of the sub-contractor as engaged by the principal contractor. Principal Contractor solely is responsible and liable for the entire execution of project and performance of contract. In case of non-performance of the sub-contractor in lieu of inadequate liquidity, technical competence, adequate manpower Employer/ Owner may take an appropriate decision to get the work done at the risk and cost of the principal contractor.

***Subject to poor performance and prolonged delay of the project on account of inefficient sub-letting of the project work Employer/ Owner may take a final decision to terminate the contract of the principal contractor which will be binding and non-revertible and henceforth no plea in this regard shall be entertained.***

***The Contractor has to execute the work by functioning like a contractor instead of sub-letting the entire work on back to back basis. The entire work cannot be sub-let to a sub-contractor on back to back basis.***

**31. Power of Entry**

31.1 If the Contractor shall not commence the Work in the manner previously described in the Contract documents or if he shall at any time in the opinion of the Engineer-in-Charge.

- i) fail to carry out the Work in conformity with the Contract documents, or
- ii) fail to carry out the Work in accordance with the Time Schedule, or
- iii) substantially suspend Work or the Work for a period of 14 (Fourteen) days without authority from the Engineer-in-Charge, or
- iv) fail to carry out and execute the Work to the satisfaction of the Engineer-in-Charge, or
- v) fail to supply sufficient or suitable construction plant, temporary works, labour, materials or things, or
- vi) Commit, suffer, or permit any other breach of any of the provisions of the Contract on his part to be performed or observed or persist in any of the above-mentioned breaches of the Contract for 14 (Fourteen) days, after notice in writing shall have been given to the Contractor by the Engineer-in-Charge requiring such breach to be remedied, or
- vii) if the Contractor shall abandon the Work, or
- viii) If the Contractor during the continuance of the Contract shall become bankrupt, make any arrangement or composition with his creditors, or permit any execution to be levied or go into liquidation whether compulsory or voluntary not being merely a voluntary liquidation for the purpose of amalgamation or reconstruction then in any such case, the Employer/ Owner shall have the power to enter upon the Work and take possession thereof and of the materials, temporary Work, construction plant, and stock thereon, and to revoke the Contractor's license to use the same, and

to complete the Work by his agents, other Contractor's or workmen or to relate the same upon any terms and to such other person, firm or corporation as the Employer/ Owner in his absolute discretion may think proper to employ and for the purpose aforesaid to use or authorize the use of any materials, temporary work, Construction Plant, and stock as aforesaid, without making payment or allowance to the Contractor for the said materials other than such as may be certified in writing by the Engineer-in-Charge to be reasonable, and without making any payment or allowance to the Contractor for the use of the temporary said works, construction plant and stock or being liable for any loss or damage thereto, and if the Employer/ Owner shall by reason of his taking possession of the Work or of the Work being completed by other Contractor (due account being taken of any such extra work or works which may or be omitted) then the amount of such excess as certified by the Engineer-in-Charge shall be deducted from any money which may be due for work done by the Contractor under the Contract and not paid for. Any deficiency shall forthwith be made good and paid to the Employer/ Owner by the Contractor and the Employer/ Owner shall have power to sell in such manner and for such price as he may think fit all or any of the construction plant, materials etc. constructed by or belonging to and to recoup and retain the said deficiency or any part thereof out of proceeds of the sale.

### **32. Contractor's responsibility with the Mechanical, Electrical, Intercommunication System, Air-Conditioning Contractors and other Agencies**

32.1 Without repugnance of any other condition, it shall be the responsibility of the Contractor executing the work of civil construction, to work in close cooperation and coordinate the Work with the Mechanical, Electrical, Air-conditioning and Intercommunication Contractor's and other agencies or their authorized representatives, in providing the necessary grooves, recesses, cuts and opening etc., in wall, slabs beams and columns etc. and making good the same to the desired finish as per specification, for the placement of electrical, intercommunication cables, conduits, air-conditioning inlets and outlets grills and other equipment's etc. where required. For the above said requirements in the false ceiling and other partitions, the Contractor before starting-up the work shall in consultation with the Electrical, Mechanical, Intercommunication, Air-conditioning contractor and other agencies prepare and put-up a joint scheme, showing the necessary openings, grooves, recesses, cuts, the methods of fixing required for the Work of the aforesaid, and the finishes therein, to the Engineer-in-Charge and get the approval. The Contractor before finally submitting the scheme to the Engineer-in-Charge, shall have the written agreement of the other agencies. The Engineer-in-Charge, before communicating his approval to the scheme, with any required modification, shall get the final agreement of all the agencies, which shall be binding. No claim shall be entertained on account of the above. The Contractor shall confirm in all respects with provision of any statutory regulations, ordinances or byelaws of any local or duly constituted authorities or public bodies which may be applicable from time to time to the Work or any temporary works. The Contractor shall keep the Employer/ Owner indemnified against all penalties and liabilities of every kind, arising out of non-adherence to such stains, ordinances, laws, rules, regulations, etc.

### **33. Other Agencies at Site**

33.1 The Contractor shall have to execute the Work in such place and conditions where other agencies may also be engaged for other works such as site grading, filling, and levelling, electrical and mechanical engineering works, etc. No claim shall be entertained due to Work being executed in the above circumstances.

### **34. Notice**

#### **34.1 To the Contractor**

Any notice hereunder may be served on the Contractor or his duly authorized representative at the job site or may be served by registered mail direct to the address furnished by the Contractor. Proof

of issue of any such notice could be conclusive of the Contractor having been duly informed of all contents therein.

#### 34.2 To the Employer/ Owner

Any notice to be given to the Employer under the terms of the Contractor shall be served by sending the same by Registered mail to or delivering the same at the offices of Employer/ Owner at the mentioned address in the Tender document.

#### 35. Right of Various Interests

35.1 i) The Employer/ Owner reserves the right to distribute the work between more than one agency(ies). The Contractor shall cooperate and afford other agency(ies) reasonable opportunity for access to the Work for the carriage and storage of materials and execution of their works.

ii) Wherever the work being done by any department of the Employer/ Owner or by other agency(ies) employed by the Employer/ Owner is contingent upon Work covered by this Contract, the respective rights of the various interests involved shall be determined by the Engineer-in-Charge to secure the completion of the various portions of the work in general harmony.

#### 36. Patents and Royalties

36.1 The Contractor, if licensed under any patent covering equipment, machinery, materials or compositions of matter to be used or supplied or methods and process to be practiced or employed in the performance of this Contract, agrees to pay all royalties and license fees which may be due with respect thereto. If any equipment, machinery, materials, composition of matters, be used or supplied or methods and processes to be practiced or employed in the performance of this Contract, is covered by a patent under which the Contractor is not licensed then the Contractor before supplying or using the equipment, machinery materials, composition method or processes shall obtain such licenses and pay such royalties and license fees as may be necessary for performance of this Contract. In the event the Contractor fails to pay any such royalty or obtain any such license, any suit for infringement of such patents which is brought against the Contractor or the Employer/ Owner as a result such failure will be defended by the Contractor at his own expense and the Contractor will pay any damages and costs awarded in such suit. The Contractor shall promptly notify the Employer/ Owner if the Contractor has acquired the knowledge of any plant under which a suit for infringement could be reasonably brought because of the use by the Employer/ Owner of any equipment, machinery, materials, process, methods to be supplied hereunder. The Contractor agrees to and does hereby grant to Employer/ Owner, together with the right to extend the same to any of the subsidiaries of the Employer/ Owner as irrevocable, royalty free license to use in any country, any invention made by the Contractor or his employee in or as result of the performance of the Work under the Contract.

36.2 All charges on account of royalty, tollage, rent, GST or any other levy on materials obtained for the work or temporary work or part thereof (excluding materials provided by the Employer/ Owner, if any) shall be borne by the Contractor.

36.3 The Contractor shall not sell or otherwise dispose of or remove except for the purpose of this Contract, the sand, stone, clay, ballast, earth, rock or other substances, or materials obtained from any excavation made for the purpose of the Work or any building or produce upon the site at the time of delivery of the possession thereof, but all such substances, materials, buildings and produce shall be the property of the Employer/ Owner provided that the Contractor may with the permission of the Engineer-in-Charge, use the same for the purpose of the work by payment of cost of the same at such a rate as may be determined by the Engineer-in-Charge.



### 37. Liens

- 37.1 If, at any time there should be evidence or any lien or claim for which the Employer/ Owner might have become liable and which is chargeable to the Contractor, the Employer/ Owner shall have the right to retain out of any payment then due or thereafter to become due an amount sufficient to completely indemnify the Employer/ Owner against such lien or claim and if such lien or claim be valid, the Employer/ Owner may pay and discharge the same and deduct the amount so paid from any money which may be or may become due and payable to the Contractor. If any lien or claim remain unsettled after all payments are made, the Contractor shall refund or pay to the Employer/ Owner all money that the latter may be compelled to pay in discharging such lien or claim including all costs and reasonable expenses. Employer/ Owner reserves the right to do the same.
- 37.2 The Employer/ Owner shall have lien on all materials, equipment's including those brought by the Contractor for the purpose of erection, testing and commissioning of the Work.
- 37.3 The final payment shall not become due until the Contractor delivers to the Engineer-in-Charge a complete release or waiver of all liens arising or which may arise out of his agreement or receipt in full or certification by the Contractor in a form approved by Engineer-in-Charge that all invoices for labour, materials, services have been paid in lien thereof and if required by the Engineer-in-Charge in any case an affidavit that so far as the Contractor has knowledge or information the releases and receipts include all the labour and material for which a lien could be filled.
- 37.4 Contractor will indemnify and hold the Employer/ Owner harmless, for a period of 02 (Two) years after the issue of Final Certificate, from all liens and other encumbrances against the Employer/ Owner on account of debts or claims alleged to be due from the Contractor or his Sub-Contractor to any person including Sub-Contractor and on behalf of Employer/ Owner will defend at his own expense, any claim or litigation brought against the Employer/ Owner or the Contractor in connection therewith. Contractor shall defend or contest at his own expense any fresh claim or litigation by any person including his Sub-Contractor, till its satisfactory settlement even after the expiry of 02 (Two) years from the date of issue of Final Certificate.

### 38. Delays by Employer/ Owner or his Authorized Agents

- 38.1 In case the Contractor's performance is delayed due to any act or omission on the part of the Employer/ Owner or his authorized agents, then the Contractor may be given due extension of time for the completion of the Work after proper due diligence by Employer/ Owner, to the extent such omission on the part of the Employer/ Owner has caused delay in the Contractor's performance of his Work.
- 38.2 No adjustment in Contract Price shall be allowed for reasons of such delays and extensions granted except as provided in Tender Document, where the Employer/ Owner reserves the right to seek indulgence of Contractor to maintain the agreed Time Schedule of Completion. In such an event the Contractor shall be obliged for working by Contractor's personnel for additional time beyond stipulated working hours as also Sundays and Holidays and achieve the completion date/interim targets.

### 39. Payment if the Contract is Terminated

- 39.1 If the Contract shall be terminated as per the provisions of the Tender/ Contract, the Contractor shall be paid by the Employer/ Owner in so far as such amounts or items shall not have already been covered by payments of amounts made to the Contractor for the Work executed and accepted by Engineer-in-Charge prior to the date of termination at the rates and prices provided for in the Contract and in addition to the following:

8 MWp Solar GCRTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 30 of 61</u>	<u>Signature of Bidder</u>
----------------------------	--	-----------------------------	----------------------------

- a) The amount payable in respect of any preliminary items, so far as the Work or service comprised therein has been carried out or performed and an appropriate portion as certified by Engineer-in-Charge of any such items or service comprised in which has been partially carried out or performed.
- b) Any other expenses which the Contractor has expended for performing the Work under the Contract subject to being duly recommended by Engineer-in-Charge and approved by Employer/ Owner for payment, based on documentary evidence of his having incurred such expenses.

39.2 The Contractor will be further required to transfer the title and provide the following in the manner and as directed by the Employer/ Owner.

- a) Any and all completed works.
- b) Such partially completed Work including drawings, information and Contract rights as the Contractor has specially performed, produced or acquired for the performance of the Contractor.

