



# Bhopal Smart City Development Corporation Limited



August 2018

“PROVIDING CONCEPT ART & DESIGN WORK UNDER  
BHOPAL SMART CITY”

“REVISION 001”

Prepared by

Approved by

Recommended by

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# Bhopal Smart City Development Corporation Limited

## NOTICE INVITING e-TENDER (NIT)

BSCDCL invites online Item rate tender as per schedule as under:

Tendering Document No.	:	MPBSCDCL/TENDER NO -57
Name of the Work	:	PROVIDING CONCEPT ART & DESIGN WORK UNDER BHOPAL SMART CITY
Brief Scope of Work	:	The bidder shall be responsible for the survey of the area and develop by making design, execution and GFC drawings which shall be approved by EIC ,BSCDCL
Estimated Cost		Lowest offer
Period of Completion	:	12 Months including raining season
Earnest Money Deposit	:	Rs.50,000/-(Fifty Thousand rupees only)
Non-refundable cost of e- Tender Document:		Rs.10,000/-(Ten Thousand rupees only)
Purchase of Tender Start Date	:	07/08/2018 17:30 Hrs
Purchase of Tender End Date	:	26/08/2018 23:00 Hrs
Last date & time of submission of Online Tender( Bid Submission)	:	26/08/2018 23:30 Hrs
Period during which hard copy of the documents as per NIT shall be submitted.(With all technical credentials)	:	27/08/2018 11:00 Hrs
Date & Time of Opening of technical Tender	:	27/08/2018 15:00 Hrs
Date & Time of Opening of Financial Tender	:	Will be intimated later to successful Bidder
Validity of offer		180 days from the date of Submission of price bid.
Pre-Tender Meeting & Venue		14/08/2018 at 15:00 Hrs. At BSCDCL, Bhopal Office

The tender document can be downloaded from [www.mpeproc.gov.in](http://www.mpeproc.gov.in) “Corrigendum, if any, would appear only on the [www.mpeproc.gov.in](http://www.mpeproc.gov.in) web site and not to be published in any News Paper”.

The Bidder if required may submit queries in writing on E-mail Id. [tenderqueries@smartbhopal.city](mailto:tenderqueries@smartbhopal.city) before 13/08/2018 up to 17.30 Noon.

## MANDATORY PROPOSAL (Envelope A)

1. Earnest Money Deposit (EMD)
2. Cost of Document
3. Letter of Acceptance of tender condition as per format enclosed in Annexure-II.

## TECHNICAL PROPOSAL (Envelope B)

### [PRE-QUALIFICATION CRITERIA FOR BIDDERS]

1. The Bidder shall be registered in appropriate class with the Central Govt. / State Governments or Central / State Government Undertakings.
2. The Bidder in their own name should have satisfactorily completed the work of similar nature in Semi Govt. / Govt.& Public in India, during last 7 years ending last day of month previous to the one in which bids are invited as a prime Contractor.
  - a) Similar nature of Work: Design and implementation of Art wall/street art, Signage, area of heritage conservation and restoration, fabricated Interactive walls in GFRP in Government /Semi Government/ Public sector undertaking/ Smart city
3. The Bidder should demonstrate through submission of experience certificates for collective experience of handling the following disciplines of work in the above contracts
4. The average annual financial turnover during the last 3 years, 2015-16 & 2016-17and 2017-18 should not be less than Rs. 50.00 Lakh.
5. Bidder should submit Client/Users Certificate of satisfaction for the work they have executed.
6. The Bidder(s) net worth should be positive in the year 2017-18.
7. Bidder shall have valid registration in GST registration' EPF Registration Certificate & PAN Card.
8. The bidder should never black listed by any government organization (Central/State/PSU), bidder should submit affidavit signed by Director of the company.
9. Joint Ventures/Consortium are not allowed.
10. The Contractor shall possess the essential equipments to carry out the work:
  - a. CNC Machine
  - b. Plasma Cutter
  - c. Welding facility setup.
  - d. Cutting & Molding machine. etc
11. The Bidder should have an experience full time designer who has a minimum of 10 years of experience in similar works and is trained at an international government organization. He should be empanelled with a national-level organization. He should have worked with municipal corporations Government and Semi-Government organizations in the field of art and culture.
12. The bidder must have technical knowledge and manufacturing experience of artistic 3D and 2D installations. Fabrication of fiber resin works, installations of LED artistic lighting.
13. The Bidder shall have full time experience architect in similar type of work

NOTE:-

1. The bidder should necessarily submit completion certificate of the Qualifying works from the client/user/ duly signed by an officer not below the rank of Executive Engineer or equivalent of the concerned organization
  2. The Bidder shall submit the audited balance sheets / CA certified for last 3 years (2015-16,2016-17, 2017-18).
  3. For the purpose of determination of turnover of the bidder, only turnover from similar nature of work projects shall be considered. This shall be backed by a certificate from the Statutory Auditors of the company/Chartered Accountant.
  4. For the purpose of determining the relationship of the Bidder with their group companies, only the following documents such as the Annual Report, Balance Sheet or the Auditor Certificate, shall be considered.
  5. Net worth shall be calculated as the sum of share capital and free reserves and surplus. Accumulated losses if not adjusted in reserves and surplus and shown separate in the balance sheet shall be deducted from the sum of share capital and free reserves and surplus. Reserves on account of revaluation of fixed assets shall be excluded.
  6. BSCDCL shall have the authority to make enquiries with the bidder's bankers and auditors.
  7. The bidders shall indicate information regarding any litigation or arbitration resulting from contracts executed by the bidder in the last five years. The information shall include the name of the parties concerned, disputed amount, cause of litigation & matter in dispute
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FINANCIAL PROPOSAL (online only)

1. Bidders who will be found Eligible in Mandatory & Technical Proposals, only those financial proposals will be opened.
2. The tender will be awarded to the Bidder with the lowest quoted rate (L1)
3. Bidders who will not be found eligible in Mandatory and Technical Proposals, they will be rejected and their Financial Proposals will not be opened.

**Bidder has to submit all the above documents as mentioned in the MANDATORY PROPOSAL (Envelope A), Technical Proposal (Envelope B) and FINANCIAL PROPOSAL (online only)**

## MEMORANDUM

Sl. No.	Description	Cl. No. of NIT/ITB/Clauses of Contract (CC)	Values/Description to be Applicable for Relevant Clause (S)
1)	Name of Work		PROVIDING CONCEPT ART & DESIGN WORK UNDER BHOPAL SMART CITY
2)	Client/Owner		Bhopal Smart City Development Corporation Ltd.
3)	Type of Tender		Online percentage rate/Item rate
4)	Earnest Money Deposit		Rs.50,000/- (Fifty Thousand rupees only)
5)	Estimated Cost		Lowest offer
6)	Time allowed for Completion of Work		09 Months including raining season
7)	Mobilization Advance		10% of contract value
8)	Interest Rate of Mobilization Advance		Simple Interest Rate of 10% Percent only) (Per Annum)
9)	Schedule of rates applicable		NON SOR Items
10)	Validity of Tender		180 (One Eighty) Days
11)	Performance Guarantee		5.00 % (Five Percent Only) of bid value within 30 days from the issue of Letter of Award, that will be released after satisfactory completion of work
12)	Security Deposit/ Retention Money		5.00% (Five Percent Only) Shall be deduct from running bill which will be released after completion of DLP.
13)	Time allowed for starting the work		The date of start of contract shall be reckoned from 10 days after release of work order.
14)	Deviation limit beyond as per tender document		Unlimited Note:- As per the requirement of the successful completion of the project. Prices shall be firm
15)	Escalation		All rates as per Bill of Quantities (BOQ) quoted by contractor shall be firm and fixed for entire contract period as well as extended period for completion of the works. No escalation shall be applicable on this contract
16)	Defects Liability Period		Two (2) years after successful completion of all works

- ✓ The intending Bidder must read the terms and conditions of BSCDCL carefully. He should only submit his tender if he considers himself eligible and he is in possession of all the documents required.
- ✓ Information and Instructions for Bidders posted on Website(s) shall form part of tender Document.
- ✓ The Tender Document as uploaded can be viewed and downloaded free of cost by anyone including intending Bidder. But the tender can only be submitted after uploading the mandatory scanned documents such as:-
  - a) Proof of e-payment towards cost of tender document,
  - b) Proof of online payment through e-portal [www.mpeproc.gov.in/](http://www.mpeproc.gov.in/) or Bank Guarantee of any nationalized or Commercial Scheduled Bank against in favor CEO, BSCDCL of EMD & All other documents shall be as per Notice Inviting e- tender.

List of Documents to be scanned and uploaded within the period of tender submission:

1. Proof of online payment / Bank Guarantee of any Nationalized or all Commercial Scheduled Bank against EMD in favor of CEO, BSCDCL.
2. Copy of documents related to qualifying requirement of bidders as per NIT clause.
3. Letter of Acceptance of tender condition unconditional as per format enclosed Certificate of Financial Turnover duly certified by CA as indicated above.
4. Valid GST registration, EPF registration, PAN No, TAN No
5. Acknowledgement towards cost of tender fee submission
6. Affidavit as per “Appendix-O” of tender document.
7. Acceptance letter and Affidavit/Undertaking for Blacklisting/ Debar. Bidder to submit the affidavit on Rs. 100 stamp paper as per attached format.

If any condition or conditional rebate is offered by the Bidder, their tender shall summarily be rejected. The Bidders are required to quote strictly as per terms and conditions, specifications, standards given in the tender documents and not to stipulate any deviations.

After submission of the tender the Bidder can re-submit revised tender any number of times but before last time and date of submission of tender as notified.

When it is desired by BSCDCL to submit revised financial tender then it shall be mandatory to submit revised financial tender. If not submitted then the tender submitted earlier shall become invalid. On opening date, the Bidder can login and see the tender opening process. Contractor can upload documents in the form of JPG format and PDF format.

Notwithstanding anything stated above, BSCDCL reserves the right to assess the capabilities and capacity of the Bidder to perform the contract, in the overall interest of BSCDCL. In case, Bidder’s capabilities and capacities are not found satisfactory, BSCDCL reserves the right to reject the tender.

# VOLUME – I



## DISCLAIMER

The information contained in this Tender document (the "Tender") or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of Bhopal Smart City Development Corporation Limited(BSCDCL) or any of their employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This Tender is not an agreement and is neither an offer nor invitation by BSCDCL to the Bidders or any other person. The purpose of this Tender is to provide interested parties with information that may be useful to them in preparing their proposals pursuant to this Tender (the "Bid/ Proposal"). This Tender includes statements, which reflect various assumptions and assessments arrived at by BSCDCL in relation to the Assignment. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for BSCDCL, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this Tender. The assumptions, assessments, statements and information contained in this Tender, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this Tender to the Bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. BSCDCL accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

BSCDCL, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder or Bidders under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Tender or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Tender and any assessment, assumption, statement or information contained therein or deemed to form part of this Tender or arising in any way in bidding process. Though adequate care has been taken in the preparation of this Tender Document, the Bidder should satisfy himself/ itself that the documents are complete in all respects.

BSCDCL accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance by any Bidder upon the statements contained in this Tender.

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

The issue of this Tender does not in any way imply that BSCDCL is bound to select a Bidder or to appoint the Preferred Bidder for the Assignment and BSCDCL reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by BSCDCL or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and BSCDCL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation for submission of the Bid, regardless of the conduct or outcome of the Bidding Process

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## SECTION II – INSTRUCTIONS TO BIDDERS

### Scope of bid

- 1.1 The successful bidder will be expected to complete the works by the intended completion date specified in the contract data.
- 1.2. Source of funds
  - 1.2.1 The employer has arranged the funds from internal sources and will have sufficient funds in Indian currency for execution of the works.
  - 1.4.2 All bidders shall include the following information and documents with their bids in the PQ( Eligibility Criteria)
  - 1.4.3 Deleted.
  - 1.4.4 To qualify for a contract for which bids are invited in the NIT, the bidder must demonstrate having experience and resources sufficient to meet the aggregate of the qualifying criteria.
  - 1.4.5 Sub-contractors' experience and resources shall not be taken into account in determining the bidder's compliance with the qualifying criteria except to the extent stated in 1.4.4 above.
  - 1.4.6 Bidders who meet the minimum qualification criteria will be qualified only if their available bid capacity is more than the total bid value. The available bid capacity will be calculated as under:
  - 1.4.7 Even though the bidders meet the above qualifying criteria, they are subject to be disqualified if they have:
    - Made misleading or false representations in the forms, statements and attachments submitted in proof of the qualification requirements;

and/or

Record or poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.,

- 1.5. One Bid per Bidder
  - 1.5.1 Each bidder shall submit only one bid. A bidder who submits or participates in more than one bid (as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the Bidder's participation to be disqualified.
- 1.6. Cost of Bidding
  - 1.6.1 The bidder shall bear all costs associated with preparation and submission of his bid, and the Employers will in no case be responsible and liable for those costs.
- 1.7. Site Visit
  - 1.7.1 The bidder, at the Bidder's own responsibility and risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for land development. The costs of visiting the Site shall be at the Bidders' own expense.
- 1.8. Bidding Documents

### Content of Bidding Documents

- 1.8.1 The set of bidding documents comprises the documents listed in the table below and addenda issued in accordance with Clause 1.10:

## 1.8.2 Bidding documents

1.8.2.1 Bidding documents shall be downloaded. The documents should be compiled filled and submitted through on-line tendering process on website [www.mpeproc.gov.in](http://www.mpeproc.gov.in)

1.8.3 The bidder is expected to examine carefully all instructions, conditions of contract, contract data, forms, terms, technical specifications, bill of quantities, forms, drawings, annexure in the bid document. Failure to comply with the requirements of the bid document shall be at the bidder's own risk. Pursuant to clause 1.26 hereof, bids which are not substantially responsive to the requirements of the bid documents shall be rejected.

## 1.9. Clarifications of the Bidding Documents

1.9.1 A prospective bidder requiring any clarification of the bidding documents may notify the employer in writing or by electronic form to [tenderqueries@smarthhopal.city](mailto:tenderqueries@smarthhopal.city) and be confirmed by hard copy at the Employer's address indicated in the invitation to bid

## 1.10. Amendment of Bidding Documents

1.10.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by using addenda.

1.10.2 Any addendum thus issued shall be part of the bidding documents and shall be communicated by uploading online on [www.mpeproc.gov.in](http://www.mpeproc.gov.in) Prospective bidders shall acknowledge receipt of each addendum by cable to the Employer.

1.10.3 To give prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer shall extend as necessary the deadline for submission of bids, in accordance with Sub-Clause 1.20.2 below.

## 1.11. Language of the Bid

1.11.1 All documents relating to the bid shall be in the English language.

## 1.12. Documents comprising the Bid

1.12 Deleted

## 1.13. Bid Prices

1.13.1 The contract shall be for the whole works as described in Sub-Clause 1.1 based on the quote submitted by the Bidder.

1.13.2 All duties, taxes, and other levies payable by the contractor under the contract, or for any other cause shall be included in the quote submitted by the Bidder.

## 1.14. Currencies of Bid and payment

1.14.1 The Unit rates and the prices shall be quoted by the bidder entirely in Indian Rupees.

## 1.15. Bid Validity

1.15.1 Bids shall remain valid for a period not less than 120 days after the proposal submission date for bid submission specified in clauses 1.20. A bid valid for a shorter period will be considered as non-responsive & shall be rejected by the Employer.

1.15.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the bidders may extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing or by cable. A bidder may refuse the request without forfeiting his bid security. A bidder agreeing to the request will not be permitted to modify his bid and also shall submit an extension for EMD, if it is in the form of Demand Draft/FDR.

## 1.16. Bid Security (Earnest Money Deposit - EMD)

a) Earnest money Deposit (EMD) is Rs. 50,000/-

b) The EMD shall be payable either by FDR/ Online for the entire amount from any Nationalized Bank having its branch at Bhopal, Madhya Pradesh.

- c) EMD of unsuccessful bidders other than L-1 and L-2 will be refunded immediately after ranking of price bids. Earnest money of L-2 is refunded immediately after entering in to agreement with L-1 and acceptance of performance Guarantee from L-1.
- d) EMD is refunded so-motto without any application from the bidders.
- e) The bid security of the successful bidder will be discharged after he has signed the Agreement and furnished the required Performance security.
- f) The Bid security may be forfeited, if
  - i) The bidder withdraws the bid after bid opening during the period of bid validity.
  - ii) The bidder does not accept the correction of the Bid price, if any.
  - iii) The successful bidder fails within the specified time limit to
    - a) Sign the Agreement or
    - b) Furnish the required Performances security.
    - c) In case the contractor fails to commence the work within stipulated time.

In case of forfeiture of earnest money as prescribed above, the bidder shall not be allowed to participate in the Re-tendering process of the work.

#### 1.17. Alternative proposals by bidders

1.17.1 Conditional offer or Alternative offers will not be considered further in the process of tender evaluation.

#### 1.18. Format and signing of bid

1.18.1 The Price Bid to be submitted on-line only, shall be signed digitally by a person or persons duly authorized to sign on behalf of the Bidder.

1.18.2 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the bidder in which case such corrections shall be initialed by the person or persons signing the bid.

#### 1.19. Submission of bids Sealing and marking of bids.

1.19.1 The Bidder shall submit the Technical BID & Financial Bid online through e-procurement portal [www.mpeproc.gov.in](http://www.mpeproc.gov.in) comprising of the documents as per Envelope A & B as appropriate:

Financial Bid”

The Financial Bids shall be uploaded online only strictly in the prescribed format

Bidders shall not submit hard copy of the Financial Bids.

1.19.2 The bidder shall submit hard copies as Per Envelope A & B mentioned in RFP. Hard bound copy of the technical bid duly indexed & page numbered. These envelopes than be put inside one outer envelope and sealed, duly marking the outer envelope as "Technical Bid”

1.19.3 In addition to the identification required in Sub-Clause 1.19.2, the inner envelopes shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared late, pursuant to Clause 1.21, or the bid is declared non responsive. If the outer envelopes are not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the technical bid and financial bid.

## 1.20. Deadline for submission of the Bids

### 1.20.1 Bids must be submitted online as mentioned in the NIT

1.20.2 The Employer may extend the deadline for submission of online bids by issuing an amendment in accordance with Clause 1.10, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.

1.20.3 as tender document being downloaded from the web site, at the time of submission of (the hard copy of) the tender document, the tenderer shall give an undertaking that no change has been made in document. If any discrepancy is noticed at any stage between the BSCDCL's tender document and the one submitted by the tenderer, the conditions mentioned in the BSCDCL's printed document shall prevail. Besides, the tenderer shall be liable for legal action for the lapses. Insert time and date; this should be the same as those given in the invitation for Bids Clause No.1.20.

### 1.21. Late Bids

1.21.1 Any bid received by the Employer after the deadline prescribed in Clause 1.20 will be considered as non-responsive.

### 1.22. Modification and Withdrawal of Bids

1.22.1 The Bidder may modify, substitute or withdraw its e-BID after submission before the deadline prescribed in Clause 1.20. No BID can be modified, substituted or withdrawn by the Bidder on or after the BID Due Date & Time.

For modification of e-BID, Bidder has to detach its old BID from e-procurement portal and upload / resubmit digitally signed modified BID. For withdrawal of BID, bidder has to click on withdrawal icon at e-procurement portal and can withdraw its e-BID. Before withdrawal of a BID, it may specifically be noted that after withdrawal of a BID for any reason, Bidder cannot re-submit e-BID again.

1.22.2. No bid may be modified after the deadline for uploading of bids.

1.22.3. Withdrawal or modification of a Bid between the deadline for uploading/submission of bids and the expiration of the original period of bid validity in Clause 1.15.1 above or as extended pursuant to Clause 1.15.2 may result in the forfeiture of the Bid security pursuant to Clause 1.16.

1.22.4 Bidders may only offer discounts to, or otherwise modify the prices of their bids by submitting bid modifications in accordance with this clause or included in the original bid submission.

## E. BID OPENING AND EVALUATION

### 1.23. Online Opening of BIDs.

1.23.1 The BSCDCL shall on-line open Technical BIDs in the presence of the authorized representatives of the Bidders, who choose to attend.

### 1.23.2 Rejection of BIDs

Notwithstanding anything contained in this Tender document, the Authority reserves the right to reject any BID and to annul the Bidding Process and reject all BIDs at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons there for.

In the event that the Authority rejects or annuls all the BIDs, it may, in its discretion, invite all eligible Bidders to submit fresh BIDs hereunder. The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any BID without assigning any reasons.

1.23.3. Bidder's name, withdrawals, modifications of technical bid, the presence of bid security and such other details, as the Employer may consider appropriate will be announced by the Employer at the opening.

1.23.4. If all Bidders have uploaded unconditional Bids together with requisite bid security & tender fee, then all bidders will be so informed then and there. If any Bid contains any deviation from the Bids documents and/or if the same does not contain Bid security in the manner prescribed in the Bid documents, then such Bid will be rejected and the Bidder informed accordingly. All valid financial bids whose technical bids have been determined to be substantially responsive in accordance with Clause 1.26 hereof, shall be opened on the specified date from declaring the results of the Technical Bid, in presence of the bidders or their representatives who choose to attend. The Bidder's name, the Bid prices, the total amount of each Bid and of any alternative Bid (if alternatives have been requested or permitted), any discounts, Bid modifications and withdrawals, and such other details as the Employer at the opening. Any bid price, discount, or alternative Bid price which is not read out and recorded at Bid opening, will not be taken into account in Bid evaluation.

1.23.4 The Employer shall prepare minutes of the Bid opening, including the information disclosed to those present and the minutes shall form part of the contract.

1.24. Process to be confidential.

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

1.25. Clarification of Bids

To assist in the examination and comparison of Bids, the Employer may, at his discretion, ask any Bidder for clarification of his Bid, including breakdown of unit rates. The request for clarification and the response shall be in writing or by email, but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to conform the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids in accordance with Clause 1.27.

Subject to above para, no Bidder shall contact the Employer on any matter relating to his bid from the time of the bid opening to the time the contract is awarded. If the Bidder wishes to bring additional information to the notice of the Employer, he should do so in writing. Any effort by the Bidder to influence the Employer's bid evaluation, bid comparison or contract award decisions, may result in the rejection of his bid.

1.26.3 The Financial Proposals will be opened publicly in the presence of Applicants representatives who choose to attend. The name of the Applicants, their technical scores and the proposed prices will be read aloud and recorded when the Financial Proposals are opened through E-Procurement system.

1.27. Examination of Financial Bids and Determination of Responsiveness

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

(a) has been properly digitally signed by an authorized signatory (accredited representative) holding power of Attorney in his favor.

(b) is responsive to the requirements of the Bidding documents.

1.27.2 A substantially responsive Financial Bid is one which will be complete in all respect as given in Bidding documents, without material deviation or reservation. A material deviation or reservation is one

(a) which affects in any substantial way the scope, quality or performance of the works;

(b) which limits in any substantial way, the Employer's rights or the Bidder's obligations under the Contract; or

(c) whose rectification would affect unfairly the competitive position of other Bidders presenting responsive Bids.

1.27.3 If a Financial Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

## 1.28. Correction of Errors in Financial Bids

1.28.1 Bids determined to be responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows:

- (a) Where there is a discrepancy between the quote in figures and in words, the quote will govern; and

## 1.29. Evaluation and Comparison of Bids

### 1.30. Deleted

### 1.31. Award Criteria

1.31.1 The Employer will award the Contract to the Bidder whose Bid has been determined to be responsive to the Bidding documents and who has offered the lowest evaluated Bid Price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of Clause 1.3, and (b) qualified in accordance with the provisions of Clause 1.4. The second bidder (i.e.S2) shall be kept in reserve and may be invited to match the bid submitted by the (S1) bidder in case such bidder withdraws or is not selected for any reason.

1.32. Employer's Right to accept any Bid and to reject any or all.

Notwithstanding clause 1.31, the Employer reserve the right to accept or reject any bid and to cancel the bidding process and reject all bids, at any time prior to the award of contract, without thereby incurring any liability to the affected bidder or bidders of the grounds for Employer' sanction.

### 1.33. Notification of Award and Signing of Agreement

1.33.1 The Bidder whose bid has been accepted will be notified of the award by the Employer prior to expiration of the Bid validity period by cable, telex or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of the execution, completion and maintenance of the works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "contract Price").

1.33.2. The notification of award will constitute the formation of the Contract subject only to the furnishing of a performance security in accordance with the provision of Clause 1.34.

1.33.3. The Agreement will incorporate all correspondence between the Employer and the successful bidder. It will be signed by the employer and sent to the successful Bidder within 14 days following the notification of award along with the Letter of Acceptance. Within 14 days of receipt, the successful Bidder will furnish the performance security and sign the Agreement with the Employer.

1.33.4 Upon the furnishing by the successful Bidder of the Performance Security, the Employer will promptly notify the other Bidders that their Bids have been unsuccessful and release their Bid security (EMD).

### 1.34. Performance Security

Security deposit shall consist of two parts; a) Performance Guarantee to be submitted at award of work, and b) Retention money to be recovered from running bills.

1.34.2. Failure of the successful Bidder to comply with the requirements of Sub-Clause 1.34.1 shall constitute sufficient grounds for cancellation of the award of work and forfeiture of the Bid security.

### 1.35. Corrupt or Fraudulent Practices

1.35.1 The Employer requires that Bidders/Suppliers/Contractors under this contract, observe the highest standard of ethics during the procurement and execution of this contract. In pursuance of this policy, the Employer:

- (a) Defines, for the purpose of these provisions, the terms set forth below as follows:
  - (i) "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
  - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.
- (b) Will reject a proposal for award of work if he determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- (c) Will declare a Bidder ineligible, either indefinitely for a stated period of time, to be awarded a contract/contracts if he at any time determines that the Bidder has engaged in corrupt or fraudulent practices in competing for or in executing, the contract.

1.35.2 Furthermore, Bidders shall be aware of the provision stated in sub-clause 18.1 of the general conditions of Contract.

1.36 An Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified and liable for forfeiture of the BID Security or Performance Security as the case may be. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process,



## SECTION III – BIDDING FORMATS

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### ANNEXURE – A SPECIMEN FOR FORM OF TECHNICAL BID (To be executed on bidder's letter head)

To  
CEO  
Bhopal Smart City Development Corporation Limited,

Subject– -----

Dear Sir,

With reference to your Tender document dated \*\*\* \*\*<sup>1</sup>, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our BID for the aforesaid Project. The BID is unconditional and unqualified.

1. I/ We acknowledge that the Employer will be relying on the information provided in the BID and the documents accompanying the BID for selection of the Contractor for the aforesaid Project, and we certify that all information provided in the Bid along with the supporting documents are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the BID are true copies of their respective originals.
2. This statement is made for the express purpose of our selection as Contractor for the electrification of the aforesaid Project and maintenance of the Project during the Defect Liability Period.
3. I/ We shall make available to the Employer any additional information it may find necessary or require to supplement or authenticate the BID.
4. I/ We acknowledge the right of the Employer to reject our BID without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. I/ We declare that:
  - a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Employer; and
  - b) I/We do not have any conflict of interest in accordance with Clauses 1.36, Section II, Instruction to bidders of the Tender document; and
  - c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 1.35Section II, Instruction to bidders of the

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Tender document, in respect of any tender or request for proposal issued by or any Agreement entered into with the Employer or any other public-sector enterprise or any government, Central or State; and

- (a) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of 1.35 of Section II, ITB of Tender document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
- (b) the undertakings given by us along with the Application in response to the Tender for the Project and information mentioned for the evaluation of the BID Capacity in Annexure VI were true and correct as on the date of making the Application and are also true and correct as on the BID Due Date and I/we shall continue to abide by them.
7. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any BID that you may receive nor to invite the Bidders to BID for the Project, without incurring any liability to the Bidders, in accordance with Clause 1.32 of Section II, ITB of Tender document.
8. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Employer of the same immediately.
9. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Agreement up to its validity. It would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Agreement shall be liable to be terminated without the Employer being liable to us in any manner whatsoever.
10. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Bidder. Employer in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above-mentioned Project and the terms and implementation thereof.
16. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Agreement in accordance with the draft that has been provided to me/us prior to the BID Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
17. I/ We have studied all the Bidding Documents carefully and also surveyed the [project roads and the traffic]. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Employer or in respect of any matter arising out of or relating to the Bidding Process including the award of Agreement.
18. I/ We offer a BID Security of Rs. ----- Lakh (Rupees ----- only) to the Employer in accordance with the Tender Document.
19. The documents accompanying the Technical BID, as specified in the tender document, have been submitted in separate files.

20. I/ We agree and understand that the BID is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Contract is not awarded to me/us or our BID is not opened or rejected.
21. The BID Price has been quoted by me/us after taking into consideration all the terms and conditions stated in the Tender, draft Agreement, our own estimates of costs and after a careful assessment of the site and all own the conditions that may affect the project cost and implementation of the project.
22. I/ We agree and undertake to abide by all the terms and conditions of the Tender document.
23. I/ We shall keep this offer valid for 120 (one hundred and twenty) days from the BID Due Date specified in the Tender Document.
24. I/ We hereby submit our BID and offer a BID Price as indicated in Financial Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the Agreement.

In witness thereof, I/we submit this BID under and in accordance with the terms of the RFP document.

Yours faithfully,

Date:  
Place:

(Signature, name and designation  
of the Authorised signatory)  
Name & seal of Bidder/Lead  
Member

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ANNEXURE B – LETTER OF UNDERTAKING

Dated:

To

CEO  
Bhopal Smart City Development Corporation Limited,

Sub: :.....

Dear Sir,

With reference to your Tender document dated \*\*\* \*\*, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our BID for the aforesaid Project. The BID is unconditional and unqualified.

- 1 I/ We acknowledge that the Employer will be relying on the information provided in the BID and the documents accompanying the BID for selection of the Contractor for the aforesaid Project, and we certify that all information provided in the Bid are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the BID are true copies of their respective originals.
- 2 The BID Price has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Agreement, our own estimates of costs and after a careful assessment of the site and all own the conditions that may affect the project cost and implementation of the project.
- 3 I/ We acknowledge the right of the Employer to reject our BID without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
- 4 In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Agreement in accordance with the draft that has been provided to me/us prior to the BID Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
- 5 I/ We shall keep this offer valid for 120 (one hundred and twenty) days from the BID Due Date specified in the RFP.
- 6 I/ We hereby submit our BID and offer a BID Price ONLINE for undertaking the aforesaid Project in accordance with the Bidding Documents and the Agreement.

Yours faithfully,

Date:  
Place:

(Signature, name and designation of the  
Authorised Signatory )

Name & seal of Bidder/Lead Member:.....

Authorised  
Signatory :.....

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## STATEMENT - D

### FINANCIAL INFORMATION

Financial analysis, Details to be furnished duly supported by figures in balance sheet / profit and loss account for the last three years duly certified by the Chartered accountant, as submitted by the applicant to the income Tax Department copies to be attached.

#### General Experience Record

All individual firms are requested to complete the information in this form with regard to the management of Works contracts generally. The information supplied shall be the annual turnover of the Applicant, in terms of the amounts billed to clients for each year for work in progress or completed. A brief note on each contract should be appended, the nature of the work, duration and amount of contract, managerial arrangements, employer and other relevant details.


- Note :
1. Figures to be taken from audited balance sheets certified by CA.
  2. Copies of the balance sheet to be attached
  3. The bidder shall have to provide that for a period of at least 4 months the bidder has ability to sustain negative cash balance and how he proposes to meet with the same.
  4. Cash Plan / Cash flow Statement.

Signature of the Bidder  
Name & Designation of the bidder  
Name of company  
Rubber stamp of company  
Date

Sign. of Chartered Accountant with seal.

STATEMENT – I

DETAILS OF TECHNICAL AND ADMINISTRATIVE PERSONNEL TO BE EMPLOYED FOR THE WORK

Sr. No	Designation	Total number	Number available for this work	Name	Qualify action.	Professional experience of details of work carried out.	How these would be involved in this work.	Remarks.
1	2	3	4	5	6	7	8	9

Sign of the applicant

Note : -(1) Attested Copies of Educational & experienced Certificates attached.  
(2) It is mandatory to furnish details in this format only.

Enclosure : - 1) Photograph  
2) Educational Certificates  
3) Experience Certificates

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**STATEMENT – J**  
**LITIGATION DETAILS**

Name of applicant / or parties:

Applicant should provide information on any History of litigation or arbitration resulting from contracts executed in last five years or currently under execution:

Sr. No.	Year	Award for/against applicant	Name of client, cause of litigation & matter of dispute	Disputed Amount in INR

NOTE:-

The above information shall be supported with necessary documents otherwise the same shall be treated as null & void.

If the information to be furnished in this schedule will not be given & come to the notice subsequently will result in disqualification of bidder.

Sign of the applicant

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**STATEMENT – L**  
**AFFIDAVIT**

1. I, the undersigned, do hereby certify that all the statements made in the required attachments are true and correct.
2. The undersigned also hereby certifies that neither our firm M/s. \_\_\_\_\_ nor any of its constituent partners are blacklisted by any of the Govt./Semi Govt. institutions and not have abandoned any work of multistoried buildings / Infrastructures works in India nor any contract awarded to us for such works have been rescinded, during last five years prior to the date of this application.
3. We further testify all information's provided in the Tender including the statements made from Statement A to Statement L are factually correct and any misrepresentation or concealment if discovered, we understand the same shall result in disqualification as Bidder and the decision of CEO Bhopal Smart City Development Corporation Limited shall be final and binding.
4. The undersigned hereby authorize(s) and request(s) any bank, person, authorities, government or public limited institutions, firm or corporation to furnish pertinent information deemed necessary and requested by the BSCDCL to verify our statements or our competence and general reputation.
5. The undersigned understands and agrees that further qualifying information may be requested, and agrees to furnish any such information at the request of BSCDCL.
6. The BSCDCL and its authorized representatives are hereby authorized to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection with this application and to seek clarification from our bankers and clients regarding any financial and technical aspects. This Affidavit will also serve as authorization to any individual or authorized representative of any institution referred to in the supporting information, to provide such information deemed necessary and requested by yourselves to verify statements and information provided in the Tender or with regard to the resources, experience and competence of the Applicant.
7. We have read and understood Tender document and agree to terms & conditions specified in tender document. We have understood the Scope of Work and shall carry the work as per Tender terms and Conditions. We have submitted this offer after satisfying ourselves about the local conditions, local costs, etc.

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Signed by an Authorized Officer of the Firm

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Title of Officer

---

Name of Firm

---

Date

Note: The affidavit format as indicated above to be furnished on non judicial stamp Paper of Rs.100. And duly notarized.



ACCEPTANCE OF TENDER CONDITIONS

From: (On the letter head of the company by the authorized officer having power of attorney)

BSCDCL,  
.....

Sub: Name of the work & NIT No.:

Sir,

This has reference to above referred tender. I/We are pleased to submit our tender for the above work and I/We hereby unconditionally accept the tender conditions and tender documents in its entirety for the above work.

I/we are eligible to submit the tender for the subject tender and I/We are in possession of all the documents required.

I/We have viewed and read the terms and conditions of this GCC/SCC carefully. I/We have downloaded the following documents forming part of the tender document:

- a. Notice Inviting Tender (pg.....to....pg-)
- b. Instructions to Bidder (ITB) & General conditions of Contract (pg.....to....pg-)
- c. Technical Specifications (pg.....to....pg-)
- d. Bill of Quantities (BOQ)- (pg.....to....pg-)
- e. Tender Drawings (pg.....to....pg-)
- f. Acceptance of Tender Conditions ( Annexure M)
- g. Corrigendum ,if any (pg.....to....pg-)

I/we have uploaded the mandatory scanned documents such as cost of tender document, EMD, e-Tender Processing Fee and other documents as per Notice Inviting e-tender AND I/We agree to pay the cost of tender document, EMD, e- Tender Processing Fee (only receipt/proof of online payment) and other documents in physical form in the form and manner as described in NIT/ITT.

Should this tender be accepted, I/We agree to abide by and fulfill all terms and conditions referred to above and as contained in tender documents elsewhere and in default thereof, to forfeit and pay BSCDCL, or its successors or its authorized nominees such sums of money as are stipulated in the notice inviting tenders and tender documents.

If I/we fail to commence the work within 10 days of the date of issue of Letter of Award and/or I/we fail to sign the agreement as per Contract and/or I/we fail to submit performance guarantee as per of Clauses of Contract, I/we agree that BSCDCL shall, without prejudice to any other right or remedy, be at liberty to cancel the Letter of Award and to forfeit the said earnest money as specified above.

Your faithfully,  
(Signature of the Bidder  
with Rubber stamp)

Dated

# VOLUME – II

## SECTION IV –SCOPE OF WORK & SPECIFICATION

The scope of work covered in this tender shall be as per the Bill of Quantities, specifications, drawings, instructions, orders issued to the contractor from time to time during the pendency of work. The drawings for this work, which may be referred for tendering, provide general idea only about the work to be performed under the scope of this contract. These may not be the final drawings and may not indicate the full range of the work under the scope of this contract. The work will be executed according to the drawings to be released as “GOOD FOR CONSTRUCTION” from time to time by the Engineer-in-charge of BSCDCL and according to any additions/ modifications/ alterations/ deletions made from time to time, as required by any other drawings that would be issued to the contractor progressively during execution of work. It shall be the responsibility of the contractor to incorporate the changes that may be in this scope of work, envisaged at the time of tendering and as actually required to be executed.

The quantities of various items as entered in the “BILL OF QUANTITIES” are indicative only and may vary depending upon the actual requirement. The contractor shall be bound to carry out and complete the stipulated work irrespective of the variation in individual items specified in the bill of quantities. The variation of quantities will be governed as per clause given in tender document.

1. The successful bidder needs to submit performance guarantee 5% (Five per cent) of the quoted price and security deposit 5% (Five per cent), which will be released after completion of 5 years.
2. The Rate should be quoted including All taxes including GST nothing shall be paid extra except Quoted rates.(If any rise in tax or if new tax is imposed by central or State Govt, or any Govt authority after Tender the contractor is to bear the same)
3. All the Civil work Should be repaired with original material including coloring if any breakage or dismantling work is done during installation of the system, including cleaning of the site, for which no extra payment shall be made to the contractor.
4. The rates to be given for furnished complete work, all material, labor wastage, royalties, taxes , lease rent , scaffolding , transportation charges, breakage, making good any damage to wall, ceiling, fitting etc, to make the original finish including painting, transportation, replacement, of any defective material, theft, insurance, variation in market rates, removal of rubbish dismantled material, cleaning of site be included in the quoted rates.
5. The contractor is to arrange for storage of material & its Security arrangement During the installation, execution & commissioning of work.

6. The contractor will be fully responsible for any accident, damages, losses, that occurs during the work. No compensation will be made by the BSCDCL.
7. The contractor is to take all measures for safety and security for man & material and also to follow all labour laws.
8. The Rates should be quoted for at site Bhopal.
9. Bidder should visit the site as mentioned in the Tender Document for detailed survey before Bidding

**The bidder shall be responsible for the survey of the work providing concept art by making design, execution and GFC drawings which shall be approved by EIC ,BSCDCL.**

**Execution of the work shall be based on detailed designs and Good for Construction (GFC) drawing developed by the bidder and approved by EIC, BSCDCL. Bidder shall carry out all necessary co- ordination activities with BSCDCL for seamless implementation of the said works.**

**The quantity in BOQ is tentative that shall be increased/decreased as per the actual work requirement on the designated places after the detailed survey done by the Bidder/Location selected by BSCDCL, final approval will be as per the concern of EIC, BSCDCL**

#### DETAILED SCOPE OF WORK

Detailed scope of work for various Civil, Architecture, etc. but not limiting to the following:

#### SCOPE OF WORK & SPECIFICATION:

CIVIL WORKS: As per BOQ attached, all type of painting works provided by bidder and approved by Engineer-in-charge.

Bidder should get approval in advance from BSCDCL for all the materials to be used in the construction before execution of work at site along with the test cum quality certificates.

Bidder should get approval for each and every detailed drawing from BSCDCL before execution of work at site.

Bidder should be responsible for all type of safety & Security of Material and workers/ Visitors/ Engineering Staff during construction period. Any other item of works necessary to complete the project in every sense.



GENERAL-

- 6.1. The following special conditions shall be read in conjunction with General conditions of contract. If there are any provisions in these Special Conditions, which are at variance with the provisions of General Conditions of Contract, the provisions in the Special Conditions shall take precedence.
- 6.2. Where any portion of Special Conditions of Contract is repugnant to or at variance with any provision of the instructions to Bidder and General Conditions of Contract and / or the other documents forming part of the contract then unless a different intention appears the provision of the Special Conditions of Contract shall be deemed to override the provisions of the general conditions of contract and / or the other documents forming part of the contract only to the extent such repugnant/various in the special conditions of contract as are not possible of being reconciled with the provisions in the special conditions of contract as are not possible of being reconciled with the provision with instructions to Bidder or General Conditions of contract and / or the other documents from part of the contract.
- 6.3. Working drawing shall be according to the drawing given in the Tender document.
- 6.4. Items mentioned in the BOQ may vary or any changes is needed then it should bring to the attention of BSCDCL.
- 6.5. Working drawings are given by BSCDCL in tender document; if any deviations found and correction required then it should be brought to BSCDCL for rectification.
- 6.6 The items which are missing or not defined in the given BOQ in this Tender Document, then the contractor has to submit the items for approval to BSCDCL.
- 6.7. The contractor has to submit sample of the items defined in BOQ the same to be approved by BSCDCL, before use.
- 6.8 The working drawings shall be weighted from authorized certified Laboratory or from any NIT.
- 6.9 Bidder has to be submitted all kind of Testing reports related to material, commissioning and installation.
- 6.10 The quantities given in the BOQ are tentative which are variable and can be changed as per the actual site conditions.

# SECTION V – GENERAL CONDITIONS OF CONTRACT

## CLAUSE 1

### DEFINITIONS AND INTERPRETATION

The following definitions and interpretations shall be inclusive of the scope of definitions as per trade practice and rules of interpretation as acknowledged by law.

#### 1.1 Definitions

The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning there to herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules. For the purposes of the Contract Documents, the following words and terms shall have the meanings specified below (other words and abbreviations that have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings), provided, however, that the terms defined in attached Documents, including but not limited to the Agreement, shall have the meanings specified in such document.

##### 1.1.1 Definitions (for incorporated words)

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meanings herein after respectively assigned to them:

“Accounting Year” means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

“Affiliate” means, in relation to either Party {and/or Members}, a person who controls, is controlled by, or is under the common control with such Party {or Member} (as used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

“Agreement” means this Agreement, its Recitals, the Schedules here to and any amendments thereto made in accordance with the provisions contained in this Agreement;

“Applicable Laws” means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made there under, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

“Applicable Permits” means all clearances, licenses, permits, authorizations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Work during the subsistence of this Agreement;

“Bank” means a bank incorporated in India and having a minimum net worth of Rs.1,000 Crore (Rupees one thousand Crore) or any other bank acceptable to the Bhopal Smart City Limited;

“Base Date” means the last date of that calendar month, which date precedes the Bid Due Date by at least 28 (twenty-eight) days;

“Bid” means the documents in their entirety comprised in the bid submitted by the [selected bidder/Consortium] in response to the Request for Proposals in accordance with the provisions thereof;

“Bid Security” means the bid security provided by the Contractor to the Bhopal Smart City Development Corporation Limited in accordance with the Request for Proposal, and which is to remain in force until substituted by the Performance Security;

“Change in Law” means the occurrence of any of the following after the Base Date:

- a) the enactment of any new Indian law;
- b) the repeal, modification or re-enactment of any existing Indian law;
- c) the commencement of any Indian law which has not entered into effect until the Base Date;
- d) a change in the interpretation or application of any Indian law by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the Base Date; or

“Commencement Date” means the first date on which the contractor starts mobilizing his resources Men and/or Machineries and/or Material at site.

“Contractor” shall have the meaning attributed there to in the array of Parties here in above as set forth in the Recitals;

“Defect” means any defect or deficiency in Electrical work or any part thereof, which does not conform with the Specifications and Standards.

“Document” or “Documentation” means documentation in printed or written form, or in tapes, discs, drawings, computer programme, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

“Emergency” means a condition or situation that is likely to endanger the safety or security of the individuals on or about the Work, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

“Encumbrances” means, in relation to The Work, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar / arrangement under any insurance policy pertaining to the works.

The “EIC” shall mean the Engineer-in-charge i.e. officer of BSCDCL who is designated as such for the time being in whose jurisdiction the work lies.