#### 40. No Waiver of Rights

40.1 Neither the inspection by the Employer/ Owner or any of their officials, Employees or Agents nor any order by the Employer/ Owner for payment of money or any payment for or acceptance of the whole or any part of the Work by the Employer/ Owner nor any extension of time, nor any possession taken by Employer/ Owner shall operate as a waiver of any provision of the Contract, or of any power herein reserved to the Employer/ Owner, or any right to damages herein provided, nor shall any waiver of any breach in the Contract be held to be a waiver of any other subsequent breach.

#### 41. Certificate not to Affect Right of Employer and Liability of Contractor

41.1 No interim payment certificate(s) issued by the Engineer-in-Charge of the Employer/ Owner, nor any sum paid on account by the Employer/ Owner, nor any extension of time for execution of the work granted by Employer/ Owner shall affect or prejudice the rights of the Employer/ Owner against the Contractor or relieve the Contractor of his obligations for the due performance of the Contract, or be interpreted as approval of the Work done or of the equipment supplied and no certificate shall create liability for the Employer/ Owner to pay for alterations, amendments, variations or additional works not ordered, in writing, by Employer/ Owner or discharge the liability of the Contractor for the payment of damages whether due, ascertained, or certified or not or any sum against the payment of which he is bound to indemnify the Employer/ Owner.

#### 42. Language and Measures

42.1 All documents pertaining to the Contract including Specifications, Schedules, Notices, Correspondence, Operating and Maintenance Instructions, Drawings or any other writing shall be written in English language only. The Metric System of measurement shall be used in the Contract unless otherwise specified.

#### 43. Transfer of Title

43.1 The title of Ownership of supplies furnished by the Contractor shall not pass on to the Employer/ Owner for all Supplies till the same are finally accepted by the Employer/ Owner after the successful completion of Performance Test and Guarantee Test and issuance of Final Certificate.

43.2 However, the Employer/ Owner shall have the lien on all such works performed as soon as any advance or progressive payment is made by the Employer/ Owner to the Contractor and the Contractor shall not subject these works for use other than those intended under this Contract.

#### 44. Release of Information

8 MWp Solar GC RTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 31 of 61</u>	<u>Signature of Bidder</u>
-----------------------------	--	-----------------------------	----------------------------

44.1 The Contractor shall not communicate or use in advertising, publicity, sales releases or in any other medium, photographs, or other reproduction of the Work under this Contract or description of the site dimensions, quantity, quality or other information, concerning the Work unless prior written permission has been obtained from the Employer/ Owner.

#### 45. Brand Names

45.1 The specific reference in the Specifications and documents to any material by trade name, make or catalogue number shall be construed as establishing standard or quality and performance and not as limited competition. However, Tenderer may offer other similar equipment's provided it meets the specified standard design and performance requirements.

#### 46. Completion of Contract

46.1 Unless otherwise terminated under the provisions of any other relevant clause, this Contract shall be deemed to have been completed at the expiration of the Period of Liability/ Validity of the Contract as provided under Section - V, Special Conditions of Contract (SCC).

#### 47. Spares

47.1 The Contractor shall furnish to the Employer/ Owner all spares required for Commissioning of the plants, recommendatory and/ or mandatory spares, which are required essential by the manufacturer/ supplier. The same shall be delivered at Site prior to Commissioning. Also, the Contractor should furnish the manufacturing drawings for fast wearing spares.

47.2 The Contractor guarantees the Employer/ Owner that before the manufacturers of the equipment's, plants and machineries go out of production of spare parts for the equipment furnished and erected by him, he shall give at least 12 (Twelve) months' advance notice to the Employer/ Owner, so that the latter may order his requirement of spares in one lot, if he so desires.

### [E] PERFORMANCE OF WORK

#### 48. Execution of Work

48.1 All the Works shall be executed in strict conformity with the provisions of the Contract Documents and with such explanatory detailed drawings, specification and instructions as may be furnished from time to time to the Contractor by the Engineer-in-Charge whether mentioned in the Contract or not. The Contractor shall be responsible for ensuring that works throughout are executed in the most substantial, proper and workmanlike manner with the quality of material and workmanship in strict accordance with the Specifications and to the entire satisfaction of the Engineer-in-Charge. The Contractor shall provide all necessary materials equipment labour etc. for execution and maintenance of Work till completion unless otherwise mentioned in the Contract.

#### 49. Co-ordination and Inspection of Work

49.1 The coordination and inspection of the day-to-day work under the Contract shall be the responsibility of the Engineer-in-Charge. The written instruction regarding any particular job will normally be passed by the Engineer-in-Charge or his authorized representative. A work order book will be maintained by the Contractor for each sector in which the aforesaid written instructions will be entered. These will be signed by the Contractor or his authorized representative by way of acknowledgement.

#### 50. Work in Monsoon and Dewatering

50.1 Unless otherwise specified elsewhere in the tender, the execution of the Work may entail working in the monsoon also. The Contractor must maintain a minimum labour force as may be required for the job and plan and execute the construction and erection according to the prescribed schedule. No extra rate will be considered for such work in monsoon.

50.2 During monsoon and other period, it shall be the responsibility of the Contractor to keep the construction work site free from water at his own cost.

## 51. Work on Sundays and Holidays

51.1 For carrying out Work on Sundays, and Holidays, the Contractor will approach the Engineer-in-Charge or his representative in advance and obtain permission in writing. The Contractor shall observe all labour laws and other statutory rules and regulations in force. In case of any violations of such laws, rules and regulations, consequence if any, including the cost thereto shall be exclusively borne by the Contractor and the Employer/ Owner shall have no liability whatsoever on this account.

## 52. General Conditions for Construction and Erection Work

52.1 The working time at the site of work is 48 hours per week. Overtime work is permitted in cases of need and the Employer/ Owner will not compensate the same. Shift working at 2 or 3 shifts per day will become necessary and the Contractor should take this aspect into consideration for formulating his rates for quotation. No extra claims will be entertained by the Employer/ Owner on this account. For carrying out work beyond working hours the Contractor will approach the Engineer-in-Charge or his authorized representative and obtain his prior written permission.

52.2 The Contractor must arrange for the placement of workers in such a way that the delayed completion of the Work or any part thereof for any reason whatsoever will not affect their proper employment. The Employer/ Owner will not entertain any claim for idle time payment whatsoever.

52.3 The Contractor shall submit to the Employer/ Owner/ Engineer-in-Charge reports at regular intervals regarding the state and progress of Work. The details and proforma of the report will mutually be agreed after the award of Contract. The Contractor shall provide display boards showing progress and labour strengths at worksite, as directed by the Engineer-in-Charge.

## 53. Alterations in Specifications, Design and Extra Works

53.1 The Work covered under this Contract having to be executed by the Contractor on a lump-sum firm price/ item rate quoted by him, the Employer/ Owner will not accept any proposals for changes in Value of Contract or extension in time on account of any such changes which may arise to the Contractor's scope of Work as a result of detailed Engineering and thereafter during the execution of Work. The only exception to this will be a case where the Employer/ Owner requests in writing to the Contractor to upgrade the Specifications or the size of any major pieces of equipment, plant or machinery beyond what is normally required to meet the scope of Work as defined in the Contract Document. In such cases, a change order will be initialed by the Contractor at the appropriate time for the Employer's/ Owner's prior approval giving the full back-up data for their review and for final settlement of any impact on price.

53.2 The Engineer-in-Charge shall have to make any alterations in, omission from, additions to or substitutions for, the Schedule of Rates, the original specifications, drawings, designs and instructions that may appear to him to be necessary or advisable during the progress of the Work

and the Contractor shall be bound to carry out the such altered/ extra/ new items of Work in accordance with any instructions which may be given to him in writing signed by the Engineer-in-Charge, and such alterations, omissions, additions or substitutions shall not invalidate the Contract and any altered, additional or substituted work which the Contractor may be directed to do in the manner above specified as part of the Work shall be carried out by the Contractor on the same conditions in all respects on which he agreed to do the main Work. The time of completion of Work may be extended for the part of the particular job at the discretion of the Engineer-in-Charge, for only such alterations, additions or substitutions of the Work, as he may consider as just and reasonable.

#### **54. Drawings to be Supplied by the Employer**

- 54.1 The drawings attached with tender, if any are only for the general guidance to the Contractor to enable him to visualize the type of work contemplated and scope of work involved. The Contractor will be deemed to have studied the Drawings and formed an idea about the Work involved.
- 54.2 Detailed working drawings on the basis of which actual execution of the Work is to proceed, will be furnished from time to time during the progress of the work. The Contractor shall be deemed to have gone through the Drawings supplied to him thoroughly and carefully and in conjunction with all other connected drawings and bring to the notice of the Engineer-in-Charge discrepancies, if any, therein before actually carrying out the Work.
- 54.3 Copies of all detailed working drawings relating to the Work shall be kept at the Contractor's office on the site and shall be made available to the Engineer-in-Charge at any time during the Contract. The drawings and other documents issued by the Employer/ Owner shall be returned to the Employer/ Owner on completion of the Work.

#### **55. Drawings to be Supplied by the Contractor**

- 55.1 The drawings/ data which are to be furnished by the Contractor shall be furnished within the specified time.
- 55.2 Where approval/ review of drawings before manufacture/ construction/ fabrication has been specified, it shall be Contractor's responsibility to have these drawings prepared as per the directions of Engineer-in-Charge and got approved before proceeding with manufacture/ construction/ fabrication as the case may be. Any change that may have become necessary in these drawings during the execution of the work shall have to be carried out by the Contractor to the satisfaction of Employer/ Owner at no extra cost. All final drawings shall bear the certification stamp duly signed by both the Contractor and Engineer-in-Charge.
- 55.3 The Drawings submitted by the Contractor shall be reviewed by the Engineer-in-Charge as far as practicable within 03 (Three) weeks and shall be modified by the Contractor, if any modifications and/ or corrections are required by the Engineer-in-Charge. The Contractor shall incorporate such modifications and/ or corrections and submit the final drawings for approval. Any delays arising out of failure by the Contractor to rectify the drawing in good time shall not alter the Contract Completion Time.
- 55.4 As built drawings showing all corrections, adjustments etc. shall be furnished by the Contractor in 06 (Six) Hard Copies and 01 (One) Soft Copy for record purposed to the Employer/ Owner.

#### **56. Setting out Works**

8 MWp Solar GC RTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 34 of 61</u>	<u>Signature of Bidder</u>
-----------------------------	--	-----------------------------	----------------------------



- 56.1 The Engineer-in-Charge shall furnish the Contractor with only the four corners of the Works 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.
- 56.2 The Contractor shall provide, fix and be responsible for the maintenance of all 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 the consequence 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, boundary marks, distance marks and center line marks, either existing or supplied and fixed by the Contractor. The work shall be set out to the satisfaction of the Engineer-in-Charge. The approval there of joining with the Contractor by the Engineer-in-Charge in setting out the work, shall not relieve the Contractor of any of his responsibility.
- 56.3 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 works in accordance with the schemes for bearing marks acceptable to the Engineer-in-Charge. The center, longitudinal or face lines and cross lines shall be marked by means of small masonry pillars. Each pillar shall have distinct mark at the center 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 in writing but such approval shall not relieve the Contractor of any of his responsibilities. The Contractor shall also provide all labour, material and other facilities, as necessary, for the proper checking of layout and inspection of the points during construction.
- 56.4 Pillars bearing geodetic marks located at the sites of units of Works under construction should be protected and fenced by the Contractor.
- 56.5 On completion of Work, the Contractor must submit the geodetic documents according to which the Work was carried out.

## 57. Responsibility for Level and Alignment

- 57.1 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 effectively any errors or imperfections therein, such rectifications shall be carried out by the Contractor, at his own cost, when instructions are issued to that effect by the Engineer-in-Charge.

## 58. Materials to be supplied by Contractor

- 58.1 The Contractor shall procure and provide within the Value of Contract the whole of the materials required for the construction including steels, cement and other building materials, tools, tackles, construction plant and equipment for the completion and maintenance of the Work except the materials which will be issued by the Employer/ Owner and shall make his own arrangement for procuring such materials and for the transport thereof. The Employer/ Owner may give necessary recommendation to the respective authority if so desired by the Contractor but assumes no further responsibility of any nature. The Employer/ Owner will insist on the procurement of materials which bear ISI stamp and/ or which are supplied by reputed suppliers.

58.2 The Contractor shall properly store all materials either issued to him or brought by him to the Site to prevent damages due to rain, wind, direct exposure to sun, etc. as also from theft, pilferage, etc. for proper and speedy execution of his works. The Contractor shall maintain sufficient stocks of all materials required by him.

58.3 No material shall be dispatched from the Contractor's stores before obtaining the approval in writing of the Engineer-in-Charge.

## 59. Stores Supplied by the Employer/ Owner

59.1 If the Specification of the Work provides for the use of any material of special description to be supplied from the Employer's/ Owner's stores or it is required that the Contractor shall use certain stores to be provided by the Employer/ Owner, such materials and stores, there for as hereinafter mentioned being so far as practicable for the convenience of the Contractor, but not so as in any way to control the meaning or effect of the Contract, the Contractor shall be bound to purchase and shall be supplied such materials and stores as are from time to time required to be used by him for the purpose of the Contract only. After the completion of the Work, however, the Contractor has to account for the full quantity of materials supplied to him as per relevant clauses in this document.

59.2 All materials so supplied to the Contractor shall remain the absolute property of the Employer/ Owner and shall not be removed on any account from the Site of the Work, and shall be at all times open for inspection to the Engineer-in-Charge. Any such materials remaining unused at the time of the completion or termination of the Contract shall be returned to the Employer's/ Owner's stores or at a place as directed by the Engineer-in-Charge in perfectly good condition at Contractor's cost.

## 60. Conditions for Issue of Materials

60.1 i) Materials specified as to be issued by the Employer/ Owner will be supplied to the Contractor by the Employer/ Owner from his stores. It shall be responsibility of the Contractor to take delivery of the materials and arrange for its loading, transport and unloading at the Site of Work at his own cost. The materials shall be issued between the working hours and as per the rules of the Employer/ Owner as framed from time to time.

ii) The Contractor shall bear all incidental charges for the storage and safe custody of materials at site after these have been issued to him.

iii) Materials specified as to be issued by the Employer/ Owner shall be issued in standard sizes as obtained from the manufacturers.

iv) The Contractor shall construct suitable godowns at the Site of Work for storing the materials safe against damage by rain, dampness, fire, theft etc. He shall also employ necessary watch and ward establishment for the purpose.

v) It shall be duty of the Contractor to inspect the materials supplied to him at the time of taking delivery and satisfy himself that they are in good condition. After the materials have been delivered by the Employer/ Owner, it shall be the responsibility of the Contractor to keep them in good condition and if the materials are damaged or lost, at any time, they shall be repaired and/ or replaced by him at his own cost according to the instructions of the Engineer-in-Charge.

vi) The Employer/ Owner shall not be liable for delay in supply or non-supply of any materials which the Employer/ Owner has undertaken to supply where such failure or delay is due to natural calamities, act of enemies, transport and procurement difficulties and any circumstances beyond the control of the Employer/ Owner. In no case, the Contractor shall be entitled to claim any compensation or loss suffered by him on this account.



**vii)** It shall be responsibility of the Contractor to arrange in time all materials required for the Work other than those to be supplied by the Employer/ Owner. If, however, in the opinion of the Engineer-in-Charge the execution of the Work is likely to be delayed due to the Contractor's inability to make arrangements for supply of materials which normally he has to arrange for, the Engineer-in-Charge shall have the right at his own discretion to issue such materials, if available with the Employer/ Owner or procure the materials from the market or as elsewhere and the Contractor will be bound to take such materials at the rates decided by the Engineer-in-Charge. This, however, does not in any way absolve the Contractor from responsibility of making arrangements for the supply of such materials in part or in full, should such a situation occur nor shall this constitute a reason for the delay in the execution of the Work.

**viii)** None of the materials supplied to the Contractor will be utilized by the Contractor for manufacturing item which can be obtained as supplied from standard manufacturer in finished form.

**ix)** The Contractor shall, if desired by the Engineer-in-Charge, be required to execute an Indemnity Bond in the prescribed form for safe custody and accounting of all materials issued by the Employer/ Owner.

**x)** The Contractor shall furnish to the Engineer-in-Charge sufficiently in advance a statement showing his requirement of the quantities of the materials to be supplied by the Employer/ Owner and the time when the same will be required by him for the works, so as to enable the Engineer-in-Charge to make necessary arrangements for procurement and supply of the material.

**xi)** Account of the materials issued by the Employer/ Owner shall be maintained by Contractor indicating the daily receipt, consumption and balance in hand. This account shall be maintained in a manner prescribed by the Engineer-in-Charge along with all connected papers viz. requisitions, issues, etc., and shall be always available for inspection in the Contractor's office at Site.

**xii)** The Contractor should see that only the required quantities of materials are got issued. The Contractor shall not be entitled to cartage and incidental charges for returning the surplus materials, if any, to the stores wherefrom they were issued or to the place as directed by the Engineer-in-Charge.

**xiii)** Materials/ Equipment(s) supplied by Employer/ Owner shall not be utilized for any purpose(s) than issued for.

## **61. Material Procured with Assistance of Employer/ Return of Surplus**

**61.1** Notwithstanding anything contained to the contrary in any or all the clauses of this Contract where any materials for the execution of the Contract are procured with the assistance of the Employer/ Owner either by issue from Employer's/ Owner's stock or purchases made under order or permits or licenses issued by Government, the Contractor shall hold the said materials as trustee for the Employer/ Owner and use such materials economically and solely for the purpose of the Contract and not dispose them off without the permission of the Employer/ Owner and return, if required by the Engineer-in-Charge, shall determine having due regard to the condition of the materials.

## **62. Materials obtained from Dismantling**

**62.1** If the Contractor in the course of execution of the Work is called upon to dismantle any part for reasons other than those stipulated in Clauses 67 and 70 hereunder, the materials obtained in the Work of dismantling etc., will be considered as the Employer's/ Owner's property and will be disposed off to the best advantage of the Employer/ Owner.

### 63. Articles of Value Found

- 63.1 All gold, silver and other minerals of any description and all precious stones, coins, treasure relics, antiquities and other similar things which shall be found in, under or upon the Site, shall be the property of the Employer/ Owner and the Contractor shall duly preserve the same to the satisfaction of the Engineer-in-Charge and shall from time to time deliver the same to such person or persons indicated by the Employer/ Owner.

### 64. Discrepancies between Instructions

- 64.1 Should any discrepancy occur between the various instructions furnished to the Contractor, his agent or staff or any doubt arises as to the meaning of any such instructions or should there be any misunderstanding between the Contractor's staff and the Engineer-in-Charge's staff, the Contractor shall refer the matter immediately in writing to the Engineer-in-Charge whose decision thereon shall be final and conclusive and no claim for losses alleged to have been caused by such discrepancies between instructions, doubts, or misunderstanding shall in any event be admissible.

### 65. Action where no Specification is Issued

- 65.1 In case of any class of Work for which there is no Specification supplied by the Employer/ Owner as 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.

### 66. Inspection of Works

- 66.1 The Engineer-in-Charge will have full power and authority to inspect the Work at any time wherever in progress either on the Site or at the Contractor's premises/ workshops wherever situated, premises/ workshops of any person, firm or corporation where Work in connection with the Contract may be in hand or where materials are being or are to be supplied, and the Contractor shall afford or procure for the Engineer-in-Charge every facility and assistance to carry out such inspection. The Contractor shall, at all time during the usual working hours and at all other time at which reasonable notice of the intention of the Engineer-in-Charge or his representative to visit the Work shall have been given to the Contractor, either himself be present or 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 07 (Seven) day notice in writing to the Engineer-in-Charge before covering up or otherwise placing beyond reach of inspection and measurement of 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 or inspection.
- 66.2 No material shall be dispatched from the Contractor's stores before obtaining the approval in writing of the Engineer-in-Charge. The Contractor is to provide at all time 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 adopt as directed for inspection or measurements of the Work by the Engineer-in-Charge.
- 66.3 The Contractor shall make available to the Engineer-in-Charge free of cost all necessary instruments and assistance in checking or setting out of Work and in the checking of any Work made by the Contractor for the purpose of setting out and taking measurements of Work.

### 67. Tests for Quality of Work

8 MWp Solar GCRTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 38 of 61</u>	<u>Signature of Bidder</u>
----------------------------	--	-----------------------------	----------------------------

- 67.1 All workmanship shall be of the respective kinds described in the Contract Documents and in accordance with the instructions of the Engineer-in-Charge and shall be subjected from time to time to such test as the Engineer-in-Charge may direct at the place of manufacture or fabrication or on the site or at all or any such places. **The cost of inspection/ pre-dispatch inspection/ in-stage inspection shall be borne by Employer/ Owner. However, the cost of re-inspection shall be borne by the Contractor, if any.** 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
- 67.2 All the tests that will be necessary in connection with the execution of the Work as decided by the Engineer-in-Charge shall be carried out at the field testing laboratory of the Employer/ Owner by paying the charges as decided by the Employer/ Owner from time to time. In case of non-availability of testing facility with the Employer/ Owner, the required test shall be carried out at the cost of Contractor at Government or any other testing laboratory as directed by Engineer-in-Charge.
- 67.3 If any tests are required to be carried out in conjunction with the Work or materials or workmanship not supplied by the Contractor, such tests shall be carried out by the Contractor as per instructions of Engineer-in-Charge and cost of such tests shall be reimbursed by the Employer/ Owner.

## 68. Samples for Approval

- 68.1 The Contractor shall furnish to the Engineer-in-Charge for approval, when requested or if required by the specifications, adequate samples of all materials and finished to be used in the Work. Such samples shall be submitted before the Work is commenced and in ample time to permit tests and examinations thereof. All materials furnished and finishes applied in actual Work shall be fully equal to the approved samples.

## 69. Action and Compensation in case of Bad Work

- 69.1 If it shall appear to the Engineer-in-Charge that any work has been executed with unsound, imperfect or unskilled workmanship, or with materials of any inferior description, or that any materials or articles provided by the Contractor for the execution of the Work are unsound, or of a quality inferior to that contracted for, or otherwise not in accordance with the Contract, the Contractor shall on demand in writing from the Engineer-in-Charge or his authorized 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 provide other proper and suitable materials or articles at his own cost and in the event of failure to do so within the period specified by the Engineer-in-Charge in his demand aforesaid, the Contractor shall be liable to pay compensation at the rate of 1% (One Percent) of the estimated cost of the whole Work, for every week limited to a maximum of 10% (Ten Percent) of the value of the whole Work, while his failure to do so shall continue and in the case of any such failure the Engineer-in-Charge may on expiry of notice period rectify or remove and re-execute the Work or remove and replaced with others, the materials or articles complained of to as the case may be at the risk and expense in all respects of the Contractor. The decision of the Engineer-in-charge as to any question arising under this clause shall be final and conclusive.

## 70. Suspension of Works

- 70.1 i) Subject to the provisions of sub-para (ii) of this clause, the Contractor shall, if ordered in writing by the Engineer-in-Charge, or his representative, temporarily suspend the Works or any part thereof for such written order, proceed with the Work therein ordered to be suspended until, he shall have received a written order to proceed therewith. The Contractor shall not be entitled to claim compensation for any loss or damage sustained by him by reason of temporary suspension of the

Works aforesaid. An extension of time for completion, corresponding with the delay caused by any such suspension of the Works as aforesaid will be granted to the Contractor should he apply for the same provided that the suspension was not consequent to any default or failure on the part of the Contractor.

ii) In case of suspensions of entire Work, ordered in writing by Engineer-in-Charge, for a period of more than 03 (Three) months, the Contractor shall have the option to terminate the Contract.

## **71. Employer/ Owner may do Part of Work**

71.1 Upon failure of the Contractor to comply with any instructions given in accordance with the provisions of this Contract the Employer/ Owner has the alternative right, instead of assuming charge of entire Work, to place additional labour force, tools, equipments and materials on such parts of the Work, as the Employer/ Owner may designate or also engage another Contractor to carry out the Work. In such cases, the Employer/ Owner shall deduct from the amount which otherwise might become due to the Contractor, the cost of such work and material with 10% (Ten Percent) added to cover all departmental charges and should the total amount thereof exceed the amount due to the Contractor, the Contractor shall pay the difference to the Employer/ Owner.