“Good Industry Practice” means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced contractor engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Contractor in accordance.



with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

“Government Instrumentality” means any department, division or sub-division of the Government or the State Government and includes any commission, BMC, BSCDCL, and other local statutory body including panchayat under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Work or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Agreement;

“Insurance Cover” means the aggregate of the maximum sums insured under the insurances taken out by the Contractor and includes all insurances required to be taken out by the Contractor but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

“Intellectual Property” means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programme and manuals, drawings, copyright (including rights in computer software), database rights, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

“Interim Payment Certificate” or “IPC” means the interim payment certificate issued by the Bhopal Smart City Development Corporation Limited for payment to the Contractor in respect of Contractor’s claims for payment raised in accordance with the provisions of this Agreement;

“LOA” or “Letter of Acceptance” means the letter of acceptance of offer.

“Material Adverse Effect” means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

“MEPF” shall mean Mechanical, Electrical, Plumbing and Firefighting system consultant who is designated as such for the time being in whose jurisdiction the work lies.

“Materials” are all the supplies used by the Contractor for incorporation in work or for the maintenance of the Work;

“Parties” means the parties to this Agreement collectively and “Party” shall mean any of the parties to this Agreement individually;

“Performance Security” shall have the meaning as given in the contract

“Plant” means the apparatus and machinery intended to form or forming part of work;

“Project” means the all of the Work in accordance with the provisions of this Agreement, and includes all services and equipment relating to or in respect of the Scope of the Project;

“Proposal Due Date” means the last date declared by Employer for online submission of the proposal;

“Project Completion Date” means the date on which the Provisional Certificate is issued and in the event no Provisional Certificate is issued, the date on which the Completion Certificate is issued;

“Project Completion Schedule” means the progressive Project Milestones for completion of the Work on or before the Scheduled Completion Date;

“PMC” shall mean Project Management Consultant who is designated supervision agency during execution of this project.

“BSCDCL” shall mean Bhopal Smart City Development Corporation Limited in whose jurisdiction the work lies, represented by Managing Director.

“Re.”, “Rs.” or “Rupees” or “Indian Rupees” means the lawful currency of the Republic of India;

“Right of Way” means the constructive possession of the Site free from encroachments and encumbrances, together with all way leaves, easements, unrestricted access and other rights of way, how so ever described, necessary for construction and maintenance of the Work in accordance with this Agreement;

“Specifications and Standards” means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Work, and any modifications thereof, or additions thereto, as included in the design and engineering for the Work executed by the Contractor to, and expressly approved by, the BSCDCL;

“Sub-contractor” means any person or persons to whom a part of work or the Maintenance has been subcontracted by the Contractor and the permitted legal successors in title to such person, but not an assignee to such person;

“Nominated Sub-contractor” means any person or persons having specific experience of work to whom a part of work has been subcontracted by the Contractor and the permitted legal successors in title to such person, but not an assignee to such person;

“Termination” means the expiry or termination of this Agreement;

“Termination Notice” means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

“TPI” shall mean Third party inspection consultant who is designated for quality monitoring of material & workmanship during execution of this project.

“WPI” means the wholesale price index for various commodities as published by the Ministry of Commerce and Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the WPI published for the period ending with the preceding month.

## 1.2 Interpretation

### 1.2.1 In this Agreement, unless the context otherwise requires,

- a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- c) references to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having

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separate legal personality) of two or more of the above and shall include successors and assigns;

- d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- e) the words “include” and “including” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;
- f) references to “Scope of Work” include, unless the context otherwise requires, survey and investigation, supply of plant, materials, equipment, labour, delivery, transportation, installation, processing, fabrication, safety measures, testing, and commissioning of the Project, including maintenance during the Construction Period, removing of defects, if any, and other activities incidental to the construction and “construct” or “build” shall be construed accordingly;
- g) references to “development” include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, up-gradation and other activities incidental there to during the Construction Period, and “develop” shall be construed accordingly;
- h) any reference to any period of time shall mean a reference to that according to Indian standard time;
- i) any reference to day shall mean a reference to a calendar day;
- j) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- k) references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;
- l) any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- m) the words importing singular shall include plural and vice versa;
- n) references to any gender shall include the other and the neutral gender;
- o) “lakh” means a hundred thousand (100,000) and “Crore” means ten million (10,000,000);
- p) “indebtedness” shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- q) references to the “winding-up”, “dissolution”, “insolvency”, or “reorganization” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;
- r) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, license or document of any Description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Clause shall not operate so as to increase liabilities or obligations of the BSCDCL here under or pursuant here to in any manner whatsoever;
- s) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the BSCDCL’s Engineer shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party or the EIC, as the case may be, in this behalf and not otherwise;
- t) all the documents forming part of the contract shall be treated as integral whole and each one shall be in addition to being supplementary shall also be treated as

complimentary to all other parts to the extent that the overall meaning and interpretation thereof shall be in conformity with the intention and purpose of this agreement.

- u) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended for the reasons specified in the Agreement, such extended time shall also be of the essence, inviting all the liabilities attached to the requirement to the performance in terms of Liquidated Damages.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Contractor to the BSCDCL shall be provided free of cost in Five copies.

1.3 Measurements and arithmetic conventions

1.3.1 All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal Places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 Priority of agreements and errors/discrepancies

1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

- a) this Agreement; and
- b) all other agreements and documents forming part hereof or referred to herein; i.e. this Agreement at (a) above shall prevail over the agreements and documents at (b).

1.4.2 In case of ambiguities or discrepancies within this Agreement, the following shall apply:

- a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
- b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;
- c) between any two Schedules, the Schedule relevant to the issue shall prevail;
- d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;
- e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and
- f) between any value written in numerals and that in words, the latter shall prevail.

## CLAUSE 2

### THE EMPLOYER

2.1 Right to Access the Site

The Employer shall give the Contractor right of access to, and possession of, all parts Site within the time (or times) stated in the Contract Data. The right and possession may not be exclusive of the to the Contractor. If, under the Contract, the Employer is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Employer shall do so in the time and manner stated in the Specification. However, the Employer may withhold any such right or possession until the Performance Security has been received If no such time is stated in the Contract Data, the Employer shall give the Contractor right of access to, and possession of, the Site within such times

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as required to enable the Contractor to proceed without disruption in accordance with the programme submitted under Sub-Clause 8.3 [Programme].

If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 23.1[ Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.5, and
- b) payment of any such Cost-plus profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

However, if and to the extent that the Employer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

## 2.2 Employer's representative

The Employer shall be responsible for ensuring that the Employer's Personnel and the Employer's other contractors on the Site:

- a) co-operate with the Contractor's efforts under Clause 4.0, and
- b) take actions similar to those which the Contractor is required to take under subparagraphs (a), (b) and (c) of Sub-Clause 21.1 GCC and under Sub-Clause 5.1 SCC

## 2.3 Permits, Licenses or Approval

The Employer shall provide, at the request of the Contractor, such reasonable assistance as to allow the Contractor to obtain properly:

- a) Make available copies of the Laws which are relevant to the Contract but are not readily available, and
- b) obtaining any permits, licenses or approvals required by the Laws of state/central Government which the Contractor is required to obtain:

## CLAUSE 3

### THE ENGINEER

- 3.1 Employer shall appoint the Engineer who shall carry out the duties assigned to Authority him in the Contract. The Engineer's staff shall include suitably qualified engineers and other professionals who are competent to carry out these duties.

The Engineer shall have no authority to amend the Contract.

The Engineer may exercise the authority attributable to the Engineer as specified in or necessarily to be implied from the Contract. If the Engineer is required to obtain the approval of the Employer before exercising a specified authority, the requirements shall

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be as stated in the Particular Conditions. The Employer shall promptly inform the Contractor of any change to the authority attributed to the Engineer.

However, whenever the Engineer exercises a specified authority for which the Employer's approval is required, then (for the purposes of the Contract) the Employer shall be deemed to have given approval.

Except as otherwise stated in these Conditions:

- (a) whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Engineer shall be deemed to act for the Employer;
- (b) the Engineer has no authority to relieve either Party of any duties, obligations or responsibilities under the Contract;
- (c) any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Engineer (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances; and
- (d) any act by the Engineer in response to a Contractor's request except as otherwise expressly specified shall be notified in writing to the Contractor within 28 days of receipt.

The following provisions shall apply:

The Engineer shall obtain the specific approval of the Employer before taking action under the following Sub-Clauses of these Conditions:

- (A) agreeing or determining an extension of time and/or additional cost.
- (B) instructing a Variation, except in an emergency situation as determined by the Engineer, or
- (C) Sub-Clause 11.1: approving a proposal for Variation submitted by the Contractor in accordance with Sub-Clause 11.2.

Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Employer

- 3.2 The Engineer may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident engineer, and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties. However, unless otherwise agreed by both Parties, the Engineer shall not delegate the authority to determine any matter in accordance with Sub-Clause 3.5 [Determinations] Assistants shall be suitably qualified persons, who are competent to carry out these duties and exercise this authority, and who are fluent in the language

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for communications defined in Sub-Clause 1.4 [Law and Language]. Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Engineer. However:

- a) any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Engineer to reject the work, Plant or Materials;
- b) if the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Engineer, who shall promptly confirm, reverse or vary the determination or instruction.

3.3 The Engineer may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer, or from an assistant to whom the appropriate authority has been delegated under this Clause. If an instruction constitutes a Variation, Clause 11 shall apply. The Contractor shall comply with the instructions given by the Engineer or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing. If the Engineer or a delegated assistant:

- a) gives an oral instruction,
- b) receives a written confirmation of the instruction, from (or on behalf of) the then the confirmation shall constitute the written instruction of the Engineer or delegated assistant (as the case may be).
- c) does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation

then the confirmation shall constitute the written instruction of the Engineer or delegated assistant (as the case may be).

3.4 Whenever these Conditions provide that the Engineer shall proceed in accordance with this Sub-Clause 3.4 to agree or determine any matter, the Engineer shall consult with each Party in an endeavor to reach agreement. If agreement is not achieved, the Engineer shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances.

The Engineer shall give notice to both Parties of each agreement or determination, with supporting particulars, within 28 days from the receipt of the corresponding claim or request except when otherwise specified. Each Party shall give effect to each agreement or determination unless and until revised under Clause 23 [ Claims, Disputes and Arbitration].

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## CLAUSE 4

### OBLIGATIONS OF THE CONTRACTOR

#### 4.1 Obligations of the Contractor

- 4.1.1 Subject to and on the Terms, Conditions, Provisions and Representation of this Agreement, the Contractor shall undertake the survey, investigation, procurement, construction, and maintenance of the Work and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 4.1.2 The Contractor shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
- 4.1.3 The Contractor shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.
- 4.1.4 The Contractor shall remedy any and all loss or damage to work from the commencement until the end of the Construction Period at the Contractor's cost, save and except to the extent that any such loss or damage shall have arisen from any default or neglect of the Bhopal Smart City Limited
- 4.1.5 The Contractor shall remedy any and all loss or damage to work during the Defects Liability Period at the Contractor's cost to the extent that such loss or damage shall have arisen out of the reasons specified in contract.
- 4.1.6 The Contractor shall remedy any and all loss or damage to work during the Maintenance Period at the Contractor's cost, save and except to the extent that any such loss or damage shall have arisen on account of any default or neglect of the Bhopal Smart City Development Corporation Limited or on account of a Force Majeure Event.
- 4.1.7 The Contractor shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement: -

Ensure that the Contractor and its Sub-contractors comply with the safety and welfare measures for labour in accordance with the Applicable Laws and Good Industry Practice; Keep, on the Site, a copy of this Agreement, publications named in this Agreement, the Drawings, Documents relating to the Project, and Change of Scope Orders and other communications given under this Agreement. The Bhopal Smart City Development Corporation Limited and its authorized personnel shall have the right of access to all these documents at all reasonable times; Cooperate with other contractors employed by the BSCDCL and personnel of any public BSCDCL; and Not interfere unnecessarily or improperly with the convenience of the public, or the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the BSCDCL or of others.

- 4.1.8 The Contractor shall undertake all necessary superintendence to plan, arrange, direct, manage, inspect and test work.
- 4.1.9 The Contractor shall maintain all records as per Instructions of Engineer in Charge.

#### 4.2 Obligations relating to sub-contracts and any other agreements

- 3.2.1 The Contractor shall not sub contract any part or portion of the actual construction to any sub-contractor without prior permission of the BSCDCL which shall ordinarily not withhold any reasonable request thereof if the same is found in opinion of BSCDCL to be in interest of the work.
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3.2.2 In the event, any sub contract is approved by BSCDCL the entire responsibility and liability as contained in the original contract shall continue to remain unaltered and diluted and the contractor shall be completely and fully responsible to BSCDCL as is BSCDCL is having no privity of contract with the sub-contractor.

3.2.3 It is expressly agreed that the Contractor shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the agreements with its Sub-contractors or any other agreement that may be entered into by the Contractor, and no default under any such agreement shall excuse the Contractor from its obligations or liability hereunder.

#### 4.3 Contractor's personnel

3.3.1 The Contractor shall ensure that the personnel engaged by him or by his Sub-contractors in the performance of its obligations under this Agreement are at all times appropriately qualified, skilled and experienced in their respective functions in conformity with Good Industry Practice.

3.3.2 The EIC may, for reasons to be specified in writing, direct the Contractor to remove any member of the Contractor's or Sub-contractor's personnel. Any direction issued by the EIC shall specify the reasons for the removal of such person.

3.3.3 The Contractor shall on receiving such a direction from the EIC order for the removal of such person or persons with immediate effect. The Contractor shall further ensure that such persons have no further connection with work or Maintenance under this Agreement. The Contractor shall then appoint (or cause to be appointed) are Placement.

3.3.4 In case BSCDCL instructs Contractor for removal of person or persons, Contractor shall replace them with equal of better credentials within two weeks.

#### 4.4 Contractor's care of work

The Contractor shall bear full risk in and take full responsibility for the care of work, and of the Materials, goods and equipment for incorporation therein, from the Date of entry upon the site until the date of completion, defect liability, maintenance period as specified or date of final taking over certificate whichever is the last date.

#### 4.5 Electricity, water and other services

The Contractor shall be responsible for procuring of all power, water and other services that it may require.

#### 4.6 Representations and warranties of the Contractor

The Contractor represents and warrants to the Bhopal Smart City Development Corporation Limited that:

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- a) it is duly organized and validly existing under the laws of India, and has full power to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby ;
  - b) it has taken all necessary corporate and/or other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
  - c) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
  - d) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability or responsibility hereunder;
  - e) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
  - f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum and CLAUSES of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
  - g) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
  - h) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;
  - i) no representation or warranty by it contained herein or in any other document furnished by it to the BSCDCL or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
  - j) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the contract or entering into this Agreement or for influencing or attempting to influence any officer or employee of the BSCDCL, in connection therewith;
  - k) all information provided by the {selected bidder/ members of the Consortium} in response to the Bid or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects; and
  - l) nothing contained in this Agreement shall create any contractual relationship or obligation between the Bhopal Smart City Development Corporation Limited and any Sub-contractors or agents of the Contractor.

## CLAUSE 5 PERFORMANCE SECURITY AND RETENTION MONEY

### 5.1 Performance Security

5.1.1 The Contractor shall for the performance of obligations here under during the Construction Period shall provide to Bhopal Smart City Limited, within 15 (Fifteen)

days from issuance of Letter of Acceptance, an irrevocable and unconditional guarantee for an amount equal to 5% (five percent) of the Contract Price from a nationalized bank in the form set forth in Schedule attached (the "Performance Security"). The such Performance Security deposit shall be valid until 60 (sixty) days after the payment of final bill. Till such Performance Security is obtained from Bhopal Smart City Limited, the EMD will not be released and the said amount of EMD may be forfeited if performance security is not deposited within 15 days from the date of Letter of Acceptance.

5.1.2 Not with standing anything to the contrary contained in this Agreement, the Parties agree that in the event of failure of the Contractor to provide the Performance Security in accordance with the provisions and within the time specified therein or such extended period as may be provided by the BSCDCL, in accordance with the provisions, the BSCDCL may encash the Bid Security and appropriate the proceeds thereof as Damages, and there upon all rights, privileges, claims and entitlements of the Contractor under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

5.1.3 Performance security will be released as specified in Conditions of particular application.

## 5.2 Extension of Performance Security

The Contractor may initially provide the Performance Security for a period of 2 (two) years; provided that it shall procure the extension of the validity of the Performance Security, as necessary, at least 1 (one) month prior to the date of expiry thereof.

## 5.3 Retention Money

5.3.1 From every payment for Works due to the Contractor in accordance with the provisions, the BSCDCL shall deduct 7% (seven per cent) limiting to 5% contract value thereof as guarantee money for performance of the obligations of the Contractor during the Construction Period.

5.3.2 Upon occurrence of a Contractor's Default, the Bhopal Smart City Development Corporation Limited shall, without prejudice to its other rights and remedies here under or in law, be entitled to appropriate the relevant amounts from the Retention Money as Damages for such Contractor's Default.

5.3.3 The Retention money will be released as specified in Conditions of particular application.

## CLAUSE 6

### RIGHT OF WAY

#### 6.1 The Site

The site of the Work (the "Site") shall comprise the site described in contract in respect of which the Right of Way shall be provided by the Bhopal Smart City Development Corporation Limited to the Contractor.

## 6.2 Special/temporary Right of Way

The Contractor shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Site. The Contractor shall obtain at its cost such facilities on or outside the Site as may be required by it for the purposes of the Work and the performance of its obligations under this Agreement.

## 6.3 Access to the Employer and his Engineer

6.3.1 The Right of Way given to the Contractor hereunder shall always be subject to the right of access of the BSCDCL and the BSCDCL'S Engineer and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

6.3.2 The Contractor shall ensure, subject to all relevant safety procedures, that the BSCDCL has un-restricted access to the Site during any emergency situation, as decided by the BSCDCL's Engineer.

## 6.4 Geological and archaeological finds

It is expressly agreed that mining, geological or archaeological rights do not form part of this Agreement with the Contractor for work, and the Contractor hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site shall vest in and belong to the Bhopal Smart City Development Corporation Limited or the concerned Government Instrumentality. The Contractor shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Bhopal Smart City Development Corporation Limited forthwith of the discovery thereof and comply with such instructions as the concerned Government Instrumentality may reasonably give for the removal of such property. For the avoidance of doubt, it is agreed that any reasonable expenses incurred by the Contractor hereunder shall be reimbursed by the Bhopal Smart City Limited. It is also agreed that the Bhopal Smart City Development Corporation Limited shall procure that the instructions hereunder are issued by the concerned Government Instrumentality within a reasonable period.

## CLAUSE 7

### UTILITIES AND TREES

#### 7.1 Existing utilities and roads

Notwithstanding anything to the contrary contained herein, the Contractor shall ensure that the respective entities owning the existing roads, right of way, level crossings, structures, or utilities on, under or above the Site are enabled by it to keep them in continuous satisfactory use, if necessary, by providing suitable temporary diversions with the Bhopal Smart City Development Corporation Limited of the controlling body of that road, right of way or utility.

## 7.2 Shifting of obstructing utilities

The Contractor shall, in accordance with Applicable Laws cause shifting of utility (including electric lines, water pipes and telephone cables) to an approved location or alignment. Contractor shall not be paid separately for the same.

## 7.3 Felling of trees

The BSCDCL shall assist the Contractor in obtaining the Applicable Permits for felling of trees to be identified by the BSCDCL for this purpose if and only if such trees cause a Material Adverse Effect on the construction or maintenance of the Work. The cost of such felling shall be borne by the contractor. The Parties here to agree that the felled trees shall be deemed to be owned by the BSCDCL and shall be disposed in such manner and subject to such conditions as the BSCDCL may in its sole discretion deem appropriate. For the avoidance of doubt, the Parties agree that if any felling of trees hereunder is in a forest area, the Applicable Permit thereof shall be procured by the BSCDCL within the time specified in the Agreement.

# CLAUSE 8 DESIGN AND CONSTRUCTION OF THE WORK

## 8.1 General Design Obligations

8.1.1 The Employer shall carry out, and be responsible for, the design of work from qualified designers who are Engineer or other professionals who comply with the Criteria.

## 8.2 Drawings

### Submission of Drawings:

Contractor has to carry out survey & based on survey data Contractor shall prepare Concept proposal along with detailing of existing above ground utilities & get the same approved from Employer.

Within 07 days from the Commencement Date the Contractor shall start submitting documents, etc., for review and approval by the Employer's Representative.

## 8.3 Intellectual Property Rights

The intellectual property rights in respect of drawing and all that is relevant to the concept of rights shall be vested in BSCDCL.

## 8.3 Construction of the Work

8.3.1 The Contractor shall construct the works as specified, and in conformity with the Specifications and Standards set forth in the contract. The

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Contractor shall be responsible for the correct positioning of all parts of work, and shall rectify any error in the positions, levels, dimensions or alignment of work. and the Contractor agrees and undertakes that the construction shall be completed on or before the scheduled Completion Date, including any extension thereof.

8.3.2 The total price of the works shall be initially the price as indicated in the offer acceptance letter unless the same is modified or changed by Bhopal Smart City Development Corporation Limited in view of any modification or change brought about after final approval of drawing, and actual execution of the work. It is clearly understood that the payment will be based on actual work done quantities.

#### 8.4 Construction Programme

The contractor shall submit a detailed programme As per BSCDCL schedule.

#### 8.5 Extension of time for completion

8.5.1 The work shall have to be completed within originally stipulated period as indicated in the contract. Time is essence of contract and failure to adhere to the time of completion shall attract liability for the contractor to pay Liquidated Damages as specified separately. However it has been agreed between the parties that in event of any variation or change taking place affecting the time of completion, time adjustment shall be made by Bhopal Smart City Development Corporation Limited for which no additional cost will be payable. Such time extension shall ordinarily be for exceptionally adverse climatic conditions, enforceable shortage in availability of materials or any delay, impediment or prevention caused by or attributable to the BSCDCL.

8.5.2 If contractor considered himself to be entitled to an extension of time for completion, the contractor shall give engineer a notice within 7 days from the cause justifying such extension indicating the period justified. The engineer of BSCDCL shall evaluate the Time Impact and make an adjustment in time for completion. Such extension, it is reiterated shall not be associated with any compensation or claim for delay being pressed by the contractor.

#### 8.6 Liquidated Damage/Delay Damages

If contractors fails to comply with time for completion the contractor being given notice to make good the time fails to do so to the satisfaction of engineer he shall be liable to pay LD/Delay Damages for the default. The Delay Damages shall be the sum stated in Bidding data which shall be payable for delay for each week that is caused incompleteness. The total amount of such delay damages shall not exceed the amount named in the Contract data. It is agreed between the parties that the amount so named and the limit so fixed as compensation is the true and correct estimated damage caused to Bhopal Smart City Development Corporation Limited resulting from extension of time and which otherwise is not subject to any arithmetic computation. These damages shall not release the contractor from its obligation to complete the job or from any duties or responsibilities which he may have under the contract.