## **72. Possession prior to Completion**

72.1 The Engineer-in-Charge shall have the right to take possession of or use any completed or partially completed Work or part of the Work. Such possession or use shall not be deemed to be an acceptance of any work completed in accordance with the Contract Agreement. If such prior possession or use by the Engineer-in-Charge delays the progress of Work, equitable adjustment in the time of completion will be made and the Contract Agreement shall be deemed to be modified accordingly.

## **73. Defects Liability Period [12 (Twelve) Months Period of Liability from the date of Issue of Completion Certificate]**

The Contractor shall guarantee the Installation/ Work for a period of 12 (Twelve) Months from the date of Operational Acceptance as certified by the Engineer-in-Charge which is indicated in the Completion Certificate. 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 him or in the workmanship, shall be rectified or replaced by the Contractor at his own expense as deemed necessary by the Engineer-in-Charge or in default, the Engineer-in-Charge may carry out such works by other work and deduct actual cost incurred towards labour, supervision and materials consumables or otherwise plus 100% towards overheads (of which the certificate of Engineer-in-Charge shall be final) from any sums that may then be or at any time thereafter, become due to the Contractor or from his Contract Performance Security, or the proceeds of sale thereof or a sufficient part on thereof.

If the Contractor feels that any variation in Work or in quality of materials or proportions would be beneficial or necessary to fulfil the guarantees called for, he shall bring this to the notice of the Engineer-in-Charge in writing. If during the period of liability any portion of the Work/ Equipment, is found defective and is rectified/ replaced, the period of liability for such equipment/ portion of Work shall be operative from the date such rectification/ replacement are carried out and Contract Performance Guarantee shall be furnished separately for the extended period of liability for that portion of Work/ equipment only. Notwithstanding the above provisions the supplier's, guarantees/ warranties for the replaced equipment shall also be passed on to the Employer/ Owner.

### **73.1 Limitation of Liability**

<b>8 MWp Solar GCRTPV Project</b>	<b><u>Tender No</u> <u>SECI/C&amp;P/BHU/VAR/062017/08</u></b>	<b><u>GCC</u> <u>Page 40 of 61</u></b>	<b><u>Signature of Bidder</u></b>
-----------------------------------	---	--	-----------------------------------



Notwithstanding anything contrary contained herein, the aggregate total liability of Contractor under the Agreement or otherwise shall be limited to 100% of Agreement/ Contract Value. However, neither party shall be liable to the other party for any indirect and consequential damages, loss of profits or loss of production.

### 73.2 Guarantee/ Warranty

As enumerated in Clause no. 73 (Defect Liability Period) of GCC, the overall DLP should stand valid for a period of 12 (Twelve) Months from the date of Operational Acceptance. However, Contractor needs to ensure following Guarantees/ Warranties to the best possible extent for the successful execution of the Contract. Subsequently, necessary Guarantee/ Warranty Certificate shall be produced by the Contractor prior to Operational Acceptance of the Facility.

- PV modules used must be warranted for peak output wattage, which should not be less than 90% at the end of 10 (Ten) Years and 80% at the end of 25 (Twenty-Five) Years.
- The modules shall be warranted for at least 25 (Twenty-Five) Years for failures due to material defects and workmanship.
- The mechanical structures, electrical works and overall workmanship of the grid connected rooftop solar power plant must be warranted for a minimum of 10 (Ten) Years.
- Power Conditioning Units (PCU)/ Inverters: PCUs shall be warranted for the minimum period of 05 (Five) Years or guarantee period provided by the OEM, whichever is higher.
- Associated switch gear and others: Bidder must furnish in detail its warranties/ guarantees at least for 01 (One) Year for these items from the date of commissioning
- The Contractor must ensure that the goods supplied under the Contract are new, unused and of most recent or current models and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.
- During the Operation & Maintenance period, the Contractor shall be responsible for any defects in the work due to faulty workmanship or due to use of sub-standard materials in the work.

### 74. Care of Works

- 74.0 From the commencement to completion of the Work, the Contractor shall take full responsibility for the care for all works including all temporary works and in case any damages, loss or injury shall happen to the Work or to any part thereof or to any temporary works from any cause whatsoever, shall at his own cost repair and make good the same so that at completion the Work shall be in good order and in conformity in every respects with the requirement of the Contract and the Engineer-in-Charge's instructions.

#### 74.1 Defects Prior to Taking Over

If at any time, before the Work is taken over, the Engineer-in-Charge shall:

- Decide that any works done or materials used by the Contractor or by any Sub-Contractor is defective or not in accordance with the Contract, or that the works or any portion thereof are defective, or do not fulfill the requirements of Contract (all such matters being hereinafter, called 'Defects' in this clause), and
- As soon as reasonably practicable, gives to the Contractor notice in writing of the said decision, specifying particulars of the defects alleged to exist or to have occurred, then the Contractor shall at his own expenses and with all speed make good the defects so specified. In case, Contractor shall fail to do so, the Employer/ Owner may take, at the cost of the Contractor, such steps as may take in all circumstances, be reasonable to make good such defects. The expenditure so incurred by the Employer/ Owner will be recovered from the amount due to the Contractor. The decision of



the Engineer-in-Charge with regard to the amount to be recovered from the Contractor will be final and binding on the Contractor. As soon as the Work has been completed in accordance with the Contract (except in minor respects that do not affect their use for the purpose for which they are intended and except for maintenance there provided in clause 73.1 of General Conditions of Contract) and have passed the tests on completion, the Engineer-in-Charge shall issue a Certificate (hereinafter called Completion Certificate) in which he shall certify the date on which the Work have been so completed and have passed the said tests and the Employer/ Owner shall be deemed to have taken over the Work on the date so certified. If the Work has been divided into various groups in the Contract, the Employer/ Owner shall be entitled to take over any group or groups before the other or others and there upon the Engineer-in-Charge shall issue a Completion Certificate which will, however, be for such group or groups so taken over only. In such an event if the group/ section/ part so taken over is related, to the integrated system of the work, notwithstanding date of grant of Completion Certificate for group/ section/ part. The period of liability in respect of such group/ section/ part shall extend 12 (Twelve) months from the date of completion of Work.

#### 74.2 Defects after Taking Over

In order that the Contractor could obtain a Completion Certificate he shall make good, with all possible speed, any defect arising from the defective materials supplied by the Contractor or workmanship or any act or omission of the Contract or that may have been noticed or developed, after the works or groups of the works has been taken over, the period allowed for carrying out such Work will be normally 01 (One) Month. If any defect be not remedied within a reasonable time, the Employer/ Owner may proceed to do the Work at Contractor's risk and expense and deduct from the final bill such amount as may be decided by the Employer/ Owner. If by reason of any default on the part of the Contractor a Completion Certificate has not been issued in respect of any portion of the Work within 01 (One) Month after the date fixed by the Contract for the completion of the Work, the Employer/ Owner shall be at liberty to use the Work or any portion thereof in respect of which a completion certificate has not been issued, provided that the Work or the portion thereof so used as aforesaid shall be afforded reasonable opportunity for completing these works for the issue of Completion Certificate.

#### 75. Guarantee/ Transfer of Guarantee

- 75.1 For works like water-proofing, acid and alkali resisting materials, pre-construction soil treatment against termite or any other specialized works etc. the Contractor shall invariably engage Sub-Contractors who are specialists in the field and firms of repute and such a Sub-Contractor shall furnish guarantees for their workmanship to the Employer/ Owner, through the Contractor. In case such a Sub-Contractor is not prepared to furnish a guarantee to the Employer/ Owner, the Contractor shall give that guarantee to the Employer/ Owner directly.

#### 76. Training of Employer's/ Owner's Personnel

- 76.1 The Contractor undertakes to provide training to Personnel selected and sent by the Employer/ Owner at the works of the Contractor without any cost to the Employer/ Owner. The period and the nature of training for the individual personnel shall be agreed upon mutually between the Contractor and the Employer/ Owner. These personnel shall be given special training at the shops, where the equipment will be manufactured and/ or in their collaborator's works and where possible, in any other plant where equipment manufactured by the Contractor or his collaborators is under installation or test to enable those personnel to become familiar with the equipment being furnished by the Contractor. Employer/ Owner shall bear only the to and fro fare of the said personnel.

#### 77. Replacement of Defective Parts and Materials

8 MWp Solar GCRTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 42 of 61</u>	Signature of Bidder
----------------------------	--	-----------------------------	---------------------

- 77.1 If during the progress of the Work, Employer/ Owner shall decide and inform in writing to the Contractor, that the Contractor has manufactured any plant or part of the plant unsound or imperfect or has furnished plant inferior to the quality specified, the Contractor on receiving details of such defects or deficiencies shall at his own expenses within 07 (Seven) days of his receiving the notice, or otherwise within such time as may be reasonably necessary for making it good, proceed to alter, re-construct or remove such work and furnish fresh equipment's up to the standards of the specifications. In case the Contractor fails to do so, Employer/ Owner may on giving the Contractor 07 (Seven) day notice in writing of his intentions to do so, proceed to remove the portion of the Work so complained of and at the cost of Contractor's, perform all such works or furnish all such equipment's provided that nothing in the clause shall be deemed to deprive the Employer/ Owner of or affect any rights under the Contract, the Employer/ Owner may otherwise have in respect of such defects and deficiencies.

## 78. Indemnity

- 78.1 If any action is brought before a Court, Tribunal or any other Authority against the Employer/ Owner or an officer or agent of the Employer/ Owner, for the failure, omission or neglect on the part of the Contractor to perform any acts, matters, covenants or things under the Contract, or damage or injury or death caused by the alleged omission or negligence on the part of the Contractor, his agents, representatives or his Sub-Contractor's, or in connection with any claim based on lawful demands of Sub-Contractor's workmen suppliers or employees, the Contractor, shall in such cases indemnify and keep the Employer/ Owner and/ or their representatives harmless from all losses, damages, expenses or decrees arising out of such action.

## 79. Construction Aids, Equipment, Tools & Tackles

- 79.1 Contractor shall be solely responsible for making available for executing the Work, all requisite Construction Equipments, Special Aids, Barges, Cranes and the like, all Tools, Tackles and Testing Equipment and Appliances, including imports of such equipment etc. as required. In case of import of the same the rates applicable for levying of Custom Duty on such Equipment, Tools & Tackles and the duty drawback applicable thereon shall be ascertained by the Contractor from the concerned authorities of Government of India. It shall be clearly understood that Employer/ Owner shall not in any way be responsible for arranging to obtain Custom Clearance and/ or payment of any duties and/ or duty draw backs etc. for such equipment's so imported by the Contractor and the Contractor shall be fully responsible for Goods & Service Tax (GST) and documentation with regard to the same. Tenderer in his own interest may contact, for any clarifications in the matter, concerned agencies/ Dept./ Ministries of Govt. of India. All clarifications so obtained and interpretations thereof shall be solely the responsibility of the Contractor.

## [F] CERTIFICATES AND PAYMENTS

## 80. Schedule of Rates and Payments

### 80.1 Contractor's Remuneration

The price to be paid by the Employer/ Owner to Contractor for the whole of the Work to be done and for the performance of all the obligations undertaken by the Contractor under the Contract Documents shall be ascertained by the application of the respective Schedule of Rates (the inclusive nature of which is more particularly defined by way of application but not of limitation, with the succeeding sub-clause of this clause) and payment to be made accordingly for the Work actually executed and approved by the Engineer-in-Charge. The sum so ascertained shall (excepting only as and to the extent expressly provided herein) constitute the sole and inclusive remuneration of the

Contractor under the Contract and no further or other payment whatsoever shall be or become due or payable to the Contractor under the Contract.