## CLAUSE 9

### QUALITY ASSURANCE, MONITORING AND SUPERVISION

#### 9.1 Quality of Materials and workmanship

The Contractor shall ensure that the Construction, Materials and workmanship are in accordance with the requirements specified in this Agreement, Specifications and Standards and Good Industry Practice.

#### 9.2 Quality control system

9.2.1 The Contractor shall establish a quality control mechanism to ensure compliance with the provisions of this Agreement (the "Quality Assurance Plan" or "QAP").

9.2.2 The Contractor shall, within 30 (thirty) days of the commencement Date, submit to the EIC its Quality Assurance Plan which shall include the following:

- a) organization, duties and responsibilities, procedures, inspections and documentation;
- b) quality control mechanism including sampling and testing of Materials, test frequencies, standards, acceptance Criteria, testing facilities, reporting, recording and interpretation of test results, approvals, check list for site activities, and proforma for testing and calibration in accordance with Good Industry Practice; and
- c) Internal quality audit system.

The BSCDCL shall convey its comments to the Contractor within a period of 15 (fifteen) days stating the modifications, if any, required, and the Contractor shall incorporate those in the QAP to the extent required for conforming with the provisions in the contract.

9.2.3 The Contractor shall procure all documents, apparatus and instruments, fuel, consumables, water, electricity, labour, Materials, samples, and qualified personnel as are necessary for examining and testing the Project Assets and workmanship in accordance with the Quality Assurance Plan.

9.2.4 The cost of testing of Construction, Materials and workmanship shall be borne by the Contractor.

#### 9.3 Methodology

9.3.1 The Contractor shall, at least 15 (fifteen) days prior to the commencement of the construction, submit to the BSCDCL for review the methodology proposed to be adopted for executing work, giving details of equipment to be deployed, traffic management and measures for ensuring safety. The BSCDCL shall review and convey its comments to the Contractor within a period of 10 (ten) days from the date of receipt of the proposed methodology from the Contractor.

#### 9.4 Inspection and technical audit by the BSCDCL

9.4.1 The BSCDCL or any representative authorized by the BSCDCL in this behalf may inspect and review the progress and quality of the construction of Work and issue appropriate directions to the BSCDCL and the Contractor for taking remedial action in the event work are not in accordance with the provisions of this Agreement.

#### 9.5 External technical audit

9.5.1 At any time during construction, the BSCDCL may appoint an external technical auditor to conduct an audit of the quality of work. The findings of the audit, to the extent accepted by the BSCDCL shall be notified to the Contractor and the EIC for taking remedial action in accordance with this Agreement. The Contractor shall provide all assistance as may be required by the auditor in the conduct of its audit here under. Notwithstanding anything contained in the contract, the external technical audit shall not affect any obligations of the Contractor or the EIC under this Agreement.

#### 9.6 Inspection of construction records

9.6.1 The BSCDCL shall have the right to inspect the records of the Contractor relating to work.

#### 9.7 Progress reports

9.7.1 During the Construction Period, the Contractor shall, no later than 7 (seven) days after the close of each month, furnish to the BSCDCL a monthly progress report on progress of work in the format given elsewhere in this tender and shall promptly give such other relevant information as may be required by the BSCDCL. Apart from this Contractor has to submit daily & weekly progress reports in the format given elsewhere in this tender.

#### 9.8 Examination of work before covering up

In respect of the work which the BSCDCL is entitled to examine, inspect, measure and/or test before it is covered up or put out of view or any part of the work is placed thereon, the Contractor shall give notice to the BSCDCL whenever any such work is ready and before it is covered up. The BSCDCL shall then either carry out the examination, inspection or testing without unreasonable delay or promptly give notice to the Contractor that the BSCDCL does not require to do so. Provided, however, that if any work is of a continuous nature where it is not possible or prudent to keep it uncovered or incomplete, the Contractor shall notify the schedule of carrying out such work to give sufficient opportunity, not being less than 3(three) business days' notice, to the BSCDCL to conduct its inspection, measurement or test while the work is continuing. Provided further that in the event the Contractor receives no response from the BSCDCL within a period of 3 (three) business days from the date on which the Contractor's notice hereunder is delivered to the BSCDCL, the Contractor shall be entitled to assume that the BSCDCL would not undertake the said inspection.



## 9.9 Rejection

9.9.1 If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the provisions of this Agreement, the BSCDCL shall reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the Defect and ensure that there placed item complies with the requirements of this Agreement.

9.9.2 If the BSCDCL requires the Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions, as applicable in each case. If the rejection and retesting cause the BSCDCL to incur any additional costs, such cost shall be recoverable by the BSCDCL's from the Contractor; and may be deducted by the BSCDCL from any monies due to be paid to the Contractor.

## 9.10 Remedial work

9.10.1 Notwithstanding any previous test or certification, the BSCDCL may instruct the Contractor to:

- a) remove from the Site and replace any Plant or Materials which are not in accordance with the provisions of this Agreement;
- b) remove and re-execute any work which is not in accordance with the provisions of this Agreement and the Specification and Standards; and(c) execute any work which is urgently required for the safety of the Work, whether because of an accident, unforeseeable event or otherwise; provided that in case of any work required on account of a Force Majeure Event.,

9.10.2 If the Contractor fails to comply with the instructions issued by the BSCDCL, within the time specified in the BSCDCL notice or as mutually agreed, the BSCDCL may have get the work executed by another agency. The cost so incurred by the BSCDCL for undertaking such work shall, without prejudice to the rights of the BSCDCL to recover Damages in accordance with the provisions of this Agreement, be recoverable from the Contractor and may be deducted by the BSCDCL from any monies due to be paid to the Contractor.

## 9.11 Quality control records and Documents

The Contractor shall hand over to the EIC a copy of all its quality control records and documents before the Completion Certificate is issued.

## 9.12 Video recording and Photography

During the Construction Period, the Contractor shall provide to the BSCDCL for every calendar quarter, photographs and a video recording, which will be compiled into a 3 (three)-hour compact disc or digital video disc, as the case may be, covering the status and progress of Works in that quarter. The video recording shall be provided to the BSCDCL no later than 15 (fifteen) days after the close of each quarter after the commencement date.

## 9.13 Suspension of unsafe Construction Works

9.13.1 In event its come to the notice of BSCDCL any impending risk to the work or the personnel on and around the project site, the BSCDCL mayby notice require the Contractor to suspend forthwith the whole or any part of work if, in the reasonable opinion of the BSCDCL, such work threatens the safety of the Users and pedestrians.

9.13.2 The Contractor shall, pursuant to the notice under contract, suspend work or any part thereof for such time and in such manner as may be specified by the BSCDCL and thereupon carry out remedial measures to secure the safety of suspended works, the Users and pedestrians. The Contractor may by notice require the BSCDCL to inspect such remedial measures forthwith and make a report to the BSCDCL recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the BSCDCL, the BSCDCL shall either revoke such suspension or instruct the Contractor to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the BSCDCL, shall be repeated until the suspension hereunder is revoked.

9.13.3 All costs incurred for maintaining and protecting work or part thereof during the period of suspension shall be borne by the Contractor; provided that if the suspension has occurred as a result of any breach of this Agreement by the BSCDCL, the Costs shall be borne by the BSCDCL. However cost for maintaining and protecting the work for first 30 days, in any event shall be borne by Contractor irrespective of BSCDCL bringing about the suspension for its own convenience. The quantum of cost for maintenance and protection of the work when payable to the contractor shall be subject to approval of BSCDCL engineer.

9.13.4 If suspension of Works is for reasons not attributable to the Contractor, the EIC shall determine any Time Extension to which the Contractor is reasonably entitled.

9.14 Setting of site Laboratories:  
Not Applicable

9.15 Instructions for Composite Contract:

It will be obligatory on the part of the tenderer to sign the tender documents for all the components. (The schedule of quantities, conditions and specials conditions etc.).

In case of breakage of any existing service lines, it shall be immediately attended by the contractor failing which BSCDCL has full liberty to get work done at the cost and risk of the contractor over and above repairing charges, penalty as decided by the Engineer in charge shall be imposed and deducted from Bill of the contractor.

9.16 FINAL INSPECTION

After completion of all tests as per specifications, the whole work will be subject to a final inspection to ensure that WORK has been completed as per requirement. If any defects noticed in the work are attributable to CONTRACTOR these shall be attended by the CONTRACTOR at his own cost, as and when they are brought to his notice by the Bhopal Smart City Limited. . The Bhopal Smart City Development Corporation Limited shall have the right to have these defects rectified at the risk and cost of the CONTRACTOR, if he fails to attend to these defects immediately.

## CLAUSE 10 COMPLETION CERTIFICATE

### 10.1 Provisional Certificate

10.1.1 Upon completion of all Works forming part of the Work, save and except work for which Time Extension has been granted, the EIC/ shall, at the request of the Contractor, issue a provisional certificate of completion if the Tests for and in respect of the completed Works are successful. The Provisional Certificate shall have appended there to a list of outstanding items of work (the "Punch List") that need to be completed in accordance with the provisions of this Agreement. The Contractor undertakes to complete the minor outstanding items of works in respect of those Sections of the Work for which the Provisional Certificate has been issued, within a period of 30 (thirty) days of the date of Provisional Certificate, and those parts of work in respect of which Time Extension has been granted, within the extended period thereof. For the avoidance of doubt, the Parties agree that the Punch List shall include all Works for which Time Extension has been granted and shall also include any minor outstanding items of work forming part of the completed Sections if such works do not materially affect the use of the completed Sections for their intended purpose. The Parties further agree that Provisional Certificate shall not be issued if the completed Works cannot be safely and reliably placed in service of the Users thereof.

10.1.2 If the EIC determines that the Work or any completed part thereof does not conform to the provisions of this Agreement and cannot be safely and reliably placed in operation, it shall forthwith make a report in this behalf and send copies hereof to the EIC and the Contractor and withhold issuance of the Provisional Certificate until the Defects or deficiencies are rectified by the Contractor and Tests are successful in accordance standard.

10.1.3 Notwithstanding anything to the contrary contained in contract, the BSCDCL may, at any time after receiving a report from the EIC under that Clause, direct the EIC to issue a Provisional Certificate and such direction shall be complied forthwith.

### 10.2 Completion of remaining Works

All items in the Punch List shall be completed by the Contractor in accordance with the provisions of this Agreement. For any delay in their completion other than for the reasons solely attributable to the BSCDCL or due to Force Majeure, the BSCDCL shall be entitled to recover Damages from the Contractor in accordance with this Agreement.

### 10.3 Completion Certificate

10.3.1 Upon completion of all Works and on submission of completion certificate by the contractor the EIC shall forthwith issue to the Contractor a Completion certificate after verification of site..

10.3.2 Upon receiving the Completion Certificate, the Contractor shall remove its equipment, materials, debris and temporary works from the Site within a period of 30 (thirty) days thereof, failing which the BSCDCL may remove or cause to be removed, such equipment, materials, debris and temporary works and recover from the Contractor an amount equal to 120% (one hundred and twenty per cent) of the actual cost of removal incurred by the BSCDCL.

10.3.3 Without prejudice to the obligations of the Contractor specified, the property and ownership of all the completed Works forming part of the Work shall vest in the BSCDCL.

#### 10.4 Handing over of Project:

Three months before the likely date of completion of works in all respects, contractor shall intimate to the EIC the following.

- a) The contractor(s) shall submit the break-up of cost of construction of different parts of the project In the manner the break up as required to the EIC
- b) The contractors/agency shall lay the services as per approved plan by concern department. On completion of services the contractor /agency will submit the required number of completion plan to various authorities for handing over. The BSCDCL also reserves the right to withhold the amount which is likely to be payable to these agencies as deficiency charges. The decision of the Engineer-in-charge in this regard shall be final and binding on the contractor(s)/agency(s).

#### 10.5 AS BUILT DRAWINGS AND DOCUMENTATION :

The as built drawings and documents shall be submitted by the contractor in 3 [Three] sets including the drawings supplied by the contractor and the vendor designs if any along with one reproducible media / tracing / soft copies & Failure of such submission within the stipulated time limit attracts the penalty decided by EIC.

### CLAUSE 11

#### VARIATIONS & CHANGE OF SCOPE

##### 11.1 Variations

11.1.1 The BSCDCL may, notwithstanding anything to the contrary contained in this Agreement, require the Contractor to make variations/modifications/alterations to work (“Change of Scope”) during the progress of work and before the issue of the Completion Certificate either by giving an instruction or by requesting the Contractor to submit a proposal for Change of Scope involving additional cost or reduction in cost and adjustment of time.

11.1.2 Change of Scope shall mean: any change that is brought about at the instance of BSCDCL after the complete drawings has been approved as provided in the contract.

Such change shall be limited to -

- (a) change in specifications of any item of Works;
- (b) any additional work, Plant, Materials or services which are not originally included in the Scope of the Project.

11.1.3 If the Contractor determines at any time that a Change of Scope will, if adopted, (i) accelerate completion, (ii) reduce the cost to the BSCDCL of executing, maintaining or operating the Work, improve the efficiency or value to the BSCDCL of the completed the Work, or (iv) otherwise be of benefit to the BSCDCL, it shall prepare a proposal with relevant details at its own cost. The Contractor shall submit such proposal, supported with the relevant details and the amount of addition or reduction in the Contract Price to the BSCDCL to consider such Change of Scope. The BSCDCL

shall, within 15 (fifteen) days of receipt of such proposal, either accept such Change of Scope with modifications, if any, and initiate proceedings there for or reject the proposal and inform the Contractor of its decision. For the avoidance of doubt, the Parties agree that the Contractor shall not undertake any Change of Scope without the express written consent of the BSCDCL, save and except any Works necessary for meeting any Emergency.

## 11.2 Procedure for Change of Scope

11.2.1 In the event of the BSCDCL determining that a Change of Scope is necessary, it may direct the EIC to issue to the Contractor a notice specifying in reasonable detail work and services contemplated there under (the "Change of Scope Notice").

11.2.2 Upon receipt of a Change of Scope Notice, the Contractor shall, with due diligence, provide to the BSCDCL and the EIC such information as is necessary, together with preliminary documentation in support of:

- (a) the impact, if any, which the Change of Scope is likely to have on the Project Completion Schedule if work or services are required to be carried out during the Construction Period; and
- (b) the options for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time thereof, including the following details:

- (i) break down of the quantities, unit rates and cost for different items of work;
- (ii) Proposed modifications, if any, to the Project Completion Schedule of the Work. For the avoidance of doubt, the Parties expressly agree that, the Contract Price shall be increased or decreased, as the case may be, on account of Change of Scope.

11.2.3 Upon reaching an agreement, the BSCDCL shall issue an order (the "Change of Scope Order") requiring the Contractor to proceed with the performance thereof. In the event that the Parties are unable to agree, the BSCDCL may:

- (a) issue a Change of Scope Order requiring the Contractor to proceed with the performance thereof at the rates and conditions approved by the BSCDCL till the matter is resolved.

11.2.4 The provisions of this Agreement, in so far as they relate to Works and Tests, shall apply mutatis mutandis to work undertaken by the Contractor.

## 11.3 Payment for Change of Scope

The payment for change of scope and extra item shall be made as per the Schedule of Rates (SOR) of the relevant year as per which the tender for SOR items are prepared plus or minus --% above/below of estimated tender cost as quoted by the Contractor and for non SOR items the rates will be paid as per market rate + 15% for overheads & profit or as per mutual consent.

## 11.4 Restrictions on Change of Scope

11.4.1 No Change of Scope shall be executed unless the BSCDCL has issued the Change of Scope Order save and except any Works necessary for meeting any Emergency.

11.4.2 Change made because of any default of the Contractor in the performance of its obligations under this Agreement shall not be deemed to be Change of Scope, and shall not result in any adjustment of the Contract Price or the Project Completion Schedule.

## CLAUSE 12

### DEFECTS LIABILITY

#### 12.1 Defects Liability Period

12.1.1 As mentioned herein above in tender.

#### 12.2 Remedying Defects

The Contractor shall repair or rectify all Defects and deficiencies observed by the EIC during the Defects Liability Period within a period of 15 (fifteen) days from the date of notice issued by the EIC, in this behalf, or within such reasonable period as may be determined by the EIC at the request of the Contractor, in accordance with Good Construction Practice.

#### 12.3 Cost of remedying Defects

For the avoidance of doubt, any repair or rectification undertaken in accordance with the contract, including any additional testing, shall be carried out by the Contractor at its own risk and cost, to the extent that such rectification or repair is attributable to:

- (a) Plant, Materials or workmanship not being in accordance with this Agreement and the Specifications and Standards;
- (b) improper maintenance during construction of the Work by the Contractor; and/or
- (c) failure by the Contractor to comply with any other obligation under this Agreement.

#### 12.4 Contractor's failure to rectify Defects

In the event that the Contractor fails to repair or rectify such Defect or deficiency within the period specified by the EIC, the BSCDCL shall be entitled to get the same repaired, rectified or remedied at the Contractor's cost so as to make the Work conform to the Specifications and Standards and the provisions of this Agreement. All costs consequent there on shall, after due consultation with the BSCDCL and the Contractor, be determined by the EIC. The cost so determined and an amount equal to One hundred twenty percent (120 %) of the cost as Damages shall be recoverable by the BSCDCL from the Contractor and may be deducted by the BSCDCL from any monies due to the Contractor.

#### 12.5 Contractor to search cause

12.5.1 The EIC may instruct the Contractor to examine the cause of any Defect in work or part thereof before the expiry of the Defects Liability Period.

12.5.2 In the event any Defect is attributable to the Contractor, the Contractor shall rectify such Defect within the period specified by the EIC, and shall bear the cost of the examination and rectification of such Defect.

- 12.5.3 In the event such Defect is not attributable to the Contractor, the EIC shall, after due consultation with the BSCDCL and the Contractor, determine the costs incurred by the Contractor on such examination and notify the same to the Contractor, with a copy to the BSCDCL, and the Contractor shall be entitled to payment of such costs by the BSCDCL's
- 12.5.4 Any latent structural defects, if noticed within the defect liability period of ten years ,the same shall be rectified at the cost of the contractor.

## CLAUSE 13 ENGINEER\_IN\_CHARGE

### 13.1 Appointment of the Engineer-In-Charge

- 13.1.1 The BSCDCL shall nominate and appoint the Engineer-In-Charge who shall carry out the duties of "Engineer" as are necessary in performance of protection of interest of BSCDCL as also may enable parties to achieve the work as intended in terms of the contract. The engineer shall have no authority to amend or alter the contract either on time or cost basis.
- 13.1.2 The appointment of the Engineer-In-Charge shall be made no later than 15 (fifteen) days from the date of this Agreement. The BSCDCL shall notify the appointment or re-Placement of the Engineer-In-Charge to the Contractor.
- 13.1.3 The staff of the Engineer-In-Charge shall include suitably qualified engineers and other professionals who are appointed to assist the Engineer-In-Charge to carry out its duties.
- 13.1.4 In addition to nominating Engineer-In-Charge, BSCDCL shall be free to engage any agency or individual in capacity of Project Management Consultant/Third Party Inspection agency who shall assist EIC in fulfilling the role and duty of an Engineer as required under the contract.

### 13.2 Instructions of the Engineer-In-Charge

- 13.2.1 The Engineer-In-Charge may issue to the Contractor instructions for remedying any Defect. The Contractor shall take such instructions from the Engineer-In-Charge, or from an assistant to whom appropriate authority has been delegated.
- 13.2.2 The instructions issued by the Engineer-In-Charge shall be in writing. However, if the Engineer-In-Charge issues any oral instructions to the Contractor, it shall confirm in writing the oral instructions within 2 (two) working days of issuing them.
- 13.2.3 In case the Contractor does not receive the confirmation of the oral instruction within the time specified, the Contractor shall seek the written confirmation of the oral instructions from the Engineer-In-Charge. The Contractor shall obtain acknowledgement from the Engineer-In-Charge of the communication seeking written confirmation. In case of failure of the Engineer-In-Charge or its delegated assistant to reply to the Contractor within 2 (two) days of the receipt of the communication from the Contractor, the Contractor may not carry out the instruction.

## CLAUSE 14 PAYMENTS

### 14.1 Contract Price

14.1.1 The Contract Price includes all taxes including GST, royalty and fees that may be levied in accordance with the laws and regulations in force as on the Base Date on the Contractor's equipment, Plant, Materials and supplies acquired for the purpose of this Agreement and on the services performed under this Agreement. Nothing in this Agreement shall relieve the Contractor from its responsibility to pay any tax/GST, that may be levied in India (by any of the Government departments) on work execution or profits made by it in respect of this Agreement.

14.1.2 Contract price shall be adjusted for increase or decrease in rates and prices of labour, materials, fuels and lubricants in accordance with the following principles and procedures and as per formula given in the Contract data.

The price adjustment shall apply for the work done from the start date given in the Contract data upto end of the initial intended completion date or extensions granted by the Nodal Officer or his nominee and shall not apply to the work carried beyond the stipulated time for reason attributable to the contractor.

14.1.3 Unless otherwise stated in this Agreement, the Contract Price covers all the Contractor's obligations for work under this Agreement and all things necessary for the Construction and the remedying of any Defects in the Work.

14.1.4 Unless otherwise stated in this Agreement, the Contract Price covers all the Contractor's obligations for work under this Agreement and all things necessary for the Construction and the remedying of any Defects in the Work.

14.1.5 All payments under this Agreement shall be made in Indian Rupees.

### 14.3 Interim Payment Statement for Works

14.2.1 Not Applicable

### 14.4 Time of payment

14.3.1 The BSCDCL shall pay to the Contractor any amount due under item rate basis.

(a) payment shall be made no later than 30 (thirty) days from the date of certification of the Interim Payment Statement by the EIC subject to the submission being not required to be referred back to contractor for corrections.

(b) BSCDCL shall deduct payments against statutory deductions such as TDS, SD etc as per rules in force from time to time.

### 14.5 Final Payment Statement

14.4.1 Within 60 (sixty) days after receiving the Completion Certificate the Contractor shall submit to the EIC for consideration six copies of a Final Payment Statement as per approved format by EIC (the "Final Payment



Statement”) for Works, with supporting documents showing in detail, in the form prescribed by the EIC:

- (a) the summary of Contractor’s interim Payment claims for Works as submitted in accordance with contract;
- (b) the amounts received from the BSCDCL against each claim; and
- (c) any further sums which the Contractor considers due to it from the BSCDCL.

If the EIC disagrees with or cannot verify any part of the Final Payment Statement, the Contractor shall submit such further information as the EIC may reasonably require. The EIC Engineer shall deliver to the BSCDCL:

#### 14.6 Discharge

Upon submission of the Final Payment Statement for Works, the Contractor shall give to the BSCDCL, with a copy to the EIC, a written discharge confirming that the total of the Final Payment Statement represents full and final settlement of all monies due to the Contractor in respect of this Agreement for all work arising out of this Agreement, except for any monies due to either Party on account of any Defect. Provided that such discharge shall become effective only after the payment due has been made in accordance with the Final Payment Certificate issued.

#### Final Payment Certificate

14.6.1 Within 30 (thirty) days after receipt of the Final Payment Statement for Works, and the written discharge, and there being no disputed items of claim, the EIC shall deliver to the BSCDCL, with a copy to the Contractor, a final payment certificate (the “Final Payment Certificate”) stating the amount which, in the opinion of the EIC is finally due under this Agreement or otherwise. For the avoidance of doubt, before issuing the Final Payment Certificate, the EIC shall ascertain from the BSCDCL all amounts previously paid by the BSCDCL and for all sums to which the BSCDCL is entitled, the balance, if any, due from the BSCDCL to the Contractor or from the Contractor to the BSCDCL, as the case may be.

#### 14.6.2 Pre-Requisites for Payment of Final Bill

- 1) Contractor should Remove the temporary structures, labor camps, & dispose surplus materials, debris etc lying at work site within 30 days from handing of the work.
- 2) Contractor should submit No Dues Certificate from revenue authorities related to payment against Royalty for Miscellaneous materials.

14.6.3 The BSCDCL shall, pay to the Contractor the amount which is stated as being finally due in the Final Payment Certificate and in that event no further amount shall ever become due and payable to the contractor in respect of this contract save and except as indicated in the final payment certificate.

#### 14.7 Correction of Interim Payment Certificates

The EIC may by an Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate issued by the EIC.

#### 14.8 OVERPAYMENT AND UNDERPAYMENT:

Whenever any claim for the payment of a sum to the Bhopal Smart City Development Corporation Limited arises out of or under this Contract against the contractor the same may be deducted by the Bhopal Smart City Development Corporation Limited from any sum then due or which at any time thereafter may become due to the contractor under this contract and failing that under any other contract with the Bhopal Smart City Development Corporation Limited or from any sum due to the contractor with the Bhopal Smart City Development Corporation Limited (which may be available with Bhopal Smart City Limited), or from his retention money, or he shall pay the claim on demand. The Bhopal Smart City Development Corporation Limited reserves the right to carry out post payment audit and technical examination of the final bill including all supporting vouchers, abstracts, etc.

The Bhopal Smart City Development Corporation Limited further reserves the right to enforce recovery of any over payment when detected.

If as a result of such audit and technical examination any over payment is discovered in respect of any work done by the Contractor or alleged to have been done by him under the contract, it shall be recovered by the Bhopal Smart City Development Corporation Limited from the contractor by way of all the means prescribed above or if any under payment is discovered by the Bhopal Smart City Limited, any amount due to the contractor under this contract or under payment may be adjusted against any amount then due or which may at any time thereafter become due before payment is made to the contractor from him to the Bhopal Smart City Development Corporation Limited on any other contract account whatsoever.

### CLAUSE 15 INSURANCE

#### 15.1 Insurance for Works and Maintenance

15.1.1 The Contractor shall affect and maintain at its own cost the insurances as per the requirements of BSCDCL and Law.

15.1.2 The BSCDCL and the Contractor shall, in accordance with its obligations as provided for in this Agreement, be liable to bear the cost of any loss or damage that does not fall within the scope of this contract or cannot be recovered from the insurers.

15.1.3 The Contractor shall, save and except as provided for in this Agreement, fully indemnify, hold harmless and defend the BSCDCL from and against any and all losses, damages, costs, charges and/or claims with respect to:

- (a) the death of or injury to any person; or
- (b) the loss of or damage to any property (other than work);

that may arise out of or in consequence of any breach by the Contractor of this Agreement during the execution of work or the remedying of any Defects therein.

15.1.4 The BSCDCL shall fully indemnify the Contractor from and against any and all losses, damages, costs, charges, proceedings and/or claims arising out of or with respect to (a) the use or occupation of land or any

part thereof by the BSCDCL; (b) the right of the BSCDCL to execute work, or any part thereof, on,

over, under, in or through any land;

(c) the damage to property which is the unavoidable result of the execution and completion of work, or the remedying of any Defects therein, in accordance with this Agreement; and

15.1.5 Without prejudice to the obligations of the Parties the Contractor shall maintain or effect such third-party insurances as may be required under the Applicable Laws.

## 15.2 Notice to the BSCDCL

No later than 15 (fifteen) days after the date of this Agreement, the Contractor shall by notice furnish to the BSCDCL in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with contract and trade practice. Within 15 (fifteen) days of receipt of such notice, the BSCDCL may require the Contractor, to effect and maintain such other insurances as may be necessary in terms of contract.

## 15.3 Evidence of Insurance Cover

15.3.1 All insurances obtained by the Contractor in accordance with this contract shall be maintained with insurers on terms consistent with Good Industry Practice. Within 10 (Ten) days from the commencement date, the Contractor shall furnish to the BSCDCL notarized true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty-five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Contractor to the BSCDCL.

The Contractor shall act in accordance with the directions of the BSCDCL, provided that the Contractor shall produce to the BSCDCL the insurance policies in force and the receipts for payment of the current premium.

15.3.2 The Contractor shall ensure the adequacy of the insurances at all times in accordance with the provisions of this Agreement. BSCDCL shall be entitled to stop any payment at any time if on demand the contractors fail to satisfy BSCDCL about all Insurance policies being held in valid and enforceable form.

## 15.4 Remedy for failure to insure

If the Contractor shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the BSCDCL shall have the option to either keep in force any such insurances, and pay such premium and recover the costs thereof from the Contractor, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Contractor.

## 15.5 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Contractor shall include a waiver of any and all rights of subrogation or recovery of the insurers there under against, inter alia, the BSCDCL, and its assigns, successors, undertakings and their subsidiaries, Affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counter claim or any other deduction, whether by attach mentor otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

#### 15.6 Contractor's waiver

The Contractor hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the BSCDCL and its assigns, undertakings and their subsidiaries, Affiliates, employees, successors, insurers and underwriters, which the Contractor may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Contractor pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

#### 15.7 Accident or injury to workmen

Notwithstanding anything stated in this Agreement, it is hereby expressly agreed between the Parties that the BSCDCL shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the Contractor or Sub-contractor, save and except as for death or injury resulting from any act, omission or default of the BSCDCL, its agents or servants. The Contractor shall indemnify and keep indemnified the BSCDCL from and against all such claims, proceedings, damages, costs, charges, and expenses whatsoever in respect of the above save and except for those acts, omissions or defaults for which the BSCDCL shall be liable.

#### 15.8 Insurance against accident to workmen

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

#### 15.9 Application of insurance proceeds

The proceeds from all insurance claims, except for life and injury, shall be applied for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Work and the provisions of this Agreement in respect of construction of works shall apply mutatis mutandis to work undertaken out of the proceeds of insurance.

#### 15.10 Compliance with policy conditions

Each Party hereby expressly agrees to fully indemnify the other Party from and against all losses and claims arising from its failure to comply with conditions imposed by the insurance policies effected in accordance with this Agreement.

### CLAUSE 16

#### FORCE MAJEURE

##### 16.1 Force Majeure

As used in this Agreement, the expression "Force Majeure" or "Force Majeure Event" shall mean Acts of God beyond the control of human beings and those which cannot be foreseen resulting in circumstances affecting the performance of the contract. It may also include any Political, Social or Legal act whose consequence on the progress of the work would have analogous effect as Acts of God rendering parties to

this contract completely helpless to amend the situation and keep the contract performing. The only remedy against the circumstance of Force Majeure affecting the progress shall be grant of extension of time for performance as found reasonable in opinion of BSCDCL and no other compensation what so ever shall be payable or be liability of BSCDCL.

#### 1.1. Force Majeure Events

- (a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- (b) any judgement or order of any court of competent jurisdiction or statutory authority made against the Contractor in any proceedings for reasons other than (i) failure of the Contractor to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;
- (c) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- (d) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (e) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Contractor or any of the Sub-contractors to perform their respective obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Contractor's or any Sub-contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;

### CLAUSE 17

#### SUSPENSION OF CONTRACTOR'S RIGHTS

##### 17.1 Suspension upon Contractor Default

Upon occurrence of a Contractor Default, the BSCDCL shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend carrying out of whole of the work or any part thereof, or Maintenance and (ii) carry out such Works or Maintenance itself or authorize any other agency to exercise or perform the same on its behalf during such suspension (the "Suspension"). Suspension hereunder shall be effective forthwith upon issue of notice by the BSCDCL to the Contractor and may extend up to a period not exceeding 90 (ninety) days from the date of issue of such notice.

##### 17.2 BSCDCL to act on behalf of Contractor

During the period of Suspension hereunder, all rights and liabilities vested in the Contractor in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the

BSCDCL for discharging the obligations of the Contractor under and in accordance with this Agreement shall be deemed to have been done or taken for and on behalf of the Contractor and the Contractor undertakes to indemnify the BSCDCL for all costs incurred during such period. The Contractor hereby licenses and sub-licenses respectively, the BSCDCL or any other agency authorized by BSCDCL to use during Suspension, all Intellectual Property belonging to or licensed to the Contractor with respect to the Work and its construction and maintenance, and which is used or Created by the Contractor in performing its obligations under the Agreement.

### 17.3 Revocation of Suspension

17.3.1 In the event that the BSCDCL shall have rectified or removed the cause of Suspension within a period not exceeding 60 (sixty) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Contractor under this Agreement. For the avoidance of doubt, the Parties expressly agree that the BSCDCL may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

17.3.2 Upon the Contractor having cured the Contractor Default within a period not exceeding 60 (sixty) days from the date of Suspension, the BSCDCL shall revoke the Suspension forthwith and restore all rights of the Contractor under this Agreement.

## CLAUSE 18 TERMINATION

### 18.1 Termination for Contractor Default

18.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Contractor fails to cure the default within the time limit specified by BSCDCL the Contractor shall be deemed to be in default of this Agreement (the "Contractor Default"), unless the default has occurred solely as a result of any breach of this Agreement by the BSCDCL or due to Force Majeure. The defaults referred to herein shall include:

- (a) the Contractor fails to provide, extend or replenish, as the case may be, the Performance Security in accordance with this Agreement;
- (b) subsequent to the replenishment or furnishing of fresh Performance Security, the Contractor fails to cure, within a Cure Period of 30 (thirty) days, the Contractor Default for which the whole or part of the Performance Security was appropriated;
- (c) the Contractor does not achieve the latest outstanding Project Milestone due in accordance with the provisions of contract, subject to any Time Extension, and continues to be in default for 45 (forty five) days;
- (d) the Contractor abandons or manifests intention to abandon the construction or Maintenance of the Work without the prior written consent of the BSCDCL;
- (e) the Contractor fails to proceed with work in accordance with the provisions of contract or stops Works and/or the Maintenance for 30 (thirty) days without reflecting the same in the current programme and such stoppage has not been authorised by the EIC;

- (f) failure to complete the remarks stated from EIC, items within the periods stipulated contract;
- (g) the Contractor fails to rectify any Defect, the non rectification of which shall have a Material Adverse Effect on the Project, within the time specified in this Agreement or as directed by the EIC;
- (h) the Contractor subcontracts work or any part thereof in violation of this Agreement or assigns any part of work or the Maintenance without the prior approval of the BSCDCL;
- (i) the Contractor creates any Encumbrance in breach of this Agreement;
- (j) an execution levied on any of the assets of the Contractor has caused a Material Adverse Effect ;
- (k) the Contractor is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Contractor or for the whole or material part of its assets that has a material bearing on the Project;
- (l) the Contractor has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the BSCDCL, a Material Adverse Effect;
- (m) a resolution for winding up of the Contractor is passed, or any petition for winding up of the Contractor is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Contractor is ordered to be wound up by court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Contractor are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Contractor under this Agreement; and provided that:
  - (i) the amalgamated or reconstructed entity has the capability and experience necessary for the performance of its obligations under this Agreement; and
  - (ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and has a creditworthiness at least as good as that of the Contractor.
- (n) any representation or warranty of the Contractor herein contained which is, as of the date hereof, found to be materially false or the Contractor is at any time hereafter found to be in breach thereof;
- (o) the Contractor submits to the BSCDCL any statement, notice or other document, in written or electronic form, which has a material effect on the BSCDCL's rights, obligations or interests and which is false in material particulars;
- (p) the Contractor has failed to fulfill any obligation, for which failure Termination has been specified in this Agreement; or
- (q) the Contractor commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Project or on the BSCDCL.

18.1.2 Without prejudice to any other rights or remedies which the BSCDCL may have under this Agreement, upon occurrence of a Contractor Default, the BSCDCL shall be entitled to terminate this Agreement by issuing a Termination Notice to the Contractor; provided that before issuing the Termination Notice, the BSCDCL shall by a notice inform the Contractor of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Contractor to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

18.1.3 After termination of this Agreement for Contractor Default, the BSCDCL may complete work and/or arrange for any other entities to do so. The BSCDCL and these entities may then use any Materials, Plant and equipment, Contractor's drawings, documents made by or on behalf of the Contractor and the contractor shall have no entitlement to remove and or take possession of any plant, machineries, materials, equipments without the consent of BSCDCL who shall then have the entitlement to engage and use these for completing the balance work as may be in the best interest of the work. In that event the certificate of any payment, fee, charge that may be due to contractor for such use shall be final and binding.

## 18.2 Termination for BSCDCL's convenience

Notwithstanding anything stated hereinabove, the BSCDCL may terminate this Agreement for convenience. The termination shall take effect 30 (thirty) days from the date of notice hereunder. This shall amount to foreclosure of contract whereby the parties will treat the contract as nullified and settled the account in such a way that no party retains any unearned benefit at the point of foreclosure.

## 18.3 Requirements after Termination

Upon Termination of this Agreement, the Contractor shall comply with and conform to the following:

- (a) deliver to the BSCDCL all Plant and Materials which shall have become the property of the BSCDCL
- (b) deliver all relevant records, reports, Intellectual Property and other licenses pertaining to work, Maintenance and in case of Termination occurring after the Provisional Certificate has been issued, the "as built" Drawings for work;
- (c) transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws; and
- (d) vacate the Site within 15 (fifteen) days or any further period if permitted by BSCDCL in writing.
- (e) In event contractor for whatever reason fails to vacate the site, where upon he has no permission to enter for performance of work, he shall be declared as unauthorized person and thereafter shall be liable to all actions as trespassers as and when he, his agents, vendors, sub contractor or any one without permission of BSCDCL attempts to enter the site.



#### 18.4 Termination for Employer Default

18.4.1 In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "Authority Default") unless the default has occurred as a result of any breach of this Agreement by the Contractor or due to Force Majeure. The defaults referred to herein shall include:

- (a) the Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Contractor;
- (b) the Authority has failed to make payment of any amount due and payable to the Contractor within the period specified in this Agreement;
- (c) the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement; or
- (d) the Authority's Engineer fails to issue the relevant Interim Payment Certificate within 60 (sixty) days after receiving a statement and supporting documents.

18.4.2 Without prejudice to any other right or remedy which the Contractor may have under this Agreement, upon occurrence of an Authority Default, the Contractor shall be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Contractor shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

#### 18.5 Valuation of Unpaid Works

18.5.1 Within a period of 45 (forty-five) days after Termination, as the case may be, has taken effect, the EIC shall proceed to determine as follows the valuation of unpaid Works (the "Valuation of Unpaid Works"):

- (a) value of the completed stage of work, less payments already made;
- (b) reasonable value of the partially completed stages of works as on the date of Termination, only if such works conform with the Specifications and Standards; and
- (c) value of Maintenance, if any, for completed months, less payments already made, and shall adjust from the sum thereof
  - (i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement; and
  - (ii) all taxes due to be deducted at source.
- (d) The rates to be operated for this clause shall be on SOR used for preparation of estimate adjusted for contract price quoted (% above/below estimated cost) including escalation if permissible.

18.5.2 The Valuation of Unpaid Works shall be communicated by BSCDCL to the Contractor, within a period of 30 (thirty) days from the date of valuation.

#### 18.6 Termination Payment

18.6.1 Upon Termination on account of Contractor's Default, the BSCDCL shall:

- (a) encash and appropriate the Performance Security and Retention Money, or in the event the Contractor has failed to replenish or extend the Performance Security, claim the amount, as agreed pre-determined compensation to the BSCDCL for any losses, delays and cost of completing work and Maintenance, if any;

- (b) encash and appropriate the bank guarantee, if any, for and in respect of any dues as may be recoverable from the contractor.
- (c) pay to the Contractor, by way of Termination Payment, an amount equivalent to the Valuation of Unpaid Works after adjusting any other sums payable or recoverable, as the case may be, in accordance with the provisions of this Agreement.

## 18.7 Other rights and obligations of the Parties

Upon Termination for any reason whatsoever

- (a) property and ownership in all Materials, Plant and Works and the Work shall, as between the Contractor and the BSCDCL, vest in the BSCDCL in whole;
- (b) risk of loss or damage to any Materials, Plant or Works and the care and custody thereof shall pass from the Contractor to the BSCDCL; and
- (c) the BSCDCL shall be entitled to restrain the Contractor and any person claiming through or under the Agreement from entering upon the Site or any part of the Project except for taking possession of materials, stores, implements, construction plants and equipment of the Contractor, which have not been vested in the BSCDCL in accordance with the provisions of this Agreement.

## CLAUSE 19

### LIABILITY AND INDEMNITY

#### 19.1 General indemnity

The Contractor will indemnify, defend, save and hold harmless the BSCDCL and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (the “BSCDCL Indemnified Persons”) against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Contractor of any of its obligations under this Agreement or from any negligence under the Agreement, or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the BSCDCL Indemnified Persons.

#### 19.2 Indemnity by the Contractor

19.2.1 The Contractor shall fully indemnify, hold harmless and defend the BSCDCL and the BSCDCL Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

- (a) failure of the Contractor to comply with Applicable Laws and Applicable Permits;
- (b) payment of taxes required to be made by the Contractor in respect of the income or other taxes of the Sub-contractors, suppliers and representatives; or
- (c) non-payment of amounts due as a result of Materials or services furnished to the Contractor or any of its Sub-contractors which are payable by the Contractor or any of its Sub-contractors.

19.2.2 The Contractor shall fully indemnify, hold harmless and defend the BSCDCL Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the BSCDCL Indemnified Persons may hereafter suffer or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information or process used by the Contractor or by the Sub-contractors in performing the Contractor's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Contractor shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Work, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Contractor shall promptly make every reasonable effort to secure for the BSCDCL a license, at no cost to the BSCDCL, authorizing continued use of the infringing work. If the Contractor is unable to secure such license within a reasonable time, the Contractor shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

## CLAUSE 20

### LABOUR LAWS

#### 20.1 Labour Laws to be complied by the Contractor.

Notwithstanding any provision as may here below, Contractor without an exception and limitation shall be liable for complete adherence and responsibilities arising out of all the labour laws as may be in force or as may become effective from time to time. The contractor shall obtain a valid license under the Contractor Labour (R & B) Act 1970, and the Contract Labour (Regulation and Abolition) Central Rules 1971, before the commencement of the work, and continue to have a valid license until the completion of the work. The contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act, 1986. The contractor shall also comply with the provisions of the building and other construction Workers (Regulation of Employment & Conditions of Service) Act, 1996 and the building and other Construction Workers Welfare Cess Act, 1996.

The contractor shall ensure the registration of all eligible workers (inclusive of those of subcontractors and petty contractors) with construction workers welfare board.

Any failure to fulfill these requirements shall attract the penal provisions of this contract arising out of the resultant non- execution of the work.

No labour below the age of fourteen years shall be employed on the work.

#### 20.2 Payment of Wages:

- ii. The contractor shall pay to labour employed by him either directly or through sub-contractors, wages not less than fair wages as defined in the Contractor's Labour Regulations or as per the provisions of the contract Labour( Regulation and Abolition) Central Rules, 1971, wherever applicable.
- iii. The contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid fair wage to labour indirectly engaged on the work,

including any labour engaged by his sub-contractors in connection with the said work, as if the labour had been immediately employed by him.

- iv. In respect of all labour directly or indirectly employed in the works for performance of the contractor's part of this contract, the contractor shall comply with or cause to be complied with the Central Public Works Department contractor's Labour Regulations made by Government from time to time in regard to payment of wages, wages period, deductions from wages recovery of wages not paid and deductions un-authorized made, maintenance of wage books or wage slips, publication of scale of wages and other terms of employment, inspection and submission of periodical returns and all other matters of the like nature or as per the provisions of the Contract Labour (Regulation and Abolition) Act 1970, and the Contract Labour (Regulation and Abolition) Central Rules, 1971, wherever applicable.
- v.
  - (a) The Engineer-in-Charge concerned shall have the right 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 reasons of non-fulfillment of the conditions of the contract for the benefit of the workers, non-payment of wages or of deductions made from his or their wages which are not justified by their terms of the contract or non-observance of the Regulations.
  - (b) Under the provision of Minimum Wages (Central) Rules 1950, or statutory modification thereof, the contractor is bound to allow to the labours directly or indirectly employed in the works one day rest for 6 days continuous work and pay wages at the same rate as for duty. In the event of default, the Engineer-in-Charge shall have the right to deduct the sum or sums not paid on account of wages for weekly holidays to any labours and pay the same to the persons entitled thereto from any money due to the contractor by the Engineer-in-Charge concerned.

In the case of Madhya Pradesh, however, as the all-inclusive minimum daily wages fixed under Notification of the Madhya Pradesh Administration ACT ----- as amended from time to time are inclusive of wages for the weekly day of rest, the question of extra payment for weekly holidays would not arise.

- vi. The contractor shall comply with the provisions of the Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees Liability Act, 1938, Workmen's Compensation Act, 1923, Industrial Disputes Act, 1947, Maternity Benefits the modifications thereof or any other laws relating thereto and the rules made there under from time to time.
- vii. The contractor shall indemnify and keep indemnified BSCDCL against payment to be made under and for the observance of the laws aforesaid and the Contractor's Labour Regulation without prejudice to his right to claim indemnify from his sub-contractors.