#### 80.2 Schedule of Rates to be Inclusive

The prices/ rates quoted by the Contractor shall remain firm till the issuance of Final Certificate and shall not be subject to escalation. Schedule of Rates shall be deemed to include and cover all costs, expenses and liabilities of every description and all risks of every kind to be taken in executing, completing and handing over the Work to the Employer/ Owner by the Contractor. The Contractor shall be deemed to have known the nature, scope, magnitude and the extent of the Work and materials required though the Contract Document may not fully and precisely furnish them. Tenderers shall make such provision in the Schedule of Rates as he may consider necessary to cover the cost of such items of Work and materials as may be reasonable and necessary to complete the Work. The opinion of the Engineer-in-Charge as to the items of Work which are necessary and reasonable for Completion of Work shall be final and binding on the Contractor, although the same may not be shown on or described specifically in Contract Documents. Generality of this present provision shall not be deemed to cut down or limit in any way because in certain cases it may and in other cases it may not be expressly stated that the Contractor shall do or perform a work or supply articles or perform services at his own cost or without addition of payment or without extra charge or words to the same effect or that it may be stated or not stated that the same are included in and covered by the Schedule of Rates.

#### 80.3 Schedule of Rates to Cover Construction Equipments, Materials, Labour etc.

Without in any way limiting the provisions of the preceding sub-clause the Schedule of Rates shall be deemed to include and cover the cost of all construction equipment, temporary Work (except as provided for herein), pumps, materials, labour, insurance, fuel, consumables, stores and appliances to be supplied by the Contractor and all other matters in connection with each item in the Schedule of Rates and the execution of the Work or any portion thereof finished, complete in every respect and maintained as shown or described in the Contract Documents or as may be ordered in writing during the continuance of the Contract.

#### 80.4 Schedule of Rates to Cover Royalties, Rents and Claims

The Schedule of Rates (i.e., Value of Contract) shall be deemed to include and cover the cost of all Royalties and Fees for the articles and processes, protected by letters, patent or otherwise incorporated in or used in connection with the Work, also all Royalties, Rents and other payments in connection with obtaining materials of whatsoever kind for the Work and shall include an Indemnity to the Employer/ Owner which the Contractor hereby gives against all actions, proceedings, claims, damages, costs and expenses arising from the incorporation in or use on the Work of any such articles, processes or materials, octroi or other municipal or local Board Charges, if levied on materials, equipment or machineries to be brought to site for use on Work shall be borne by the Contractor.

#### 80.5 Schedule of Rates to Cover Taxes and Duties

No exemption or reduction of Customs Duties, Goods & Service Tax (GST) on Works Contract quay or any port dues, transport charges, stamp duties or Central or State Government or Local Body or Municipal Taxes or from or of any other body, whatsoever, will be granted or obtained, all of which expenses shall be deemed to be included in and covered by the Schedule of Rates. The Contractor shall also obtain and pay for all permits or other privileges necessary to complete the Work.

#### 80.6 Schedule of Rates to Cover Risks of Delay

8 MWp Solar GCRTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 44 of 61</u>	<u>Signature of Bidder</u>
----------------------------	--	-----------------------------	----------------------------

The Schedule of Rates shall be deemed to include and cover the risk of all possibilities of delay and interference with the Contractor's conduct of Work which occur from any causes including orders of the Employer/ Owner in the exercise of his power and on account of extension of time granted due to various reasons and for all other possible or probable causes of delay.

## 80.7 Schedule of Rates Cannot be Altered

- (a) For Engineering, Procurement and Commissioning (EPC) Contracts or Lumpsum Turnkey (LSTK) Contracts, the total Project/ Contract Value stands to be fixed inclusive of entire items, Materials, Spares, Consumables, Services, Erection and all quoted and unquoted items/ Services in the Bill of Quantity (BOQ) of the Tender/ Contract. Contract Value of such EPC Contracts comprises of all the related costs required for successful execution of the work. The final payment outlay or total cost of the project will be limited to the total value of the EPC Contract and O & M Contract. Any kind of variations related to Total Contract Value shall be to Contractor's account. The payment will be made according to the Work actually carried out, for which purpose an item wise, or work wise Schedule of Rates shall be furnished, suitable for evaluating the value of Work done and preparing running account bill.
- (b) For Item Rate Contracts, no alteration will be allowed in the Schedule of Rates by reason of works or any part of them being modified, altered, extended, diminished or committed. The Schedule of Rates are fully inclusive of rates which have been fixed by the Contractor and agreed to by the Employer/ Owner and cannot be altered.

Based on the mechanism of Tender as described in the Special Conditions of Contract (SCC), the methodologies described above shall prevail. However, payment for any additional work which is not covered in the Schedule of Rates, shall only be released on issuance of change order.

## 81. Procedure for Measurement and Billing

### 81.1 Billing Procedure

Following procedures shall be adopted for billing of works executed by the Contractor.

- 81.1.1 For EPC/ Lumpsum Turnkey Contracts, the billing procedure will follow as per the prescribed payment terms as defined in Special Conditions of Contract (SCC).
- 81.1.2 Form Item Rate Contracts, all measurements shall be recorded in sextuplicate on standard measurement sheets in duly approved formats for scrutiny and passing by Employer/ Owner. Employer/ Owner shall scrutinize and check the measurements recorded on the sheets and shall certify correctness of the same on the measurement sheets.
- 81.1.3 Engineer-in-Charge shall pass the bills after carrying out the comprehensive checks in accordance with the terms and conditions of the Contracts, within 10 (Ten) days of submission of the bills, complete in all respects and send the same to the Employer/ Owner to effect payment to the Contractor as per the defined payment terms.
- 81.1.4 Employer/ Owner shall make all endeavor to make payments of undisputed amount of the bills submitted based on the joint measurements within 30 (Thirty) days from the date of certification by the Engineer-in-Charge.
- 81.1.5 Measurements shall be recorded as per the methods of measurement spelt out in Employer/ Consultant Specifications/ Contract Document. Employer/ Owner shall be fully responsible for

8 MWp Solar GC RTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 45 of 61</u>	<u>Signature of Bidder</u>
-----------------------------	--	-----------------------------	----------------------------

checking the measurements quantitatively and qualitatively as recorded in the Measurement Books/ Bills.

- 81.1.6 While preparing the final bills overall measurements will not be taken again. Only volume of work executed since the last measured bill along with summary of final measurements will be considered for the final bill. However, a detailed check shall be made as to missing measurements and in case there are any missing items or measurements the same shall be recorded.

## 81.2 Secured Advance on Material

Unless otherwise provided elsewhere in the tender, no 'Secured Advance' on security of materials brought to site for execution of contracted items(s) shall be paid to the Contractor whatsoever.

## 81.3 Dispute in Mode of Measurement

In case of any dispute as to the mode of measurement not covered by the Contract to be adopted for any item of Work, mode of measurement as per latest Indian Standard Specifications shall be followed.

## 81.4 Rounding-Off of Amounts

In calculating the amount of each item due to the Contractor in every certificate prepared for payment, sum of less than 50 paise shall be omitted and the total amount on each certificate shall be rounded off to the nearest rupees, i.e., sum of less than 50 paise shall be omitted and sums of 50 paise and more up to one rupee shall be reckoned as one rupee.

## 82. Lumpsum in Tender

- 82.1 The payment against any Lumpsum item shall be made only on completion of that item as per the provision of the Contract after certification by Engineer-in-Charge.

## 83. Running Account Payments to be regarded as Advance

- 83.1 All running account payments shall be regarded as payment by way of advance against the final payment only and not as payments for Work actually done and completed and shall not preclude the requiring of bad, unsound and imperfect or unskilled work to be removed and taken away and reconstructed or re-erected or be considered as an admission of the due performance of the Contract, or any part thereof, in this respect, or of the occurring of any claim by the Contractor, nor shall it conclude, determine or affect in any way the powers of the Employer/ Owner under these conditions or any of them as to the final settlement and adjustment of the accounts or otherwise, or in any other way vary or affect the Contract. The final bill shall be submitted by the Contractor within 01 (One) Month of the date of physical completion of the Work; otherwise, the Engineer-in-Charge's certificate of the measurement and of total amount payable for the Work accordingly shall be final and binding on all parties

## 84. Notice of Claims for Additional Payments

- 84.1 Should the Contractor consider that he is entitled to any extra payment for any extra/ additional Works or Material change in original Specifications carried out by him in respect of Work he shall forthwith give notice in writing to the Engineer-in-Charge that he claims extra payment. Such notice shall be given to the Engineer-in-Charge upon which Contractor bases such claims and such notice shall contain full particulars of the nature of such claim with full details of amount claimed. Irrespective of any provision in the Contract to the contrary, the Contractor must intimate his intention to lodge claim on the Employer/ Owner within 10 (Ten) days of the commencement of happening of



the event and quantify the claim within 30 (Thirty) days, failing which the Contractor will lose his right to claim any compensation /reimbursement/ damages etc. or refer the matter to arbitration. Failure on the part of Contractor to put forward any claim without the necessary particulars as above within the time above specified shall be an absolute waiver thereof. No omission by Employer/ Owner to reject any such claim and no delay in dealing therewith shall be waiver by Employer/ Owner of any of this rights in respect thereof.

- 84.2 Engineer-in-Charge shall review such claims within a reasonably period of time and cause to discharge these in a manner considered appropriate after due deliberations thereon. However, Contractor shall be obliged to carry on with the Work during the period in which his claims are under consideration by the Employer/ Owner, irrespective of the outcome of such claims, where additional payments for Works considered extra are justifiable in accordance with the Contract provisions, Employer/ Owner shall arrange to release the same in the same manner as for normal Work payments. Such of the extra works so admitted by Employer/ Owner shall be governed by all the terms, conditions, stipulations and specifications as are applicable for the Contract.

## 85 Payment of Contractor's Bill

- 85.1 Payment due to the Contractor shall be made by the Employer/ Owner either by e-Banking or by Account Payee Cheque forwarding the same to registered office or the notified office of the Contractor. In no case, will Employer/ Owner be responsible if the cheque is mislaid or misappropriated by unauthorized person/ persons. In all cases, the Contractor shall present his bill duly pre-receipted on proper revenue stamp payment shall be made in Indian Currency.
- 85.2 In general payment of final bill shall be made to Contractor within 60 days of the submission of bill on joint measurements, after completion of all the obligations under the Contract.

## 86 Receipt for Payment

- 86.1 Receipt for payment made on account of work when executed by a company, must be signed by a person holding due power of attorney in this respect on behalf of the Contractor, except when the Contractor's are described in their tender as a limited company in which case the receipts must be signed in the name of the company by one of its principal officers or by some other person having authority to give effectual receipt for the company.

## 87. Completion Certificate

### 87.1 Application for Completion Certificate

When the Contractor fulfils his obligation under Clause 74.1 he shall be eligible to apply for Completion Certificate. The Engineer-in-Charge shall normally issue to the Contractor the Completion Certificate within 01 (One) Month after receiving any application therefore from the Contractor after verifying from the completion documents and satisfying himself that the Work has been completed in accordance with and as set out in the construction and erection drawings, and the Contract Documents. The Contractor, after obtaining the Completion Certificate, is eligible to present the final bill for the Work executed by him under the terms of Contract.

### 87.2 Completion Certificate

Within 01 (One) Month of the completion of the Work in all respects, the Contractor shall be furnished with a certificate by the Engineer-in-Charge of such completion, but no certificate shall be given nor shall the Work be deemed to have been executed until all scaffolding, surplus materials and rubbish is cleared off the Site completely nor until the Work shall have been measured by the Engineer-in-Charge whose measurement shall be binding and conclusive. The Works will not be considered as

8 MWp Solar GCRTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 47 of 61</u>	<u>Signature of Bidder</u>
----------------------------	--	-----------------------------	----------------------------

complete and taken over by the Employer/ Owner, until all the temporary works, labour and staff colonies are cleared to the satisfaction of the Engineer-in-Charge. If the Contractor fails to comply with the requirements of this clause on or before the date fixed for the completion of the Work, the Engineer-in-Charge may at the expense of the Contractor remove such scaffolding, surplus materials and rubbish and dispose off the same as he thinks fit and clean off such dirt as aforesaid, and the Contractor shall forthwith pay the amount of all expenses so incurred and shall have no claim in respect of any such scaffolding or surplus materials as aforesaid except for any sum actually realized by the sale thereof.

### 87.3 Completion Certificate Documents

For the purpose of Clause 87.0 the following documents will be deemed to form the completion documents:

- i) The technical documents according to which the Work was carried out.
- ii) 06 (Six) sets of construction drawings showing therein the modification and correction made during the course of execution and signed by the Engineer-in-Charge.
- iii) Completion Certificate for 'Embedded' and 'Covered up' work.
- iv) Certificates of final levels as set out for various works.
- v) Certificates of tests performed for various Works.
- vi) Material appropriation, Statement for the materials issued by the Employer/ Owner for the Work and list of surplus materials returned to the Employer's/ Owner's store duly supported by necessary documents.

### 88. Final Decision and Final Certificate

- 88.1 Upon expiry of the period of liability and subject to the Engineer-in-Charge being satisfied that the Works have been duly maintained by the Contractor during monsoon or such period as hereinbefore provided in Clause 73 & 74 and that the Contractor has in all respect duly made-up any subsidence and performed all his obligations under the Contract, the Engineer-in-Charge shall (without prejudice to the rights of the Employer/ Owner to retain the provisions of relevant Clause hereof) otherwise give a certificate herein referred to as the Final Certificate to that effect and the Contractor shall not be considered to have fulfilled the whole of his obligations under Contract until Final Certificate shall have been given by the Engineer-in-Charge notwithstanding any previous entry upon the Work and taking possession, working or using of the same or any part thereof by the Employer/ Owner.

### 89. Certificate and Payments on Evidence of Completion

- 89.1 Except the Final Certificate, no other certificates or payments against a certificate or on general account shall be taken to be an admission by the Employer/ Owner of the due performance of the Contract or any part thereof or of occupancy or validity of any claim by the Contractor.

### 90. Deductions from the Contract Price

- 90.1 All costs, damages or expenses which Employer/ Owner may have paid or incurred, which under the provisions of the Contract, the Contractor is liable/ will be liable, will be claimed by the Employer/ Owner. All such claims shall be billed by the Employer/ Owner to the Contractor regularly as and when they fall due. Such claims shall be paid by the Contractor within 15 (Fifteen) days of the receipt of the corresponding bills and if not paid by the Contractor within the said period, the Employer/ Owner may, then, deduct the amount from any moneys due i.e., Contract Performance Security or becoming due to the Contractor under the Contract or may be recovered by actions of law or otherwise, if the Contractor fails to satisfy the Employer/ Owner of such claims.

## [G] TAXES AND INSURANCE

### 91. Goods & Service Tax (GST)/Taxes

- 91.1 The Contractor agrees to and does hereby accept full and exclusive liability for the payment of any and GST/all Taxes. now in force or hereafter imposed, increased, modified, from time to time in respect of Works and materials and all contributions and taxes for unemployment compensation, insurance and old age pensions or annuities now in force or hereafter imposed by any Central or State Government 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 of all Sub-Contractors, with all applicable Central, State, Municipal and local law and regulation and requirement of any Central, State or local Government agency or authority. Contractor further agrees to defend, indemnify and hold Employer/ Owner harmless from any liability or penalty which may be imposed by the Central, State or Local authorities by reason or any violation by Contractor or Sub-Contractor of such laws, suits or proceedings that may be brought against the Employer/ Owner arising under, growing out of, or by reason of the work provided for by this Contract, by third parties, or by Central or State Government authority or any administrative sub-division thereof. Tax deductions will be made as per the rules and regulations in force in accordance with acts prevailing from time to time.

### 92. GST

- 92.1 Bidder should quote all-inclusive prices including the liability of GST whether on the works contract as a whole or in respect of bought out components used by the Contractor in execution of the Contract. Employer/ Owner shall not be responsible for any such liability of the Contractor in respect of this Contract.

### 93. Statutory Variations

- 93.1 Goods & Service Tax (GST) [applicable for both Centre and state] and other levies [if any] payable by the Contractor under the Contract, or for any other cause, shall be included in the rates/ prices and the total bid-price submitted by the Bidder. Applicable rate of taxes shall be indicated in Agreed SOR formats.
- 93.2 In case of any variation (positive/ negative) in existing rates of GST/taxes or a new tax/ duty/ levy is introduced or any existing tax/ duty/ levy is abolished or application of any Tax in the course of the performance of this Contract, which will/ may impact the overall pricing in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to factor any such change by addition to the Contract Price or deduction therefrom, as the case may be.

All these adjustments would be carried out by considering the base price equivalent to the amount mentioned under taxes and duties column of the SOR/ PS.

- 93.3 However, any increase in the rate of these taxes, duties and levies beyond the contractual completion period shall be to Contractor's account and any decrease shall be passed on to Employer/ Owner.

### 94. Insurance

General Contractor shall at his own expense arrange secure and maintain insurance with reputable insurance companies to the satisfaction of the Employer/ Owner as follows: Contractor at his cost shall arrange, secure and maintain insurance as may be necessary and to its full value for all such amounts to protect the Works in progress from time to time and the interest of Employer/ Owner

against all risks as detailed herein. The form and the limit of such insurance, as defined here in together with the under works thereof in each case should be as acceptable to the Employer/ Owner. However, irrespective of work acceptance the responsibility to maintain adequate insurance coverage at all times during the period of Contract shall be that of Contractor alone. Contractor's failure in this regard shall not relieve him of any of his responsibilities and obligations under Contract. Any loss or damage to the equipment, during ocean transportation, port/custom clearance, inland and port handling, inland transportation, storage, erection and commissioning till such time the Work is taken over by Employer/ Owner, shall be to the account of Contractor. Contractor shall be responsible for preferring of all claims and make good for the damage or loss by way of repairs and/or replacement of the parts of the Work damaged or lost. Contractor shall provide the Employer/ Owner with a copy of all insurance policies and documents taken out by him in pursuance of the Contract. Such copies of document shall be submitted to the Employer/ Owner immediately upon the Contractor having taken such insurance coverage. Contractor shall also inform the Employer/ Owner at least 60 (Sixty) days in advance regarding the expiry cancellation and/ or changes in any of such documents and ensure revalidation/ renewal etc. as may be necessary well in time. Statutory clearances, if any, in respect of foreign supply required for the purpose of replacement of equipment lost in transit and/ or during erection, shall be made available by the Employer/ Owner. Contractor shall, however, be responsible for obtaining requisite license, port clearances and other formalities relating to such import. The risks that are to be covered under the insurance shall include, but not be limited to the loss or damage in handling, transit, theft, pilferage, riot, civil commotion, weather conditions, accidents of all kinds, fire, war risk (during ocean transportation only) etc. The scope of such insurance shall cover the entire value of supplies of equipment, plants and materials to be imported from time to time. All costs on account of insurance liabilities covered under Contract will be to Contractor's account and will be included in Value of Contract. However, the Employer/ Owner may from time to time, during the currency of the Contract, ask the Contractor in writing to limit the insurance coverage risk. Contractor as far as possible shall cover insurance with Indian Insurance Companies, including marine Insurance during ocean transportation.

#### 94.1 Employees State Insurance (ESI) Act

The Contractor agrees to and does hereby accept full and exclusive liability for the compliance with all obligations imposed by the Employee State Insurance Act 1948 and the Contractor further agrees to defend, indemnify and hold Employer/ Owner harmless for 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 proceeding that may be brought against the Employer/ Owner arising under, growing out of or by reasons of the work provided for by this Contractor, by third parties or by Central or State Government authority or any political sub- division thereof. The Contractor agrees to fill in with the Employee's State Insurance Corporation, the Declaration Forms, and all forms which may be required in respect of the Contractor's or Sub-Contractor's employees, who are employed in the Work provided for or those covered by ESI from time to time under the Agreement. 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 Employees Contribution Card at wages payment intervals. The Contractor shall remit and secure the agreement of Sub-Contractor to remit to the Employee's State Insurance Corporation Account, the Employee's contribution as required by the Act. The Contractor agrees to maintain all cards and 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 contributions or maintaining records shall be to the Contractor's or Sub-Contractor's account. The Employer/ Owner shall retain such sum as may be necessary from the total Value of Contract until the Contractor shall furnish satisfactory proof that all contributions as required by the Employees State Insurance Act, 1948, have been paid. This will be pending on the Contractor when the ESI Act is extended to the place of work.



**“The Contractors shall have the registration with EPFO & ESIC. The EPF & ESI contribution on the part of Employer/ Owner in respect of this Contract shall be paid by the Contractor. These contributions on the part of Employer/ Owner paid by the Contractor shall be reimbursed by the Engineer-in-charge to the Contractor on actual basis”.**

#### **94.2 Workmen Compensation and Employer's Liability Insurance**

Insurance shall be effected for all the Contractor's employees engaged in the performance of this Contract. If any of the work is sublet, the Contractor shall require the Sub-Contractor to provide workman's Compensation and Employer's/ Owner's liability insurance for the later employees if such Employees are not covered under the Contractor's Insurance.

#### **94.3 Accident or Injury to Workmen**

The Employer/ Owner shall not be liable for or in respect of any damages or compensation payable at law in respect or in consequence of any accident or injury to any workman or other person in the Employment of the Contractor or any Sub-Contractor save and except an accident or injury resulting from any act or default of the Employer/ Owner, his agents or servants and the Contractor shall indemnify and keep indemnified the Employer/ Owner against all such damages and compensation (save and except and aforesaid) and against all claims, demands, proceeding, costs, charges and expenses, whatsoever in respect or in relation thereto.

#### **94.4 Transit Insurance**

In respect of all items to be transported by the Contractor to the Site of Work, the cost of transit insurance should be borne by the Contractor and the quoted price shall be inclusive of this cost.

#### **94.5 Comprehensive Automobile Insurance**

This insurance shall be in such a form as to protect the Contractor against all claims for injuries, disability, disease and death to members of public including Employer's/ Owner's men and damage to the property of others arising from the use of motor vehicles during on or off the site operations, irrespective of the Employership of such vehicles.

#### **94.6 Comprehensive General Liability Insurance**

**a)** This insurance shall protect the Contractor against all claims arising from injuries, disabilities, disease or death of member of public or damage to property of others due to any act or omission on the part of the Contractor, his agents, his employees, his representatives and Sub-Contractor's or from riots, strikes and civil commotion.

**b)** Contractor shall take suitable Group Personal Accident Insurance Cover for taking care of injury, damage or any other risks in respect of his Engineers and other Supervisory staff who are not covered under Employees State Insurance Act.

**c)** The policy shall cover third party liability. The third party (liability shall cover the loss/ disablement of human life (person not belonging to the Contractor) and also cover the risk of damage to others materials/ equipment/ properties during construction, erection and commissioning at site.

The value of third party liability for compensation for loss of human life or partial/ full disablement shall be of required statutory value but not less than INR 2 (Two) Lakhs per death, INR 1.5 (One and Half) Lakhs per full disablement and INR 1 (One) Lakh per partial disablement and shall nevertheless cover such compensation as may be awarded by Court by Law in India and cover for



damage to others equipment/ property as approved by the Purchaser. However, third party risk shall be maximum to INR 10 (Ten) Lakhs to death.

**d)** The Contractor shall also arrange suitable insurance to cover damage, loss, accidents, risks etc., in respect of all his plant, equipment and machinery, erection tools & tackles and all other temporary attachments brought by him at site to execute the work.

**e)** The Contractor shall take out insurance policy in the joint name of Employer/ Owner and Contractor from one or more nationalized insurance company from any branch office at Project site.

**f)** Any such insurance requirements as are hereby established as the minimum policies and coverages which Contractor must secure and keep in force must be complied with, Contractor shall at all times be free to obtain additional or increased coverages at Contractor's sole expenses.

**viii) ANY OTHER INSURANCE REQUIRED UNDER LAW OR REGULATIONS OR BY EMPLOYER:**

Contractor shall also carry and maintain any and all other insurance(s) which he may be required under any law or regulation from time to time without any extra cost to Employer/ Owner. He shall also carry and maintain any other insurance which may be required by the Employer/ Owner.

**95 Damage to Property or to any Person or any Third Party**

95.1 Contractor shall be responsible for making good to the satisfaction of the Employer/ Owner any loss or any damage to structures and properties belonging to the Employer/ Owner or being executed or procured or being procured by the Employer/ Owner or of other agencies within in the premises of all the work of the Employer/ 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.