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- viii. The laws aforesaid shall be deemed to be a part of this contract and any breach thereof shall be deemed to be a breach of this contract.
  - ix. Whatever is the minimum wage for the time being, or if the wage payable is higher than such wage, such wage shall be paid by the contractor to the workmen directly without the intervention of Jamadar and that Jamadar shall not be entitled to deduct or recover any amount from the minimum wage payable to the workmen as and by way of commission or otherwise.
  - x. The contractor shall ensure that no amount by way of commission or otherwise is deducted or recovered by the Jamadar from the wage of workmen.

#### 20.3 PANELTY FOR EACH DEFAULT TO PROVIDE FACILITIES:

All provisions of concerned labour law shall be liability of the Contractor and consequences there from any non compliance shall be liability of the Contractor.

It shall be expressed duty of Contractor to comply with all Welfare measures as may reasonable be expected to be discharged by the Contractor.

#### CLAUSE 21

##### SAFETY CODE, MODEL RULES FOR PROTECTION OF HEALTH&SANITARY ARRANGEMENTS FOR WORKERS EMPLOYED BY BSCDCL OR ITS CONTRACTORS, LABOUR REGULATIONS.

1. Contractor shall provide all required safety measures such as safety helmets, safety jackets, safety belts etc to his staff & workmen's.
2. Suitable scaffolds 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 materials as well suitable footholds and hand-hold shall be provided on the ladder and the ladder shall be given an inclination not steeper than 1/4 to 1 (1/4 horizontal and 1 vertical).
3. Safe means of access shall be provided to all working Places. Uniform step spacing of not more than 30 cm shall be kept. 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 as to cause danger or inconvenience to any person or the public. The contractor shall provide all necessary fencing and lights to protect the public from accident and shall be bound to bear the expenses of defense of every suit, action or other proceedings at law that may be brought by any person for injury sustained owing to neglect of the above precautions and to pay any damages and cost which may be awarded in any such suit, action or proceedings to any such person or which may, with the consent of the contractor, be paid to compensate any claim by any such person.
4. Excavation and Trenching: – All trenches 1.2m. (4ft.) or more in depth, shall at all times be supplied with at least one ladder for each 30 m. (100ft.) in length or fraction thereof Ladder shall extend from bottom of the trench to at least 90 cm. (3ft.) above the surface of the ground. The side of the trenches which are 1.5m. (5ft.) or more in depth shall be stepped back to give suitable slope or securely held by timber bracing, so as to avoid the

danger of sides collapsing. The excavated materials shall not be placed within 1.5m. (5ft.) of the edges of the trench or half of the depth of the trench whichever is more. Cutting shall be done from top to bottom. Under no circumstances undermining or undercutting shall be done.

5. Demolition: – Before any demolition work is commenced and also during the progress of the work.
  - (i) All roads and open areas adjacent to the work site shall either be closed or suitably protected.
  - (ii) No electric cable or apparatus which is liable to be a source of danger or a cable or apparatus used by the operator shall remain electrically charged.
  - (iii) 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.
6. All necessary personal safety equipment as considered adequate by the Engineer-in-Charge should be kept available for the use of the person employed on the site and maintained in a condition suitable for immediate use, and the contractor should take adequate steps to ensure proper use of equipment by those concerned: -
7. The Contractor shall not employ men and women below the age of 18 years on the work of painting with products containing lead in any form. Wherever men above the age of 18 are employed on the work of lead painting, the following precaution should be taken :
8. BSCDCL may require, when necessary medical examination of workers.
9. All scaffolds, ladders and other safety devices mentioned or described herein shall be maintained in safe condition and no scaffold, 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.
10. In every work place, there shall be provided and maintained at suitable Places, easily accessible to labour, a sufficient supply of cold water fit for drinking.
11. Where drinking water is obtained from an intermittent public water supply, each workplace shall be provided with storage where such drinking water shall be stored.
12. Every water supply or storage shall be at a distance of not less than 50 feet from any latrine drain or other source of pollution. Where water has to be drawn from an existing well which is within such proximity of latrine, drain or any other source of pollution, the well shall be properly chlorinated before water is drawn from it for drinking. All such wells shall be entirely closed in and be provided with a trap door which shall be dust waterproof.
13. A reliable pump shall be fitted to each covered well, the trap door shall be kept locked and opened only for cleaning or inspection which shall be done at least once a month. The contractor shall supply only potable water in the labour camp sample of water shall be drawn from the source of water supply in the labour camps every months and

gottested from the Municipal Corporation's lab by the contractor .Wherever drinking wateris supplied to the labour camps through tankers. Samples shall be drawn from the tankers and got tested. Water storage tanks chlorine tablets shall be added from time to time as per requirement so that portability of water remains intact No extra payment shall be made on this account.

## CLAUSE 22

### MISCELLANEOUS

#### 22.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Bhopal shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

#### 22.2 Waiver of immunity

Each Party unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (d) consents generally in respect of the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

#### 22.3 Delayed payments

The interim payments shall generally be made as per the provision of the contract. However it is clearly understood that all such payments are to be treated as and by way of advance against the final consideration and therefore there shall be no entitlement of any compensation for any inconvenience on account of delay being caused in payment of interim certificate.

#### 22.4 Waiver

22.4.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement: -

- (a) shall not operate or be construed as a waiver of any other or subsequent default thereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

22.4.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation there under nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

#### 22.5 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

- (a) no review, comment or approval by the BSCDCL or the EIC of any Document or Drawing submitted by the Contractor nor any observation or inspection of the construction, or maintenance of the Work nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Contractor from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Permits; and
- (b) the BSCDCL shall not be liable to the Contractor by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (a) above.

#### 22.6 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

#### 22.7 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Contractor arising from the Request for Qualification or Request for Proposals, as the case may be, shall be deemed to form part of this Agreement and treated as such.



## 22.8 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

## 22.9 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be addressed to following offices.

a) For Contractor

\_\_\_\_\_

b) For BSCDCL

\_\_\_\_\_

## 22.10 Counterparts

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

## 22.11 Limitation of Liability

22.11.1 Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with this Agreement'

22.11.2 The total liability of one Party to the other Party under and in accordance with the provisions of this Agreement, shall not exceed the Contract Price. For the avoidance of doubt, this Clause shall not limit the liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

## 22.12 WORK IN MONSOON :

When the work continues in monsoon, the contractor shall maintain minimum labour force required, for the work and plan and execute the construction and erection work according to the prescribed schedule. No extra rate will be considered for such work in monsoon. During monsoon and entire constructing period the contractor shall keep the site free from water at his own cost.

## 22.13 ASSISTANCE TO ENGINEER-IN-CHARGE :

Contractor shall make available to Engineer-in-charge free of cost all necessary instruments and assistance in checking of any work made by the contractor for taking measurement of work.

#### 22.14 NO COMPENSATION FOR ALTERATION IN OR RESTRICTION OF WORK :

If at any time from the commencement of work, the owner shall for any reasons whatsoever not require the whole or part thereof a specified in the tender to be carried out, the Engineer-in-charge shall give notice in writing of the contractor, who shall have no claim to any payment or compensation whatsoever on account of any profit or advantage which he might have derived from execution of work in full, but which he did not derive in consequence of the full amount of the work not having been carried neither shall be have any claim for compensation by reason if any alternations having been made in original specifications, drawings and instructions which shall involve any curtailment of the work as originally contemplated. In case, contractor is a partnership firm, the prior approval in writing shall be obtained from the BSCDCL, before any change is made in the constitution of the firm, where the contractor is an individual or a Hindu Undivided Family business concern, such approval as aforesaid shall, likewise be obtained before sub-contractor enters into any agreement with other parties where under the reconstituted firm would have the right to carry out the work hereby undertaken by the contractor. In either case if prior approval as aforesaid is not obtained, the contract shall be deemed to have been allotted in contravention of sub-letting clause hereof and the same action may be taken and the same consequence shall ensure as provided in the sub-letting clause.

#### 22.15 IN EVENT OF DEATH OF CONTRACTOR :

Without prejudice to any of the right or remedies under the contract, if the contractor dies, the owner shall have the option of terminating the contract without compensation to the contractor.

#### 22.16 MEMBER OF THE OWNER NOT INDIVIDUALLY LIABLE :

No official or employee of the owner shall in any way be personally bound or liable for the acts or obligations of the owner under the contract or answerable for any default or omission in the observance or performance of the acts, matters or things which are herein contained.

#### 22.17 BREACH OF CONTRACT BY CONTRACTOR :

If the contractor fails to perform the work under the contract with due diligence or shall refuse or neglect to comply with instruction given to him, by the Engineer-in-charge in accordance with the contract, or shall contravene the provisions of the contract ,the BSCDCL may give notice in writing to the contractor to make good such failure, neglect or contravention. Should the Contractor fail to comply with such written notice within twenty eight (28) days of receipt, if the MNAGING DIRECTOR Bhopal Smart City Development Corporation Limitedshall think fit, it shall be lawful for the BSCDCL, without prejudice to any other rights, the contractor may have under the contract, to terminate the contract for all part of the works, and to make any other arrangements it shall deem necessary to complete the work outstanding under the contract at the time of termination. In this event CLAUSE 22.24 (Subletting of work) and 22.25 (Sub-Contracts for Temporary Works etc.) hereof shall be invoked and the performance security shall immediately become due and payable to the BSCDCL the value of the work done on the date of termination and not paid for shall stand forfeited to the BSCDCL and the BSCDCL shall have entitlement to use of any works which the contractor may have at the site at the time of termination of the contract.

22.18 The following conditions are being included in this tender and shall be considered as a part of tender document.

1. Contractors have to place a information board showing details of work at site at his own cost as per details given by Department. i.e. Name of work, Name of Contractor, Project cost, work sanction detail, detail of work order and time limit, Address of Executive Engineer & Phone No. & Fax No.
2. If Contractor will not furnish a Photograph of the Board placed on site showing the details as above department will retain Rs. 25,000.00 of tender amount temporarily from the running bill.
3. A work of building is carried out at one plot but in the case of water supply line, drainage line etc. or any other service line, the work carried out in length, in this case one board should be placed on both ends and other boards should be Places as per the instruction of Engineer in charge.
4. The Engineer-in-Charge may require the contractor to dismiss or remove from the site of the work any person or persons in the contractors' employ on the work who may be incompetent or misconduct himself and the contractor shall forthwith comply with such requirements. In respect of maintenance /repair of renovation works etc. where the labour have an easy access to the individual houses, the contractor shall issue identity cards to the laborers, whether temporary or permanent and he shall be responsible for any untoward action on the part of such labour. AE/SE will display a list of contractors working in the colony/ blocks on the notice board in the colony and also at the service center, to apprise the residents about the same.
5. However, the Engineer-in-charge, through a notice, may require the contractor to remove the illegal occupation any time on or before construction and delivery.

## CLAUSE 23

### CLAIMS, DISPUTES & ARBITRATION

#### 23.1 Contractor's Claims

23.1.1 Contractor's Claims - If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

23.1.2 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all these records, and shall (if instructed) submit copies to the Engineer.

23.1.3 Within 28 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

- (a) this fully detailed claim shall be considered as interim;
- (b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Engineer may reasonably require; and
- (c) the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer.

23.1.4 Within 28 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Engineer shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.

23.1.5 Within the above defined period of 28 days, the Engineer shall determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.5, and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

If the Engineer does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Engineer and any of the Parties may refer this as Dispute in accordance & can seek remedy as per provisions of clause No. 23.2.

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded.

## 23.2 RESOLUTION OF DISPUTES:

Except or otherwise specifically provided in the contract, all disputes concerning questions of fact arising under the contract shall be decided by the Engineer in charge, subject to a written appeal by the Contractor to the Engineer in charge as per provisions of clause No. 23.1 and these decisions shall be final and binding on the parties hereto. Any disputes or difference including those considered as such by only one of the parties arising out of or in connection with this contract shall be to the extent possible settled amicably between the parties. If amicable settlement cannot be reached then all disputed issues shall be settled as provided in accordance with the provisions given in (a) below.

### a) DISPUTE OR DIFFERENCES TO BE REFERRED TO:

If at any time, any question, disputes or differences of any kind whatsoever shall arise between Engineer-In-Charge and the contractor upon or in relation to or in connection with this contract, either party may forthwith give to the other, notice in writing of the existence of such question, dispute or difference as to any decision, opinion, instruction, direction, certificate or evaluation of the Engineer in charge.

The question or difference shall be settled by the CEO, Bhopal Smart City Development Corporation Limited who shall state his decision in writing and give notice of the same to the Engineer-In-Charge and to the contractor. Such decision shall be final & binding upon both parties to the contract and work on contract if not already breached or abandoned shall proceed normally unless and until the same shall be revised (or upheld) due to any Judicial proceeding. Should CEO, Bhopal Smart City Development Corporation Limited fail to give a decision within three (3) calendar months after issuance of notice of a question, dispute or difference or if the contractor is dissatisfied with any such decision of CEO, Bhopal Smart City Development Corporation Limited, then the matter may be referred to court of law subject to Bhopal Jurisdiction.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED  
AND DELIVERED

For and on behalf of BSCDCL

by:

(Signature)

(Name)

(Designation)

In the presence of: 1.

2.

{COUNTERSIGNED and accepted by:

Name and particulars of other members of the Consortium}

SIGNED, SEALED AND  
DELEVERIED

For and on behalf of

THE CONTRACTOR by:

(Signature)

(Name)

(Designation)

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## SECTION VI –CONDITIONS OF PARTICULAR APPLICATION

Following Clauses from General Conditions of Contract are Added/modified as under

### CLAUSE 5 PERFORMANCE SECURITY.

Addition of following sub clauses

- 5.1.4 In event of bid price being considered unbalanced in case of rates being higher or lower than 15% of the estimated cost put to tender by BSCDCL, then BSCDCL shall direct the bidder to deposit separately performance security deposit of 15% of the amount of unbalanced contract value in addition to regular performance/ security deposit. This additional performance security shall be released only on completion of the work along with the balance of performance deposit being released.
- 5.1.5 If the contractor fails to complete the work or left the work incomplete, additional performance security shall be forfeited by BSCDCL & the agreement shall be terminated and action shall be taken in accordance with Clause No. 18 of Section IV, General conditions of contract.
- 5.4 Release of Performance Security
- 5.4.1 5% Retention deposit deducted from RA Bills will be released after completion of project within 60 days from the date of the final bill payment.
- 5.4.2 5% performance Bank guarantee will be released within 60 days period after completion of defects liability period provided that there is no defect detected or rectified /complied as per the direction given by EIC, within the said periods. Contractor has to extend initial performance security for 5% contract value up to the end defects liability period.
- 5.4.3 Notwithstanding the aforesaid, the Parties agree that the BSCDCL shall not be obliged to release the Performance Security until all Defects identified during the Defects Liability Period have been rectified. BSCDCL shall have no liability in event of any delay caused in release/ return of the performance security on any ground what so ever.

### CLAUSE 6 RIGHT OF WAY

Sub clause 6.4 is deleted

### CLAUSE 7 UTILITIES AND TREES

Sub clause 7.3 is deleted

CLAUSE 8  
DESIGN, SUPPLY & INSTALLATION OF THE WORK

Following sub clauses are modified

8.1 General Design Obligations

8.1.1 The bidder shall carry out, and be responsible for, the concept, development and design of work from qualified designers who are Engineer or other professionals who comply with the Criteria.

8.2 Drawings

Submission of Drawings:

Tender drawings prepared by bidder are based on concept. Contractor has to prepare concept Design & Drawings & get the same approved from Employer.

Within 07 days from the Commencement Date the Contractor shall start submitting drawings, Technical specification etc., for review and approval by the Employer's Representative.

8.3 Intellectual Property Rights

The intellectual property rights in respect of drawing and all that is relevant to the concept of rights shall be vested in BSCDCL.

8.4 Providing & Installation of Work

8.4.1 The Contractor shall construct the works as specified, and in conformity with the Specifications and Standards set forth in the contract. The Contractor shall be responsible for the correct positioning of all parts of work, and shall rectify any error in the positions, levels, dimensions or alignment of work. and the Contractor agrees and undertakes that the construction shall be completed on or before the scheduled Completion Date, including any extension thereof.

8.4.2 The total price of the works shall be initially the price as indicated in the offer acceptance letter unless the same is modified or changed by Bhopal Smart City Development Corporation Limited in view of any modification or change brought about after final approval of drawing, and actual execution of the work. It is clearly understood that the payment will be based on actual work done quantities.

8.5 Work Programme

The contractor shall submit a detailed programme As per BSCDCL Schedule.

## LIQUIDATED DAMAGES

Addition of following sub clause

8.7 If contractors fails to achieve completion of the work, he shall be liable to pay LD/Delay Damages for the default as specified in Contract data which shall be payable for delay for each week that is caused incompleteness. BSCDCL will deduct amount of liquidated damages from due payments to contractor. The total amount of such delay damages shall not exceed the 10% of contract price.

Amount shown against Milestones will be deducted on weekly basis on not achieving completion of work within stipulated contract period or extension of time granted by Employer for reasons other than contractor's default. The Liquidated damages shall be released without interest or charges if contractor achieves Milestone 3 on or before completion of approved time limit including extension of time limit, if approved.

## CLAUSE 9

### QUALITY ASSURANCE, MONITORING AND SUPERVISION

Following sub clauses are modified

#### 9.1 Quality of Materials and workmanship

The Contractor shall ensure that the Electrical, Materials and workmanship are in accordance with the requirements specified in this Agreement, Specifications and Standards and Good Industry Practice.

#### 9.6 Inspection of records

9.6.1 The BSCDCL shall have the right to inspect the records of the Contractor relating to work.

#### 9.14 Deleted

Addition of following sub clauses

#### 9.17 Samples

The Contractor shall submit the following samples of Materials and relevant information to the BSCDCL for pre-construction review:

- a) manufacturer's test reports and standard samples of manufactured Materials; and
- b) Samples of such other Materials as the BSCDCL may require.



## 9.18 Tests

9.18.1 For determining that work conform to the Specifications and Standards, the BSCDCL shall require the Contractor to carry out or cause to be carried out tests, at such time and frequency and in such manner as specified in this Agreement, and in accordance with Good Industry Practice for quality assurance.

9.18.2 In the event that results of any tests conducted establish any Defects or deficiencies in work, the Contractor shall carry out remedial measures and furnish a report to the BSCDCL in this behalf. The BSCDCL shall require the Contractor to carry out or cause to be carried out tests to determine that such remedial measures have brought work into compliance with the Specifications and Standards, and the procedure shall be repeated until such Works conform to the Specifications and Standards.

9.18.3 All expenditure including travel, lodging boarding of BSCDCL Engineers and/or its representatives shall be borne by the contractor.

## 9.19 ACTION AND COMPENSATION IN CASE OF BAD WORKMANSHIP :

If it shall appear to the Engineer-in-charge that any work has been executed with materials of inferior description, or quality or are unsound or with unsound imperfect or unskilled workmanship or otherwise not in accordance with the contract shall, no demand in writing from Engineer-in-charge or his authorized representative specifying the work, materials or CLAUSES complained of, notwithstanding that the same may have been inadvertently passed, certified and paid for forthwith rectify or remove and reconstruct the work, specified.

In the event of failure to do so within a period to be specified by Engineer-in-charge in his aforesaid demand, contractor shall be liable to pay compensation at the rate of one (1) percent of the tendered cost of work for every Ten (10) days limited to a maximum of Ten (10%) Percent of the value of work while his failure to do so continue and in the case of any such failure the Engineer-in-charge may on expiry of the notice period rectify and remove and re-execute the work or remove and replace with other at the risk and cost of the Contractor. The decision of the Engineer-in-charge as to any question arising under this clause shall be final and conclusive.

## 9.20 FINAL INSPECTION

After completion of all tests as per specifications, the whole work will be subject to a final inspection to ensure that WORK has been completed as per requirement. If any defects noticed in the work are attributable to CONTRACTOR these shall be attended by the CONTRACTOR at his own cost, as and when they are brought to his notice by the Bhopal Smart City Development Corporation Limited. . The Bhopal Smart City Development Corporation Limited shall have the right to have these defects rectified at the risk and cost of the CONTRACTOR, if he fails to attend to these defects immediately.

## CLAUSE 14

### PAYMENTS

Sub clause 14.1.2 is deleted

## CLAUSE 20

### LABOUR LAWS

Addition of following sub clauses

#### 20.4 PROTECTION OF HEALTH AND SANITARY ARRANGEMENTS:

In respect of all labour directly or indirectly employed in the works for the performance of the contractor's part of this contract, the contractor shall comply with or cause to be complied with all the rules framed by Govt. from time to time for the protection of health and sanitary arrangements for workers employed by the BSCDCL and its contractors.

#### 20.5 LEAVE AND PAY:

Leave and pay during leave shall be regulated as follows:

##### 20.5.1 Leave:

- I. In the case of delivery-maternity leave not exceeding 8 weeks, 4 weeks up to and including the day of delivery and 4 weeks following that day,
- II. in the case of miscarriage –up to 3 weeks from the date of miscarriage.

##### 20.5.2 Pay:

- I. In the case of delivery- leave pay during maternity leave will be at the rate of the women's average daily earning, calculated on total wages earned on the days when full time work was done during a period of three months immediately preceding the date on which she gives notice that she expects to be confined or at the rate of Rupees one only a day whichever is greater.
- II. In the case of miscarriage – leave pay at the rate of average daily earning calculated on the total wages earned on the days when full time work was done during a period of three months immediately preceding the date of such miscarriage.

#### 20.5.3 CONDITIONS FOR THE GRANT OF MATERNITY LEAVE:

No maternity leave benefit shall be admissible to a woman unless she has been employees for a total period of not less than six months immediately preceding the date on which she proceeds on leave.

1. The contractor shall maintain a register of Maternity (Benefit) in the Prescribed Form and the same shall be kept at the place of work.

#### 20.6 BREACH OF CONTRACTOR:

In the event of the contractor(s) committing a default or breach of any of the provisions of the, Contractor's Labour Regulations and Model Rules for the protection of health and sanitary arrangements for the workers as amended from time to time or

furnishing any information or submitting or filing and statement under the provisions of the above Regulations and Rules which is materially incorrect, he/they shall, without prejudice to any other liability, pay to the BSCDCL a sum not exceeding INR 200/- for every default, breach or furnishing, making, submitting, filing such materially incorrect statements and in the event of the contractor(s) defaulting continuously in this respect, the penalty may be enhanced to INR 200/- per day for each day of default subject to a maximum of 5 percent of the estimated cost of the work put to tender. The decision of the Engineer-in-Charge shall be final and binding on the parties.

Should it appear to the Engineer-in-Charge that the contractor(s) is/ are not properly observing and complying with the provisions of the Contract's Labour Regulations and Model Rules and the provisions of the Contract Labour (Regulation and Abolition) Act 1970, and the Contract Labour(R& A) Central Rules 1971, for the protection of health and sanitary arrangements for works people employed by the contractor(s) (hereinafter referred as "the said Rules") the Engineer-in-Charge shall have power to give notice in writing to the contractor(s) requiring that the said Rules be complied with and the amenities prescribed therein be provided to the work people within a reasonable time to be specified in the notice. If the contractor(s) shall fail within the period specified in the notice to comply with and/observe the said Rules and to provide the amenities to the work people as forfeited, the Engineer-in-Charge shall have the power to provide the amenities hereinbefore mentioned at the cost of the contractor(s). the contractor(s) shall erect, make and maintain at his/ their own expenses and to approved standards all necessary huts and sanitary arrangements required for his/their work people on the site in connection with the execution of the works, and if the same shall not have been Created or constructed, according to approved standards, the Engineer-in-Charge shall have power to give notice in writing to the contractor(s) requiring that the said huts and sanitary arrangements be remodeled and/or reconstructed according to approved standards, and if the contractor(s) shall fail to remodel or reconstruct such huts and sanitary arrangements according to approved standards within the period specified in the notice, the Engineer-in-Charge shall have the power to remodel or reconstruct such huts and sanitary arrangements according to approved standards at the cost of the contractor(s).

It is expected that the Contractor to comply with all Contractor's Labour Regulation Acts and Rules provided there from.

#### 20.7 Employment of skilled/semi skill worker:

The contractor shall, at all stages of work, deploy skilled/semiskilled tradesmen who are qualified and possess certificate in particular trade from CPWD Training Institute/Industrial Training Institute/National Academy of Construction, CIDC or any similar reputed and recognized Institute mangled/certified by State/Central Government. The number of such qualified tradesmen shall not be less than 20% of total skilled/semiskilled workers required in each trade at any stage of work. The contractor shall submit number of man days required in respect of each trade, its scheduling and the list of qualified tradesmen along with requisite certificate from recognized Institute to Engineer in charge for approval. Notwithstanding such approval, if the tradesmen are found to have inadequate skill to execute the work of respective trade, the contractor shall substitute such tradesmen within two days of written notice from Engineer-in-Charge. Failures on the part of contractor to obtain

approval of Engineer-in-Charge or failure to deploy qualified tradesmen will attract a compensation to be paid by contractor at the rate of INR 100 per such tradesmen per day. Decision of Engineer in Charge as to whether particular tradesmen possess requisite skill and amount of compensation in case of default shall be final and binding.

Provided always, that the provisions of this clause shall not be applicable for works with estimated cost put to tender being less than INR 5 Lakh.

20.8 Minimum Wages Act to be complied with:

The contractor shall comply with all the provisions of the Minimum Wages Act, 1948, and Contract Labour (Regulation and Abolition) Act, 1970, amended from time to time and rules framed there under and other labour laws affecting contract labour that may be brought into force time to time.

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## SECTION VII – SPECIAL CONDITIONS OF CONTRACT

### CLAUSE I

#### SCOPE OF THE WORK AND EXECUTION

Execution of the work shall be based on detailed designs and Good for Construction (GFC) drawing developed by the bidder and approved by Employer.

Bidder shall carry out all necessary co-ordination activities with BSCDCL for seamless implementation of the said works.

#### 1.1 DETAILED SCOPE OF WORK

Detailed scope of work for various Civil, Architecture, Electrical works etc. but not limiting to the following:

Scope of Work & Specification:

##### 1.1.1 CIVIL WORKS:

As per above mentioned

##### 1.1.2 GENERAL:

Bidder should get approval in advance from Client for all the materials to be used in the construction before execution of work at site.

Bidder should get approval for each and every detailed drawing from Client before execution of work at site.

Bidder should be responsible for all type of safety & Security of Material and workers/ Visitors/ Engineering Staff during construction period.

Any other item of works necessary to complete the project in every sense

#### 1.2 WORK IMPLEMENTATION:

##### 1.2.1 SERVICES FOR MANAGEMENT OF PROJECT

The Services for management of project will include construction planning, scheduling monitoring progress reporting, quality assurance and quality control and overall Project Management functions. Contractor shall nominate Project Manager who will be responsible for the total scope of work under this contract and shall respond to BHOPAL SMART CITY DEVELOPMENT CORPORATION LIMITED and EIC and/or their representative.

The Contractor is expected to execute the work under this contract with a dedicated team of experienced persons, who will be responsible and respond to the Project Manager.

##### 1.2.2 PROGRESS RECORDS DURING WORK

b) Contractor shall make every effort to keep the BSCDCL/PMC adequately informed as to the progress of the WORK throughout the Contract period.

- c) Contractor shall keep the BSCDCL informed well in advance of the construction schedule so as to permit the Dept. to arrange for requisite inspection to be carried out in such a manner as to minimize interference with the progress of WORK. It is imperative that close co-ordination be maintained with the E.I.C. / Dept. during all phases of Work.
- d) Contractor shall give every day report on category-wise labour & equipment deployed along with the progress of work done on previous day in the proforma prescribed by EIC.
- e) All important events shall be photographed by the contractor and to be submitted to Dept. for records.

### 1.2.3 PROGRESS REVIEW MEETING :

The contractor shall attend various review meeting as & when required.

## CLAUSE 2 SPECIAL NOTE

### 2.1 TAXES

- 2.1.1 In no case, octroi exemption shall be granted by BSCDCL for any of the materials, equipment brought by contractor for execution of the work. Goods/ equipments/ materials will be permitted for unloading after the submission of octroi receipts (if any)

Bhopal Smart City Development Corporation Limited shall not provide "C" Form for the tax purposes.

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

For this purpose Contractors are required to have following registrations / certificates on the date of Submission and submit notarized copies of the same shall be attached along with his bid

- i) Valid PAN No.
- ii) Valid VAT No.
- iii) Valid GST Tax No.
- iv) Valid EPF No. number under EPF Act, 1952

Out of the "amount payable/creditable to contractor's account, the Central Govt./State Govt., taxes including VAT shall be deducted at source in accordance with the relevant laws/ rules prevailing from time to time.

If any Work Contract Tax or Labor welfare Tax or any other tax is levied by the Government during the course of execution of this contract, the same shall not be borne by contractor and the same shall be reimbursed on proof of payment to be appropriate authority being produced.

### 2.1.3 IMPACT OF GST LAW

GST is implemented by Central Government. Bidders are required to submit declaration stating their tax liability for execution of this work along with his bid. Net effect of increase / decrease due to GST will be taken into account after declaration of rates for GST and merger of various existing taxes into GST.

## CLAUSE 3 FACILITIES REQUIRED BY CONTRACTOR

### 3.1 ELECTRIC POWER SUPPLY

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

### 3.2 WATER SUPPLY FOR CONSTRUCTION, LABOUR CAMPS, OFFICES ETC.

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

### 3.3 TELEPHONES / WIRELESS COMMUNICATION FACILITIES

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

### 3.4 LAND FOR TEMPORARY USE

Land for labour camps, storage yards temporary site sheds shall be arranged by the contractor at the site or nearby plot with the consent of BSCDCL at his own cost.

## CLAUSE 4 SPECIAL PROVISIONS

### 1.1 CONTRACTOR'S MATERIALS, LABOUR ETC.

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

## 1.2 PRECAUTIONS TO AVOID ANY NUISANCE TO THE NEIGHBORHOOD/SURROUNDING

All the necessary precautions to be taken during the development of the project (either during day or night) ,to avoid any nuisance or any harm causing to the neighborhood/surrounding areas of proposed construction site.

No complaint should be arise by the neighborhood /society dwellers ,during the development work by contractor or any of the persons directly or indirectly related to the site work.

In case of any such conditions the contractor shall be fully responsible for the consequences & settlement.

## 1.3 ENABLING WORKS

The Contractor shall supply, fix and maintain at his own cost during the execution of works, all the necessary centering, and scaffolding, staging, planking, timbering, strutting, shoring, pumping, fencing, hoarding, watching and lighting by night as well as the necessary equipment for protection of public and safety of any adjacent roads and railway lines. The Contractor shall remove any or all such centering scaffolding, staging planking and equipment when ordered to do so by the Engineer's Representative and make good all matters and things disturbed during the execution of works to the satisfaction of the Engineer's Representative.

## 1.4 TEMPORARY DIVERSIONS, MAINTANENCE OF SAME AND TRAFFIC MANAGEMENT

Contractor shall be responsible for making temporary diversions, maintenance thereof, traffic management including signage, blinkers etc.

## 1.5 OPPORTUNITIES AND FACILITIES FOR OTHER CONTRACTORS AGENCIES Etc.

The Contractor shall, in accordance with the requirements of the Engineer's Representative afford all reasonable opportunities to any other Contractors employed by the Employer for carrying out their work and to their workmen and to the workmen of the Employer and of any other duly constituted authorities who may be employed in the execution on or near the site of any work not included in the Contract or of any contract which the Employer may enter into in connection with or ancillary to the works.

If, however, the Contractor shall on the written request of the Engineer or Engineer's representative make available to any such other Contractor or to the Employer or any such authority any roads or ways for the maintenance of which the Contractor is responsible or permit the use of by any such of the Contractor's scaffolding or any other plant on the site or provide any other service of whatsoever nature,for any such the Employer shall pay to the Contractor in respect of such use of service such sum or sums as shall in the opinion of the Engineer be reasonable.



## CLAUSE 5 ENVIRONMENTAL SAFEGUARDS

### 1.0 ENVIRONMENTAL SAFEGUARDS

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

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

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

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

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

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

- No excavation or dumping on private property is carried out without written consent of the owner.
- No excavation or dumping shall be allowed on wetlands, forests areas or other ecologically valuable or sensitive locations.
- The excavation work shall be done in consultation with soil conservation and watershed development agencies working in the area:
- Construction spoil/soil including bituminous scrap material and other hazardous material must not be allowed to contaminate water course and the dump sites for such materials must be identified well in advances before construction and lined properly so that they do not leach into the ground water.
- Any approvals required for the same shall be arranged by the contractor.

## CLAUSE 9 UTILITIES

### 9.1 UTILITY SERVICES

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

## CLAUSE 10 TREASURE TROVE

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

The contractor shall take all reasonable precautions to prevent his workmen or any other persons from removing such things as above and shall immediately upon discovery thereof and before removal, acquaint the Engineer-in-charge/ BSCDCL of such discovery and carry out his orders as to the disposal of the same which will be at the contractor's expense.

## CLAUSE 11

### ADDITIONAL CONDITIONS

11.1 Following additional conditions shall be binding on contractor during execution of work.

- a) Any damage caused to either private or public property, services, structures etc. shall be made good by Contractor without any extra cost to the employer
- b) Contractor need to ensure proper and adequate traffic safety signboards, barricades, lighting at night shall be displayed during day and night to ensure that no accidents take place.
- c) No excavated material shall be allowed to be stacked on roadside/ footpaths/public premises without written permission from competent authority.
- d) Whenever new drains are constructed, the flow in the old drain will have to be suitably diverted to maintain the continuity of flow.

11.2.1 If Near relative working in BSCDCL / BSCDCL then the contractor not allowed to tender:

The contractor shall not be permitted to tender for works in the BSCDCL responsible for award and execution of contract in which his near relative is posted as an officer of any capacity between the grades of Chief Engineer and Junior Engineer (both inclusive). He shall also intimate the names of persons who are working with him in any capacity or are subsequently employed by him and are near relatives to any Gazette Officer in the BSCDCL or in the Ministry of Urban Development. Any breach of this condition by the contractor would render him liable to be removed from the approved list of contractor of this Department. If however the contractor is registered in any other department, he shall be debarred from tendering in BSCDCL / BSCDCL for any breach of this condition.

Note: by the term “Near relatives” is meant wife, husband, parents and grandparents, children and grand-children, brothers and sisters, uncles, aunts and cousins and their corresponding in laws.

11.3 NO Gazette Engineer to work as Contractor within one year of retirement:

No Engineer of gazette rank or other gazette officer employed in engineering or administrative duties in an engineering department of the BSCDCL shall work as contractor or employee of a contractor for a period of two years after his retirement from Government service without the previous permission of BSCDCL in writing. This contract 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 had not obtained the permission of BSCDCL as aforesaid, before submission of the tender of engagement in the contractor's service, as the case may be.

The technical bid shall be opened first on due date and time as mentioned above. The time and date of opening of financial bid of contractors qualifying the technical bid shall be communicated to them later on.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED AND  
DELIVERED

For and on behalf of BSCDCL  
by:

SIGNED, SEALED AND  
DELEVERIED

For and on behalf of  
THE CONTRACTOR by:

(Signature)

(Name)

(Designation)

In the presence of: 1.

2.

{COUNTERSIGNED and accepted by:

Name and particulars of other members of the Consortium}

## SECTION VIII - CONTRACT DATA

The following specific data for the Works to be procured shall complement, amend, or supplement the provisions in the Instructions to Bidders, General Conditions of Contract. Conditions of particular application, Special Conditions of Contract Whenever there is a conflict, the provisions herein shall prevail over those in the Instructions to Bidders, General Conditions of Contract. Conditions of particular application, Special Conditions of Contract.

Employer	
Name of the work	
Time for Completion	
Bid Language	
Name & Identification No. of Contrat	
Name of Work	
Performance Security & Additional Performance Security if any	
Retention Money	
Defect Liability Period	
Project Milestones	
Liquidated Damages	
Site Possession Date	
Insurance	
Qualifying area	
Bid validity period	
Payment terms & Condition	

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## SECTIONIX - FORMSOF SECURITY& CONTRACT FORMS

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security, when required, shall only be completed by the successful Bidder after contract award.

### Table of Forms

#### UNDERTAKING ON EARNEST MONEY SURRENDER:

I/We hereby tender for carrying out "Name of work" including Defect Liability Period of Two years(herein before and herein after referred to a client of the work) as specified in the memorandum & under Price-Bid showing items of work to be carried out within time specified therein and in accordance with all specifications, drawings and instructions in writing referred to in provisions under annexed conditions of contract under contract documents and agree that all materials of construction in the work are to be procured by us. Should this tender be accepted, I/We hereby agree to abide by and fulfil all the terms and provisions of the conditions of contract annexed thereto as fully applicable, and in default thereof, agree to forfeiture of and pay to the client, the sums of Earnest money mentioned inthe said conditions.

Receipt No. \_\_\_\_\_ dated \_\_\_\_\_ from client, in respect of the sum or Rs. \_\_\_\_\_/-deposited, be in the from of Bank Guarantee Rs. \_\_\_\_\_ /- and Banker's cheque/Demand Draft drawn for Rs. \_\_\_\_\_ /- bearing No. \_\_\_\_\_ dated \_\_\_\_\_ on the \_\_\_\_\_ drawn in favour of \_\_\_\_\_ is herewith forwarded representing the earnest money, the full value of which is to be absolutely forfeited to client, should I/We not deposit the full amount of security deposit specified in the memorandum, and in accordance with clause 1 of para 5.1 of the said conditions, otherwise the said sum of Rs. \_\_\_\_\_/- shall be refunded.

Amount to be specified in figures and words.

Place :

Date :

Address :

Signature of the  
contracting agency submitting  
the tender

Signed and given in presence of \_\_\_\_\_

Address :

Occupation: Signature of witness to

the contracting agency.

## SPECIMEN CONTRACT AGREEMENT

(to be executed on Rs.100/- non-judicial stamp paper)

[the successful tenders shall fill in this form in Accordance with the instructions indicated]

THIS CONTRACT AGREEMENT is made

The [insert: number] day of [insert: month], [insert: year]

Between

- (1) Bhopal Smart City Development Corporation Limited, having its principal place of business Near Tatpar Petrol Pump Sector A-Berkheda BHEL, Bhopal, Madhya Pradesh, India (hereinafter called "the BSCDCL"), and
- (2) [insert name of the contractor], [incorporated under] the laws of [country of contractor] and having its place of business at [insert: address of contractor] (hereafter called "the contractor")

WHEREAS the employer invited tenders against tender no.[number] for execution of [tender title and brief description] and has accepted a tender by the contractor in accordance with the supply/delivery schedules, in the sum of [insert contract price in words and figures, expressed in the contract currency (ies)] (hereafter called "contract price")

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this agreement words and expressions shall have the same meanings as per respectively assigned to them in the conditions of contract refer to.
2. the following documents shall constitute the contract between the employer/ and the contractor, and each shall be read and construed as an integral part of the contract:
  - (a) This contract agreement;
  - (b) Special conditions of contract;
  - (c) General conditions of contract;
  - (d) Technical requirements (including schedule of requirements and technical specifications, drawings);
  - (e) Notice inviting tender;
  - (f) Replies issued to the pre-bid queries, addenda if any issued [numbers and date];

- (g) The contractor's bid and original price and delivery schedules;
- (h) The employer notification of award;
- (i) correspondence the employer has exchanged with the bidder till and after award of contract[specific letters and dates]
- (j) And [add here any other documents]

AND WHEREAS

Employer accepted the bid of Contractor for the provision and the execution of WORK at the CONTRACT PRICE as indicated in Contract upon the terms and subject to the conditions of contract. Now this Contract Agreement witnessed and it is hereby agreed and declared as follows:

3. In consideration of the payment to be made to Contractor for work to be executed by him. Contractor hereby covenants with EMPLOYER what Contractor shall and will duly provide, execute and complete work and things in Contract, mentioned or described or which are to be implied there from or may be reasonably necessary for completion of work and the times and in the manner and subject to the terms and conditions or stipulations mentioned in Contract.
4. In consideration of the due provision, execution and completion of work by the contractor in accordance with the terms of the contract, the employer does hereby agree with contractor that employer will pay to contractor the respective amounts for the work actually done by him add approved by employer as per payment terms accepted in contract and payable to contractor under provision of contract at such manner as provided for in the contract.
5. In consideration of the due provision, execution and completion of work, contractor done hereby agree to pay such sums as may be due to employer for the services rendered by employer to contractor as set forth in contract and such other sums as may become payable to employer towards loss, damage to the employers equipment, materials etc. and such payments to be made at such time and in such manner as is provided in the contract.

IN WITNESS where of the parties hereto have caused this agreement to be executed in accordance with the laws of [insert name of the contract governing law country] on the day, month and year indicated above.

For and behalf of the employer

Signed: [insert signature]

In the capacity of [insert title or other appropriate designation] In the presence of [insert identification of official witness]

For any behalf of the contractor

Signed: [insert signature of authorized representatives of the contractor] In the capacity of [insert title or other appropriate designation] In the presence of [insert identification of official witness]



SPECIMEN BANK GUARANTEE PERFORMANCE  
GUARANTEE / SECURITY DEPOSIT

(To be executed on Rs.100/- non-judicial Stamp Paper)

[On Appropriate Stamp Paper]

Bank Guarantee No. [THIS DEED OF GUARANTEE is executed on this [insert date] day of [insert month and year] at [insert place] by [insert name of bank] with its head/registered office at [insert address], (hereinafter referred to as the Guarantor, which expression shall unless it is repugnant to the subject or context thereof include successors and assigns)

IN FAVOUR OF:

BHOPAL SMART CITY DEVELOPMENT CORPORATION LIMITED, a company incorporated under the (Indian) Companies Act, 2013 with its registered office at (hereinafter referred to as BSCDCL, which expression shall, unless it be repugnant to the context or meaning thereof, include its successors-in-title and permitted assigns);

WHEREAS:

(A) BSCDCL has entered into a contract for providing contracting services dated [insert date] (the Contract) with [insert name of Contractor], a company/firm [incorporated / registered] under the [insert name of the relevant statute under which the Contractor has been incorporated or registered, as the case may be], [with its [registered/principal] office at [ ] (hereinafter referred to as the Contractor, which expression shall, unless it be repugnant to the context or meaning thereof, include its successors-in-title and permitted assigns).

(B) In terms of the Contract, the Contractor has agreed to provide the Services for designing and implementing the application for certain lake purification & restoration processes Area Based Development project, which involve the use of technology, information and data to improve infrastructure and services within the city of Bhopal to implement the Smart Cities Mission in Bhopal, pursuant to the Request for Proposal dated [ \_\_\_ ] (referred to as the Tender) and other related documents including without limitation the draft Contract (collectively referred to as Bid Documents).

(C) In terms of the letter of award (the LOA) dated [insert date] issued by Client to the Contractor and Clause 51 of the Contract, the Contractor is required to furnish to BSCDCL, an unconditional, irrevocable, on demand bank guarantee for an amount equivalent to Rs.[Insert amount equivalent to 10% of the Total Value of Contract] (the Guaranteed Amount) as security for the due and punctual performance or discharge of the Contractor 's obligations and liabilities under the Contract.

(D) At the request of the Contractor and for sufficient consideration, the Guarantor has agreed to provide an unconditional, irrevocable and on-demand bank guarantee, for the due and punctual performance or discharge by the Contractor of its obligations and liabilities under the Contract.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. Capitalized terms used herein but not defined shall have the meaning ascribed to them in the Contract.
2. The Guarantor hereby irrevocably and unconditionally guarantees and secures, as primary obligor and not merely as guarantor, to BSCDCL the payment in full of all amount at any time that may be due, owing or payable to BSCDCL from the Contractor for the failure of the Contractor to duly and punctually perform all of its obligations under the Contract during the term (Guarantee), without any demur, reservation, protest or recourse, immediately on receipt of a demand from BSCDCL.

The Guarantee is given on consideration received from the Contractor (the receipt and sufficiency of which is hereby acknowledged).

The Guarantor agrees that the value of the Guarantee shall at all times maintained at the amount equivalent to the Guaranteed Amount. The Guarantor further agrees that this Guarantee does not limit the number of claims that may be made by BSCDCL against the Guarantor. Upon a payment being made under this Guarantee, the amount of the Guarantee shall automatically be replenished to the full Guaranteed Amount. Any payment made hereunder shall be made free and clear of and without deduction for, or on account of, any present or future Taxes, deductions or withholdings of any nature whatsoever and by whomsoever imposed, and where any withholding on a payment is required by any Applicable Law, the Guarantor shall comply with such withholding obligations and shall pay such additional amount in respect of such payment such that BSCDCL receives the full amount due hereunder as if no such withholding had occurred.

3. The Guarantor shall not go into the veracity of any breach or failure on the part of the Contractor or validity of demand so made by BSCDCL and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Contractor or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provision hereof.

4. The obligations of the Guarantor herein are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Contract or the insolvency, bankruptcy, re-organisation, dissolution or liquidation of the Contractor or any change in ownership of the Contractor or any purported assignment by the Contractor or any other circumstance whatsoever, which might otherwise constitute a discharge or defence of a guarantor or a surety.