95.2 The Contractor shall take sufficient care in moving his plants, equipment and materials from one place to another so that they do not cause any damage to any person or to the property of the Employer/ Owner or any third party including overhead and underground cables and in the event of any damage resulting to the property of the Employer/ Owner or of a third party during the movement of the aforesaid plant, equipment or materials the cost of such damages including eventual loss of production, operation or services in any plant or establishment as estimated by the Employer/ Owner or ascertained or demanded by the third party shall be borne by the Contractor. Third party liability risk shall be INR 1 (One) Lakh for single accident and limited to INR 10 (Ten) Lakhs.

95.3 The Contractor shall indemnify and keep the Employer/ Owner harmless of all claims for damages to property other than Employer's/ Owner's property arising under or by reason of this agreement, if such claims result from the fault and/ or negligence or willful acts or omission of the Contractor, his employees, agents, representative of Sub-Contractor.

**[H] LABOUR LAWS**

**96. Labour Laws**

**i)** No labour below the age of 18 (Eighteen) Years shall be employed on the Work.

**ii)** The Contractor shall not pay less than what is provided under law to labourers engaged by him on the Work.

iii) The Contractor shall at his expense comply with all labour laws and keep the Employer/ Owner indemnified in respect thereof.

iv) The Contractor shall pay equal wages for men and women in accordance with applicable labour laws.

v) If the Contractor is covered under the Contract Labour (Regulation and Abolition) Act, he shall obtain a license from licensing authority (i.e. office of the labour commissioner) by payment of necessary prescribed fee and the deposit, if any, before starting the Work under the Contract. Such fee/ deposit shall be borne by the Contractor.

vi) The Contractor shall employ labour in sufficient numbers either directly or through Sub-Contractor's to maintain the required rate of progress and of quality to ensure workmanship of the degree specified in the Contract and to the satisfaction of the Engineer-in-Charge.

vii) The Contractor shall furnish to the Engineer-in- Charge the distribution return of the number and description, by trades of the work people employed on the works. The Contractor shall also submit on the 4<sup>th</sup> and 19<sup>th</sup> of every month to the Engineer-in-Charge a true statement showing in respect of the second half of the preceding month and the first half of the current month (1) the accidents that occurred during the said fortnight showing the circumstances under which they happened and the extent of damage and injury caused by them and (2) the number of female workers who have been allowed Maternity Benefit as provided in the Maternity Benefit Act 1961 on Rules made thereunder and the amount paid to them.

viii) The Contractor shall comply with the provisions of the Payment of Wage Act 1936, Employee Provident Fund Act 1952, Minimum Wages Act 1948. Employers Liability Act 1938. Workmen's Compensation Act 1923, Industrial Disputes Act 1947, the Maternity Benefit Act 1961 and Contract Labour Regulation and Abolition Act 1970, Employment of Children Act 1938 or any modifications thereof or any other law relating thereto and rules made thereunder from time to time.

ix) The Engineer-in-Charge shall on a report having been made by an Inspecting Officer as defined in Contract Labour (Regulation and Abolition) Act 1970 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 or workers by reason of non- fulfillment of the Conditions of the Contract for the benefit of workers, non-payment of wages or of deductions made from his or their wages which are not justified by the terms of the Contract or non-observance of the said regulations.

x) The Contractor shall indemnify the Employer/ Owner against any payments to be made under and for the observance of the provisions of the aforesaid Acts without prejudice to his right to obtain indemnity from his Sub-Contractor's. In the event of the Contractor committing a default or breach of any of the provisions of the aforesaid Acts as amended from time to time, of furnishing any information or submitting or filling and Form/ Register/ Slip under the provisions of these Acts which is materially incorrect then on the report of the inspecting Officers, the Contractor shall without prejudice to any other liability pay to the Employer/ Owner a sum not exceeding INR 5000 as Liquidated Damages for every default, breach or furnishing, making, submitting, filling materially incorrect statement as may be fixed by the Engineer-in-Charge and in the event of the Contractor's default continuing in this respect, the Liquidated Damages may be enhanced to INR 5000 per day for each day of default subject to a maximum of 01 (One) Percent of the estimated cost of the Work put to tender. The Engineer-in-Charge shall deduct such amount from bills or Contract Performance Security of the Contractor and credit the same to the Welfare Fund constitute under these acts. The decision of the Engineer-in-Charge in this respect shall be final and binding.

## 97. Implementation of Apprentices Act, 1961

8 MWp Solar GCRTPV Project	<u>Tender No</u> <b>SECI/C&amp;P/BHU/VAR/062017/08</b>	<u>GCC</u> <b>Page 53 of 61</b>	<u>Signature of Bidder</u>
-------------------------------	---	------------------------------------	----------------------------

- 97.1 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 provisions, of the Act.

## **98. Contractor to Indemnify the Employer/ Owner**

- 98.1 The Contractor shall indemnify the Employer/ Owner and every member, office and employee of the Employer/ Owner, also the Engineer-in-Charge and his staff against all actions, proceedings, claims, demands, costs and expenses whatsoever arising out of or in connection with the matters referred to in Clause 95 and elsewhere and all actions, proceedings, claims, demands, costs and expenses which may be made against the Employer/ Owner for or in respect of or arising out of any failure by the Contractor in the performance of his obligations under the Contract Document. The Employer/ Owner shall not be liable for or in respect of or arising out of any failure by the Contractor in the performance of his obligations under the Contract Document. The Employer/ Owner shall not be liable for or in respect of any demand or compensation payable by law in respect or in consequence of any accident or injury to any workmen or other person. In the employment of the Contractor or his Sub-Contractor the Contractor shall indemnify and keep indemnified the Employer/ Owner against all such damages and compensations and against all claims, damages, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

## **98.2 Payment of Claims and Damages**

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

- 98.3 In every case in which by virtue of the provisions of Section 12, Sub-section (i) of workmen's compensation Act, 1923 or other applicable provision of Workmen Compensation Act or any other Act, the Employer/ Owner is obliged to pay compensation to a workman employed by the Contractor in execution of the Work, the Employer/ Owner will recover from the Contractor the amount of the compensation so paid, and without prejudice to the rights of Employer/ Owner under Section 12, Sub- section (2) of the said Act, Employer/ Owner shall be at liberty to recover such amount or any part thereof by deducting it from the Contract Performance Security or from any sum due to the Contractor whether under this Contract or otherwise. The Employer/ Owner shall not be bound to contest any claim made under Section 12, Sub-section (i) of the said act, except on the written request of the Contractor and upon his giving to the Employer/ Owner full security for all costs for which the Employer/ Owner might become liable in consequence of contesting such claim.

## **99. Health and Sanitary Arrangements for Workers**

- 99.1 In respect of all labour directly or indirectly employed in the Works for the performance of the Contractor's part of this agreement, the Contractor shall comply with or cause to be complied with all the rules and regulations of the local sanitary and other authorities or as framed by the Employer/ Owner from time to time for the protection of health and sanitary arrangements for all workers.
- 99.2 The Contractor shall provide in the labour colony all amenities such as electricity, water and other sanitary and health arrangements. The Contractor shall also provide necessary surface transportation to the place of work and back to the colony for their personnel accommodated in the labour colony.

## [I] APPLICABLE LAWS & SETTLEMENT OF DISPUTES

### 100. Arbitration

100.1 Unless otherwise specified, the matters where decision of the Engineer-in-Charge is deemed to be final and binding as provided in the Agreement and the issues/ disputes which cannot be mutually resolved within a reasonable time, all disputes shall be referred to arbitration by Sole Arbitrator. The Employer/ Owner shall suggest a panel of three independent and distinguished persons to the Bidder/ Contractor/ Supplier (as the case may be) to select any one among them to act as the Sole Arbitrator. In the event of failure of the other parties to select the Sole Arbitrator within 30 (Thirty) Days from the receipt of the communication suggesting the panel of arbitrators, the right of selection of the sole arbitrator by the other party shall stand forfeited and the Employer/ Owner shall have discretion to proceed with the appointment of the Sole Arbitrator. The decision of Employer/ Owner on the appointment of the sole arbitrator shall be final and binding on the parties. The award of sole arbitrator shall be final and binding on the parties and unless directed/ awarded otherwise by the sole arbitrator, the cost of arbitration proceedings shall be shared equally by the parties. The Arbitration proceedings shall be in English language and venue shall be New Delhi, India. Subject to the above, the provisions of (Indian) Arbitration & Conciliation Act 1996 and the Rules framed there under shall be applicable. All matter relating to this contract are subject to the exclusive jurisdiction of the court situated in the state of New Delhi. Bidders/ Suppliers/ Contractors may please note that the Arbitration & Conciliation Act 1996 was enacted by the Indian Parliament and is based on United Nations Commission on International Trade Law (Uncitral Model Law), which were prepared after extensive consultation with Arbitral Institutions and centers of International Commercial Arbitration. The United Nations General Assembly vide resolution 31/98 adopted the Uncitral Arbitration Rules on 15<sup>th</sup> December 1976.

### 100.2 FOR THE SETTLEMENT OF DISPUTES BETWEEN GOVERNMENT DEPARTMENT AND ANOTHER AND ONE GOVERNMENT DEPARTMENT AND PUBLIC ENTERPRISE AND ONE PUBLIC ENTERPRISE AND ANOTHER THE ARBITRATION SHALL BE AS FOLLOWS:

"In the event of any dispute or difference between the parties hereto, such dispute or difference shall be resolved amicably by mutual consultation or through the good offices of empowered agencies of the Government. If such resolution is not possible, then, the unresolved dispute or difference shall be referred to arbitration of an arbitrator to be nominated by Secretary, Department of Legal Affairs ("Law Secretary") in terms of the Office Memorandum No.55/3/1/75-CF, dated the 19<sup>th</sup> December 1975 issued by the Cabinet Secretariat (Department of Cabinet Affairs), as modified from time to time. The Arbitration Act 1940 (10 of 1940) shall not be applicable to the arbitration under this clause. The award of the Arbitrator shall be binding upon parties to the dispute. Provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to Law Secretary whose decision shall bind the parties finally and conclusively.

### 101. Jurisdiction

101.1 The Contract shall be governed by and constructed according to the laws in force in INDIA. The Contractor hereby submits to the jurisdiction of the Courts situated at New Delhi for the purposes of disputes, actions and proceedings arising out of the Contract, the courts at New Delhi only will have the jurisdiction to hear and decide such disputed, actions and proceedings.

## [J] SAFETY CODES

### 102. General

- 102.1 Contractor shall adhere to safe construction practice and guard against hazardous, and unsafe working conditions and shall comply with Safety rules as set forth herein.

### 103. Safety Regulations

- 103.1 i) In respect of all labour, directly employed in the Work for the performance of Contractor's part of this agreement, the Contractor shall at his own expense arrange for all the safety provisions as per safety codes of C.P.W.D., Indian Standards Institution. The Electricity Act, The Mines Act and such other acts as applicable.

ii) The Contractor shall observe and abide by all fire and safety regulations of the Employer/ Owner. Before starting construction work Contractor shall consult with Employer's/ Owner's safety Engineers or Engineer-in-Charge and must make good to the satisfaction of the Employer/ 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 Employer's/ Owner's existing property.

### 104. First Aid and Industrial Injuries

- 104.1 i) Contractor shall maintain first aid facilities for its employees and those of its Sub-Contractor.

ii) Contractor shall make outside arrangements for Ambulance Service and for the treatment of industrial injuries. Names of those providing these services shall be furnished to Employer/ Owner prior to start of construction and their telephone numbers shall be prominently posted in Contractor's Site Office.

ii) All critical industrial injuries shall be reported promptly to Employer/ Owner, and a copy of Contractor's report covering each personal injury requiring the attention of a physician shall be furnished to the Employer/ Owner.

### 105. General Rules

- 105.1 Smoking within the battery area, tank farm or dock limits is strictly prohibited. Violators of the no smoking rules shall be discharged immediately.

### 106. Contractor's Barricades

- 106.1 i) Contractor shall erect and maintain barricades required in connection with his operation to guard or protect: -

- a) Excavations
- b) Hoisting Areas.
- c) Areas adjudged hazardous by Contractor's or Employer's/ Owner's inspectors.
- d) Employer's/ Owner's existing property subject to damage by Contractor's Operations.
- e) Rail Road unloading spots

ii) Contractor's employees and those of his Sub-Contractor's shall become acquainted with Employer's/ Owner's barricading practice and shall respect the provisions thereof.

iii) Barricades and hazardous areas adjacent to, but not located in normal routes of travel shall be marked by red flasher lanterns at nights.

### 107. Scaffolding

8 MWp Solar GC RTPV Project	Tender No <u>SECI/C&amp;P/BHU/VAR/062017/08</u>	GCC <u>Page 56 of 61</u>	Signature of Bidder
-----------------------------	--	-----------------------------	---------------------



- 107.1 i) Suitable scaffolding should be provided for workmen for all works that cannot safely be done from the ground or from solid construction except such short period work as can be done safely from ladders. When a ladder is used an extra Mazdoor shall be engaged for holding the ladder and if the ladder is used for carrying material as well, suitable footholds and handholds shall be provided on the ladder and the ladder shall be given an inclination not steeper than 1 in 4 (1 Horizontal and 4 Vertical).
- ii) Scaffolding or staging more than 4 meters above the ground or floor, swing suspended from an overhead support or erected with stationary support shall have a guard rail properly attached, bolted, braced and otherwise retarded at least one meter high above the floor or platform of such scaffolding or staging and extending along the entire length of the outside and ends thereof with only such openings as may be necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent it from swaying from the building or structure.
- iii) Working platform, gangway and stairway should be so constructed that they should not sag unduly or unequally and if the height of platform of the gangway or the stairway is more than 4 meters above the ground level or floor level, they should be closely boarded, should have adequate width and should be suitably fastened as in ii) above.
- iv) Every opening in the floor of a building or in a working platform shall be provided with suitable means to prevent the fall of persons or materials by providing suitable fencing or railing whose minimum heights shall be 1 meter.
- v) Safe-means of access shall be provided to all working platforms and other working places, every ladder shall be securely fixed. No portable single ladder shall be over 9 meters in length while the width between side rails in rung ladder shall in no case be less than 30cms for ladder up to and including 3 meters in length. For longer ladder this width should be increased 5mm for each additional foot of length. Uniform steps spacing shall not exceed 30cms. Adequate precautions shall be taken to prevent danger from electrical equipment. No materials on any of the sites or work shall be so stacked or placed to cause danger or inconvenience to any person or public. The Contractor shall also provide all necessary fencing and lights to protect the workers and staff from accidents, and shall be bound to bear the expenses of defense of every suit, action or other proceeding of law that may be brought by any person for injury sustained owing to neglect of the above precautions and pay any damages and costs which may be awarded in any such suit or action or proceeding to any such person or which may with the consent of the Contractor be paid to compromise any claim by any such person.

## 108. Excavation and Trenching

- 108.1 All trenches 1.2 Meters or more in depth, shall at all times be supplied with at least one ladder for each 50 Meters length or fraction thereof. Ladder shall be extended from bottom of the trenches to at least 1 meter above the surface of the ground. The sides of the trenches which are 1.5 Meters in depth shall be stepped back to give suitable slope or securely held by timber bracing, so as to avoid the danger of sides to collapse. The excavated materials shall not be placed within 1.5 Meters of the edge of the trench or half of the trench width whichever is more. Cutting shall be done from top to bottom. Under no circumstances undermining or under-cutting shall be done.

## 109. Demolition/ General Safety

- 109.1 i) Before any demolition work is commenced and also during the progress of the demolition work
- a) All roads and open areas adjacent to the work site shall either be closed or suitably protected.

**b)** No electric cable or apparatus which is liable to be a source of danger shall remain electrically charged.

**c)** All practical steps shall be taken to prevent danger to persons employed from risk of fire or explosion or flooding. No floor, roof or other part of the building shall be so overloaded with debris or materials as to render it unsafe.

**ii)** All necessary personal safety equipment as considered adequate by the Engineer-in-Charge, should be kept available for the use of the persons employed on the Site and maintained in condition suitable for immediate use, and the Contractor shall take adequate steps to ensure proper use of equipment by those concerned.

**a)** Workers employed on mixing asphaltic materials, cement and lime mortars shall be provided with protective footwear and protective gloves.

**b)** Those engaged in white washing and mixing or stacking of cement bags or any material which are injurious to the eyes be provided with protective goggles.

**c)** Those engaged in welding and cutting works shall be provided with protective face & eye shield, hand gloves, etc.

**d)** Stone breakers shall be provided with protective goggles and protective clothing and seated at sufficiently safe intervals.

**e)** When workers are employed in sewers and manholes, which are in use, the CONTRACTOR shall ensure that the manhole covers are opened and are ventilated at least for an hour before the workers are allowed to get into the manholes, and the manholes so opened shall be cordoned off with suitable railing and provided with warning signals or board to prevent accident to the public.

**f)** The CONTRACTOR shall not employ men below the age of 18 years and women on the work of painting with products containing lead in any form. Wherever men above the age of 18 years are employed on the work of lead painting, the following precautions should be taken.

**1)** No paint containing lead or lead product shall be used except in the form of paste or readymade paint.

**2)** Suitable face masks should be supplied for use by the workers when paint is applied in the form of spray or a surface having lead paint dry rubbed and scrapped.

**3)** Overalls shall be supplied by the Contractor to the workmen and adequate facilities shall be provided to enable the working painters to wash them during and on cessation of work.

**iii)** When the work is done near any place where there is risk of drowning, all necessary safety equipment should be provided and kept ready for use and all necessary steps taken for prompt rescue of any person in danger and adequate provision should be made for prompt first aid treatment of all injuries likely to be sustained during the course of the work.

**iv)** Use of hoisting machines and tackles including their attachments, anchorage and supports shall conform to the following standards or conditions:

**a)** These shall be of good mechanical construction, sound materials and adequate strength and free from patent defect and shall be kept in good working order.

**b)** Every rope used in hoisting or lowering materials or as means of suspension shall be of durable quality and adequate strength and free from patent defects.

**c)** Every crane driver or hoisting appliance operator shall be properly qualified and no person under the age of 21 years should be in charge of any hoisting machine including any scaffolding, winch or give signals to the operator.

**d)** In case of every hoisting machine and of every chain ring hook, shackle, swivel, and pulley block used in hoisting or lowering or as means of suspension, the safe working load shall be ascertained by adequate means. Every hoisting machine and all gears referred to above shall be plainly marked with the safe working load of the conditions under which it is applicable and the same shall be clearly indicated. No part of any machine or any gear referred to above in this paragraph shall be loaded beyond safe working load except for the purpose of testing.

**e)** In case of departmental machine, the safe working load shall be notified by the Engineer-in-Charge. As regards Contractor's machines, the Contractor shall notify the safe working load of the machine to the Engineer-in-Charge whenever he brings any machinery to Site of Work and get it verified by the Engineer concerned.

**v)** Motors, gears, transmission lines, electric wiring and other dangerous parts of hoisting appliances should be provided with efficient safeguards. Hoisting appliances should be provided with such means as to reduce to minimum the accidental descent of the load, adequate precautions should be taken to reduce the minimum risk of any part or parts of a suspended load becoming accidentally displaced. When workers are employed on electrical installations which are already energized, insulating mats, wearing apparel, such as gloves, sleeves, and boots as may be necessary should be provided. The workers shall not wear any rings, watches and carry keys or other materials which are good conductors of electricity.

**vi)** All scaffolds, ladders and other safety devices mentioned or described herein shall be maintained in safe conditions and no scaffolds, ladder or equipment shall be altered or removed while it is in use. Adequate washing facilities should be provided at or near places of work.

**vii)** These safety provisions should be brought to the notice of all concerned by displaying on a notice board at a prominent place at the work-spot. The person responsible for compliance of the safety code shall be named therein by the Contractor.

**viii)** To ensure effective enforcement of the rules and regulations relating to safety precautions, the arrangements made by the Contractor shall be open to inspection by the Welfare Officer, Engineer-in-Charge or safety Engineer of the Administration or their representatives.

**ix)** Notwithstanding the above clauses there is nothing in these to exempt the Contractor for the operations of any other Act or rules in force in the Republic of India. The work throughout including any temporary works shall be carried out in such a manner as not to interfere in any way whatsoever with the traffic on any roads or footpath at the site or in the vicinity thereto or any existing works whether the property of the Administration or of a third party. In addition to the above, the Contractor shall abide by the safety code provision as per C.P.W.D. Safety code and Indian Standard Safety Code from time to time.

## **110. Care in Handling Inflammable Gas**

110.1 The Contractor has to ensure all precautionary measures and exercise utmost care in handling the inflammable gas cylinder/ inflammable liquids/ paints etc. as required under the law and/ or as advised by the fire Authorities of the Employer/ Owner.

## **111. Temporary Combustible Structures**

111.1 Temporary combustible structures will not be built near or around work site.

## 112. Precautions against Fire

- 112.1 The Contractor will have to provide Fire Extinguishers, Fire Buckets and drums at worksite as recommended by Engineer-in-Charge. They will have to ensure all precautionary measures and exercise utmost care in handling the inflammable gas cylinders/ inflammable liquid/ paints etc. as advised by Engineer-in-Charge. Temporary combustible structure will not be built near or around the work-site.

## 113. Explosives

- 113.1 Explosives shall not be stored or used on the Work or on the Site by the Contractor without the permission of the Engineer-in-Charge in writing and then only in the manner and to the extent to which such permission is given. When explosives are required for the Work they will be stored in a special magazine to be provided at the cost of the Contractor in accordance with the Explosives Rules. The Contractor shall obtain the necessary license for the storage and the use of explosives and all operations in which or for which explosives are employed shall be at sole risk and responsibility of the Contractor and the Contractor shall indemnify the Employer against any loss or damage resulting directly or indirectly therefrom.

## 114 Mines Act

- 114.1 SAFETY CODE: The Contractor shall at his own expense arrange for the safety provisions as required by the Engineer-in-Charge in respect of all labour directly employed for performance of the Works and shall provide all facilities in connection therewith. In case the Contractor fails to make arrangements and provides necessary facilities as aforesaid, the Engineer-in-Charge shall be entitled to do so and recover the costs thereof from the Contractor.
- 114.2 Failure to comply with Safety Code or the provisions relating to report on accidents and to grant of maternity benefits to female workers shall make the Contractor liable to pay Company Liquidated Damages an amount not exceeding INR 50/- for each default or materially incorrect statement. The decision of the Engineer-in-Charge in such matters based on reports from the Inspecting Officer or from representatives of Engineer-in-Charge shall be final and binding and deductions for recovery of such Liquidated Damages may be made from any amount payable to the Contractor from all the provisions of the Mines Act, 1952 or any statutory modifications or re-enactment thereof the time being in force and any Rules and Regulations made thereunder in respect of all the persons employed by him under this Contract and shall indemnify the Employer/ Owner from and against any claim under the Mines Act or the rules and regulations framed thereunder by or on behalf of any persons employed by him or otherwise.

## 115. Preservation of Place

- 115.1 The Contractor shall take requisite precautions and use his best endeavors to prevent any riotous or unlawful behavior by or amongst his worker and others employed or the works and for the preservation of peace and protection of the inhabitants and security of property in the neighborhood of the Work. In the event of the Employer/ Owner requiring the maintenance of a Special Police Force at or in the vicinity of the site during the tenure of works, the expenses thereof shall be borne by the Contractor and if paid by the Employer/ Owner shall be recoverable from the Contractor.

## 116. Outbreak of Infectious Diseases

- 116.1 The Contractor shall remove from his camp such labour and their facilities who refuse protective inoculation and vaccination when called upon to do so by the Engineer-in-Charge's representative. Should Cholera, Plague or other infectious diseases break out the Contractor shall burn the huts,

beddings, clothes and other belongings or used by the infected parties and promptly erect new huts on healthy sites as required by the Engineer-in-Charge failing which within the time specified in the Engineer's requisition, the work may be done by the Employer/ Owner and the cost thereof recovered from the Contractor.

#### **117. Use of Intoxicants**

- 117.1 The unauthorized sale of spirits or other intoxicants, beverages upon the work in any of the buildings, encampments or tenements owned, occupied by or within the control of the Contractor or any of his employee is forbidden and the Contractor shall exercise his influence and authority to the utmost extent to secure strict compliance with this condition. In addition to the above, the Contractor shall abide by the safety code provision as per C.P.W.D. safety code and Indian Standard Code framed from time to time.