Further, this Guarantee is in no way conditional upon any requirement that BSCDCL shall first attempt to procure the Guaranteed Amount from the Contractor or any other Person, or resort to any other means of obtaining payment of the Guaranteed Amount.

5. In order to give effect to this Guarantee, BSCDCL shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor under this Guarantee shall not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the Guarantor from any part of the Guaranteed Amount or prejudice or diminish the Guaranteed Amount in whole or in part, including, whether or not known to it, or BSCDCL:

(a) Any time or waiver granted to, or composition with, the Contractor or any other Person;

(b) any incapacity of powers, authority or legal personality of or dissolution or change in the status of the Contractor or any other Person;

(c) any variation of the Contract so that references to the Contract in this Guarantee shall include each variation;

(d) any unenforceability, illegality or invalidity of any obligation of any Person under the Contract or any unenforceability, illegality or invalidity of the obligations of the Guarantor under this Guarantee or the unenforceability, illegality or invalidity of the obligations of any Person under any other document or Guarantee, to the extent that each obligation under this Guarantee shall remain in full force as a separate, continuing and primary obligation, and its obligations be construed accordingly, as if there was no unenforceability, illegality or invalidity;

(d) the partial or entire release of any Guarantor or other Person primarily or secondarily liable or responsible for the performance, payment or observance of any of the Contractor's obligations during the term of the Contract; or by any extension, waiver, or amendment whatsoever which may release a guarantor or the Guarantor, other than performance or indefeasible payment of the Guaranteed Amount; or

(f) any part performance of the Contract by the Contractor or by any failure by BSCDCL to timely pay or perform any of its obligations under the Contract.

1. If, and to the extent that for any reason the Contractor enters or threatens to enter into any proceedings in bankruptcy or re-organisation or otherwise, or if, for any other reason whatsoever, the performance or payment by the Contractor of the Guaranteed Amount becomes or may reasonably be expected to become impossible, then the Guaranteed Amount shall be promptly paid by the Guarantor to BSCDCL on demand.
  2. So long as any amount is due from the Contractor to BSCDCL, the Guarantor shall not exercise any right of subrogation or any other rights of a guarantor or enforce any guarantee or other right or claim against the Contractor, whether in respect of its liability under this Guarantee or otherwise, or claim in the insolvency or liquidation of the Contractor or any such other Person in competition with BSCDCL. If the Guarantor receives any payment or benefit in breach of this clause 7, it shall hold the same upon trust for BSCDCL.
  3. This Guarantee shall remain in full force and effect from the date hereof until 60 days beyond issuance of the Completion Certificate. Notwithstanding the foregoing, this Guarantee shall continue in effect until the sums payable under this Guarantee have been indefeasibly paid in full and the Guarantor receives written notice thereof from BSCDCL, such notice to be issued promptly upon such occurrence.
9. The Guarantor represents and warrants to BSCDCL that:
- a. it has the power to execute, deliver and perform the terms and provisions of this Guarantee and has taken all necessary action to authorize the execution, delivery and performance by it of this Guarantee;
  - b. The Guarantor has duly executed and delivered this Guarantee, and this Guarantee constitutes its legal, valid and binding obligation enforceable in accordance with its terms except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.
  - c. neither the execution, delivery or performance by the Guarantor of this Guarantee, nor compliance by it with the terms and provisions hereof will:
    - (i) contravene any material provision of any Applicable Law;
    - (ii) conflict or be inconsistent with or result in any breach of any of the material terms, Covenants, conditions or provisions of, or constitute a default under any agreement, contract or instrument to which the Guarantor is a party or by which it or any of its property or assets is bound; or
    - (iii) violate any provision of the Guarantor's constituent documents;
  - d. no order, consent, approval, license, authorisation or validation of, or filing, recording or registration with, except as have been obtained or made prior to the date hereof, or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to authorise, or is required in connection with: (i) the execution, delivery and performance of

this Guarantee; or (ii) the legality, validity, binding effect or enforceability of this Guarantee; and this Guarantee will be enforceable when presented for payment to the Guarantor's branch in Bhopal at [ ].

10. This Guarantee is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. No failure or delay on the part of BSCDCL in exercising any right, power or privilege hereunder and no course of dealing between BSCDCL and the Guarantor, or the Contractor, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

11. The rights, powers and remedies expressly provided in this Guarantee are cumulative and not exclusive of any rights, powers or remedies which BSCDCL would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other further notice or demand in similar or other circumstances or constitute a waiver of the rights of BSCDCL to any other or further action in any circumstances without notice or demand.

12. If any one or more of the provisions contained in this Guarantee are or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the Guarantor shall enter into good faith negotiations with BSCDCL to replace the invalid, illegal or unenforceable provision.

13. The Guarantor hereby agrees to execute and deliver all such instruments and take all such actions as may be necessary to make effective fully the purposes of this Guarantee.

14. This Guarantee may be executed in one or more duplicate counterparts, and when executed and delivered by the Guarantor and BSCDCL shall constitute a single binding agreement.

15. BSCDCL may assign or transfer all or any part of its interest herein to any other person

With prior written notice to the Guarantor. The Guarantor shall not assign or transfer Any of its rights or obligations under this Guarantee.

16. All documents arising out of or in connection with this Guarantee shall be served:

- (a) Upon BSCDCL, at [insert address]; and
- (b) Upon the Guarantor, at [insert address].

17. Any demand, notice or communication would have been deemed to have been duly Served:

- (a) if delivered by hand, when left at the proper address of services; and
- (b) if given or made by pre-paid registered post or facsimile, when received.

18. Either party may change the above address by prior written notice to the other party.

19. This Guarantee shall be governed by, and construed in accordance with, the laws of India. The Guarantor irrevocably agrees that any dispute arising out of or relating to this Guarantee may be brought in the courts in Chhattisgarh.

IN WITNESS WHEREOF the Guarantor has set its hands hereunto on the day, month and year first hereinabove written.

Signed and delivered by [insert name of Bank] Bank, by [insert name of branch] Branch by hand

Of [insert name of signatory]

It's [insert designation] and duly authorized representative

Authorized by [Power of Attorney dated [insert date]] OR [Board resolution dated [insert date]].

SPECIMEN BANK GUARANTEE FOR ADVANCE PAYMENT

Appendix - 'O'

FORM XXVI  
AFFIDAVIT

(To be submitted by bidder on non-judicial stamp paper of Rs. 100/- (Rupees Hundred only) duly attached by Notary Public)

(To be submitted in Envelop-1)

Affidavit of Mr. ....S/o .....  
R/o .....

I, the deponent above named do hereby solemnly affirm and declare as under:

That I am the Proprietor/Authorized signatory of M/s .....  
Having its Head Office/Regd. Office at .....

1. That the information/documents/Experience certificates submitted by M/s..... along with the tender for ..... (NAME OF WORK)..... To BSCDCL Ltd. are genuine and true and nothing has been concealed.
2. I shall have no objection in case BSCDCL verifies them from issuing authority (ies). I shall also have no objection in providing the original copy of the document(s), in case BSCDCL demand so for verification.
3. I hereby confirm that in case, any document, information & / or certificate submitted by me found to be incorrect / false / fabricated, BSCDCL at its discretion may disqualify / reject / terminate the bid/contract and also forfeit the EMD / All dues.
4. I shall have no objection in case BSCDCL verifies any or all Bank Guarantee(s) under any of the clause(s) of Contract including those issued towards EMD and Performance Guarantee from the Zonal Branch /office issuing Bank and I/We shall have no right or claim on my submitted EMD before BSCDCL receives said verification.
5. That the Bank Guarantee issued against the EMD issued by (name and address of the Bank) is genuine and if found at any stage to be incorrect / false / fabricated, BSCDCL shall reject my bid, cancel pre-qualification and debar me from participating in any future tender for three years.

I, ....., the Proprietor / Authorised signatory of M/s..... do hereby confirm that the contents of the above Affidavit are true to my knowledge and nothing has been concealed there from..... and that no part of it is false.

6.

7. Verified at ..... this..... day of .....

DEPONENT

ATTESTED BY (NOTARY PUBLIC)

SPECIMEN FORMAT FOR DECLARATION

(To be executed on bidder's letter head)

To  
(Project Title)

Ref:

The undersigned, having studied the pre-qualification submission for the abovementioned project, hereby states:

- (a) The information furnished in our bid is true and accurate to the best of my knowledge.
- (b) That in case of being pre-qualified, we acknowledge that the Employer may invite us to participate in due time for the submission of tender on the basis of provisions made in the tender documents to follow.
- (c) When the call for tenders is issued, if the legal, technical or financial conditions, or the contractual capacity of the firm or joint venture changes, we commit ourselves to inform you and acknowledge your sole right to review the pre-qualification made.
- (d) We enclose all the required pre-qualification data format and all other evaluation.
- (e) We also state that no changes have been made by us in the downloaded tender document and also understand that in the event of any discrepancies observed, the printed tender document No. \_\_\_\_\_ is full and final for all legal/contractual obligations (delete if not required).

Date:

Place:

Name of the Applicant: \_\_\_\_\_

Represented by (Name & Capacity) \_\_\_\_\_

---

SPECIMEN LETTER OF AUTHORITY FROM BANK  
FOR ALL BGs

(To be executed on Bank's Letter Head)

Date:

To,  
The CEO,  
Bhopal Smart City Development Corporation Limited

Dear Sir,

Sub: Our Bank Guarantee

No. \_\_\_\_\_ dated \_\_\_\_\_ for Rs. \_\_\_\_\_ favouring yourselves  
issued on a/c of M/s. \_\_\_\_\_  
(Name of contractor) .....

We confirm having issued the above mentioned guarantee favouring yourselves, issued  
on account of M/s. \_\_\_\_\_ validity for expiry  
upto date \_\_\_\_\_ and claim expiry date upto \_\_\_\_\_ We also  
confirm 1) \_\_\_\_\_ 2)

\_\_\_\_\_ is/are empowered to sign such Bank Guarantee on  
behalf of the Bank and his/their signatures is/are binding on the Bank.

Name of signature of Bank Officer

---

SPECIMEN LETTER OF AUTHORITY FOR  
SUBMISSION OF BID

(To be executed on Rs.100/- non Judicial Stamp Paper)

To  
The CEO,  
Bhopal Smart City Development Corporation Limited

Dear Sir,

We-----

----- do hereby confirm that Shri ..... (Name, designation and Address) is/are authorized to represent us to bid, negotiate and conclude the agreement on our behalf with you against tender no. -----

---- and his specimen signature is appended here to. We confirm that we shall be bound by all and whatsoever our said signatory shall commit.

We understand that the communication made with him by the Employer/BSCDCL shall be deemed to have been done with us in respect of this Tender.

[Specimen signature]

Yours faithfully,

Signature:

Name & Designation:

For & on behalf of:



---

Format of Undertaking for compliance of ESIC provisions  
EITHER [Where the entity complied all ESIC provisions]

I/We Mr./Miss .....of <Entity name><Address> hereby certify that I/We am/are the Authorised representative of the entity and acting as <Designation>. Registration number of the entity is .....

I/We hereby certify that the (name of the bidder) has fully and correctly complied with all the provisions of The Employee's State Insurance Act 1948 till the date of submission of this bid. We also undertake to continue compliance all such provisions of law in future.

I/we hereby certify that the above facts are true to the best of my/our knowledge and belief and I/We understand that (name of the bidder) will be liable for legal prosecution in the event that the above facts are found to be false.

I/We agree that in case of noncompliance/violation under the respective laws covered under the certification, (name of the bidder) will be responsible for any consequences arising as per the provisions of law. The decision of the authority will be final.

I agree to furnish proof of such compliances as and when required by the authority.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2017-18

[Signature]

[Company stamp]

[Name] in the capacity of \_\_\_\_\_, duly authorized to sign bids for and on behalf of \_\_\_\_\_. \*Undertaking in this case [i.e. Where ESIC provisions has been complied with] shall be given on plain paper

OR [Where ESIC provisions are not applicable to the entity]\*

I/We Mr./Miss .....of <Entity name><Address> hereby certify that I/We am/are the Authorised representative of the entity and acting as <Designation>. Registration number of the entity is .....

I/We hereby certify that the ESIC provisions are not applicable for the (name of the bidder). I/We undertake to comply fully and correctly all the provisions of The Employee's State Insurance Act 1948 when these become applicable in future.

I/we hereby certify that the above facts are true to the best of my/our knowledge and belief and I/We understand that (name of the bidder) will be liable for legal prosecution in the event that the above facts are found to be false.

I/We agree that in case of noncompliance/violation under the respective laws covered under the certification, (name of the bidder) will be responsible for any consequences arising as per the provisions of law. The decision of the authority will be final.

I agree to furnish reason of such non-compliances, in writing, as and when required by the authority.

---

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2017-18

[Signature]

[Company stamp]

[Name] in the capacity of \_\_\_\_\_, duly authorized to sign bids for and on behalf of \_\_\_\_\_ . \*\*Undertaking in this case [i.e. Where ESIC provisions are not applicable to the entity] must be given on a RS.100 Non-Judicial Stamp Paper

**Undertaking for Cashless Transactions  
Affidavit**

(On Rs 100 Non-judicial stamp paper, duly notarized)

Myself Mr./Ms \_\_\_\_\_ the Authorized signatory of M/s \_\_\_\_\_ who have won the bid for the work Name :-\_\_\_\_\_

-----hereby declare that we shall make Cashless payments to our Employees & we will not hold Bhopal Smart City Development Corporation Limited(BSCDCL) responsible for any non-payment to our employees.

Further we indemnify BSCDCL in all aspects against any issue arising out of payment to our employees.

Authorized Signatory

Sign & Seal

Note: This affidavit is required as per Point-6 of the Minutes of meeting (held on 29/11/16) issued by Ministry of Housing and Environment, Government of Chhattisgarh

FORM VIAFFIDAVIT

(To be submitted by bidder on non-judicial stamp paper of Rs. 100/- (Rupees Hundred only) duly attached by Notary Public)

(To be submitted in Envelop-1)

Affidavit of Mr. ....S/o ..... R/o

.....

I, the deponent above named do hereby solemnly affirm and declare as under:

That I am the Proprietor/Authorized signatory of M/s.....Having its Head Office/Regd. Office at .....

That the information/documents/Experience certificates submitted by M/s..... along with the tender for ..... (NAME OF WORK).....

To BSCDCL Ltd. are genuine and true and nothing has been concealed.

I shall have no objection in case BSCDCL verifies them from issuing authority(ies). I shall also have no objection in providing the original copy of the document(s), in case BSCDCL demand so for verification.

I hereby confirm that in case, any document, information & / or certificate submitted by me found to be incorrect / false / fabricated, BSCDCL at its discretion may disqualify / reject / terminate the bid/contract and also forfeit the EMD / All dues.

I shall have no objection in case BSCDCL verifies any or all Bank Guarantee(s) under any of the clause(s) of Contract including those issued towards EMD and Performance Guarantee from the Zonal Branch /office issuing Bank and I/We shall have no right or claim on my submitted EMD before BSCDCL receives said verification.

That the Bank Guarantee issued against the EMD issued by (name and address of the Bank) is genuine and if found at any stage to be incorrect / false / fabricated, BSCDCL shall reject my bid, cancel pre-qualification and debar me from participating in any future tender for three years.

I, .....,the Proprietor / Authorised signatory of M/s..... do hereby confirm that the contents of the above Affidavit are true to my knowledge and nothing has been concealed there from..... and that no part of it is false.

Verified at ..... this..... day of .....

DEPONENT

ATTESTED BY (NOTARY PUBLIC)

PROFORMA OF BANK GUARANTEE IN LIEU OF EMD (TENDER BOND)  
(Judicial Stamp paper of appropriate value as per stamp Act-of respective state)

In consideration of Bhopal Smart City Development Corporation Limited, having its Registered Office at, Near Natraj Petrol Pump Sector A, Berkheda (hereinafter called "BSCDCL" which expression shall unless repugnant to the subject or context include its successors and assigns) having issued Notice Inviting Tender No..... and M/s..... having its Registered Head Office at..... (hereinafter called the "BIDDER") is to participate in the said tender for.....

Whereas BSCDCL, as a special case, has agreed to accept an irrevocable and unconditional Tender Bond Guarantee for an amount of Rs..... valid upto..... from the Bidder in lieu of Cash Deposit of Rs..... required to be made by the Bidder, as a condition precedent for participation in the said tender.

We the ..... (hereinafter called the "BANK") having its Registered, Office at..... and branch office at..... do hereby unconditionally and irrevocably undertake to pay immediately on demand in writing and without demur/protest any amount but not exceeding Rs ..... Any such demand made by BSCDCL shall be conclusive and binding on us irrespective of any dispute or differences that may be raised by the Bidder. Any change in the constitution of the Bidder or the Bank shall not discharge our liability under the guarantee.

We, the..... Bank, lastly undertake not to revoke this guarantee during its currency without the prior consent of BSCDCL in writing and this guarantee shall remain valid upto..... Unless a claim is made within three months from the date of expiry i.e.

..... (three months after the date of expiry), we shall be relieved of our liability under this guarantee thereafter.

FOR AND ON BEHALF OF BANK

PLACE :

DATED :

WITNESS.

1.

2.

**ACCEPTANCE OF TENDER CONDITIONS**

From: (On the letter head of the company by the authorized officer having power of attorney)

BSCDCL,  
.....

**Sub: Name of the work & NIT No.:**

Sir,

This has reference to above referred tender. I/We are pleased to submit our tender for the above work and I/We hereby unconditionally accept the tender conditions and tender documents in its entirety for the above work.

I/we are eligible to submit the tender for the subject tender and I/We are in possession of all the documents required.

I/We have viewed and read the terms and conditions of this GCC/SCC carefully. I/We have downloaded the following documents forming part of the tender document:

- a. Notice Inviting Tender (pg.....to....pg-)
- b. Instructions to Bidder (ITB) & General conditions of Contract (pg.....to....pg-)
- c. Technical Specifications (pg.....to....pg-)
- d. Bill of Quantities (BOQ)- (pg.....to....pg-)
- e. Tender Drawings (pg.....to....pg-)
- f. Acceptance of Tender Conditions ( Annexure M)
- g. Corrigendum ,if any (pg.....to....pg-)

I/we have uploaded the mandatory scanned documents such as cost of tender document, EMD, e-Tender Processing Fee and other documents as per Notice Inviting e-tender AND I/We agree to pay the cost of tender document, EMD, e- Tender Processing Fee (only receipt/proof of online payment) and other documents in physical form in the form and manner as described in NIT/ITT.

Should this tender be accepted, I/We agree to abide by and fulfill all terms and conditions referred to above and as contained in tender documents elsewhere and in default thereof, to forfeit and pay BSCDCL, or its successors or its authorized nominees such sums of money as are stipulated in the notice inviting tenders and tender documents.

If I/we fail to commence the work within 10 days of the date of issue of Letter of Award and/or I/we fail to sign the agreement as per Contract and/or I/we fail to submit performance guarantee as per of Clauses of Contract, I/we agree that BSCDCL shall, without prejudice to any other right or remedy, be at liberty to cancel the Letter of Award and to forfeit the said earnest money as specified above.

Your faithfully,  
(Signature of the Bidder with Rubber stamp)

Dated

VOLUME – III  
BILL OF QUANTITY

## Section X- Bill of Quantities

S.No.	Particular	QTY
1	2	4
1	<b>Providing MURAL of CLEAN INDIA made of GFRP, upto 4mm thick with poly coated pigment in three coats.</b>	100
2	<b>Making Art and colouring, Painting in format etc. complete on wall of existing walls at BMC area (Wall Drawing/Art as per drawing approved and directed by Engineer-in-Charge). (1) By Rubbing, cleaning &amp; Smoothing of R.C.C. Wall surface C.M. 1:3 (2) Two and more coats Exterior weather coat Wall care putty to give an even shade &amp; smoothen surface of the approved quality and manufacturing company. (3) Two and more coats Exterior weather coat cement Primer to give an even shade &amp; smoothen surface of the approved quality and manufacturing company. (4) Colouring, painting &amp; making art. The material will be of the approved quality &amp; manufacturing company as per drawings approved and directed by Engineer-in-Charge). Note:- In any case From the performance point of view one years guarantee will be taken by the contractor for further work.</b>	400
3	<b>Supply and Installation of MS sheet Jali work of desired design cutting with CNC Machine welded to frame fixed in steel structure as per Direction of Engineer-in-Charge</b>	<b>100</b>
4	<b>Supply and Installation of PVC sheet Jali work of desired design cutting with router Machine fixing to frame fixed in Steel/ MS/ PVC structure as per Direction of Engineer-in-Charge</b>	<b>100</b>
5	<b>Supply and installation of ACP Sheets (4mm thickness) over the Steel structure in two layers complete as per direction of Engineer -in-charge</b>	<b>100</b>
6	<b>Supply and Installation of Logo and Letters in Acrylic sheet backlit , Box Type complete with fixing complete as per direction of Engineer-in-Charge</b>	<b>100</b>
7	<b>Supply and Installation of 5 mm Thick Acrylic sheet behind the MS sheet/ PVC Sheet Jali Work of desired shade , complete with fixing complete as per direction of Engineer-in-Charge</b>	<b>200</b>
8	<b>Providing and Fixing LED COB lights 35 Watt behind the Jali Works with Acrylic works complete as per Engineer in Charge</b>	<b>100</b>



9	<b>Supplying and installing 50 W LED Flood Lights in front of the Jali works at distance as per direction of Engineer in Charge</b>	100
10	<b>Providing and Installing LED light Strips between the ACP groves and offsets complete with connection as per direction of Engineer In Chief</b>	100
11	<b>PROVIDING &amp; INSTALLING and commissioning</b>	
	MS Sheet - 16 Gauge	50
	MS PIPE 4"x 2" (Size: 400 rft)	50
	MS PIPE 2" SQUARE (Size: 312 rft)	50
	Polycarbonate sheet	10
	Line welding	1
	LED Ceiling Light Panel	10
12	<b>Colouring of the complete structure as per the colour scheme with Automotive ASPA paint (after welding of the MS sheets cut into the required shape and size on the MS pipe frame)</b>	400
13	<b>Making and Installing "3 - Dimensional" Murals made out of Synthetic Fiber based Resin of desired shade complete as per direction of Engineer-in-charge</b>	200
14	<b>Making and Installing "3 - Dimensional" Murals made out of cement concrete based Resin of desired shade complete as per direction of Engineer-in-charge</b>	100
15	<b>Making "3 - Dimensional Statue" Murals made out of Synthetic Fiber based Resin of desired shade complete as per direction of Engineer-in-charge</b>	100

## Section X- Drawings

