

GENERAL CONDITIONS OF CONTRACT FOR CONSTRUCTION WORKS (GCC-2023)



HINDUSTAN AERONAUTICS LIMITED
Bengaluru, India

GENERAL CONDITIONS OF CONTRACT FOR CONSTRUCTION WORKS (GCC-2023)



HINDUSTAN AERONAUTICS LIMITED

(A GOVERNMENT OF INDIA UNDERTAKING, MINISTRY OF DEFENCE)

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Note

1. These Conditions of Contract are applicable for all the divisions of HAL. It may be noted that, wherever, applicable Laws/Place of jurisdictions has been given as Karnataka/Bangalore, divisions may replace the same with their State/City as applicable to them.
2. Divisions situated outside Karnataka may adopt rules of a different institutional Arbitration. (Preferably the ones run under the aegis of Govt./HC/SC)

CLAUSE-1: DEFINITIONS & CONDITIONS OF CONTRACT

1.1 Contract: The contract means all the documents forming part of the tender and acceptance thereof and the formal agreement executed between Hindustan Aeronautics Limited ('HAL') and the Contractor, together with the entire contents of these documents viz.,

- a. Notice inviting Tender (NIT)/ Invitation to Bid (ITB).
- b. Instructions to Tenderers.
- c. Prequalification Profile.
- d. Technical Specifications & Particulars of specifications, Bill of Quantities.
- e. Tender Drawings.
- f. Price Bid.
- g. Contract Agreement.
- h. General Conditions of Contract as per standard form.
- i. Special Conditions of Contract.
- j. Any Clarifications/Amendments/Addendum issued before submission of tender.
- k. Acceptance Letter by the Accepting Officer and Work Order by Officer-in-Charge and any correspondence that has taken place between the Contractor and HAL from the time the tender is submitted till the acceptance is communicated.
- l. Final Deviation Order signed by HAL & the Contractor.
- m. Mutually agreed amendment/s executed by Parties.

All the above documents taken together shall be deemed to form one contract and shall be complementary to one another.

1.2 In the contract, the following expressions shall, unless the context otherwise requires, have the meanings, hereby respectively assigned to them:-

- (i) The expression "**Works**" or "**Work**", shall unless there be something either in the subject or context repugnant to such construction, be construed and taken to mean the Works by or by virtue of the Contract contracted to be executed whether temporary or permanent, and whether original, altered, substituted or additional.
- (ii) "**WORKS SITE**" and "**SITE OF WORKS**" / "**SITE**", shall mean the extent of land which the company places at the disposal of the Contractor or provides access to, from time to time for the purpose of executing the contract Works. In other words, the site shall mean the land, places on, into or where Work is to be executed under the Contract or any adjacent land, path or street or where Work is to be executed under the Contract or any adjacent land, path or street which may be temporarily permitted to be used for the purpose of carrying out the Contract.

- (iii) a) **“CONTRACTOR”**, shall mean the individual, partnership firm, LLP or company undertaking the Works and shall include the legal / personal representative of such individual or the persons composing such firm or LLP or company, or the successors / administrators of such firm or LLP company and the permitted assignees of such individual, firm or company.
- b) **“BIDDER OR TENDERER”**, shall means the person, firm, LLP or company submitting a tender (bid) against the invitation to Tender (bid) and includes his/its/their staff, consultants, parent and associate and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers, heirs, executors, administrators, representatives, successors.
- c) **“CONTRACTOR’S REPRESENTATIVE”**, shall mean the person responsible for execution of the contract who shall be so declared by the Contractor and who shall be authorised under a duly executed power of attorney to comply with the instructions. He shall be capable of taking responsibility for proper execution of Works.
- d) **“SUB-CONTRACTOR”**, shall mean the individual, firm, LLP, Company, Corporation to whom any part of the Work has been sub-contracted by the Contractor and shall include his heirs, his executors, administrators, successors, legal representatives, as the case may be.
- iv) **“ENGINEER”**, **“ENGINEER-IN-CHARGE(EIC)”**, **“OFFICER-IN-CHARGE (OIC)”**, **“PROJECT IN CHARGE(PIC)”**, shall mean the Engineer / Representatives of HAL who shall supervise and be in charge of the Work or as may be notified at the time of Tender or issuance of Letter of Acceptance.
- v) **“CONSULTANTS”**, **“ARCHITECTS”** and **“CONSULTING ENGINEERS”**, means third party consultants/professionals appointed by HAL for the specific project, including the consultant’s representative.
- vi) **“ACCEPTING OFFICER”**, Authorized officer who accept the contract and under whose authority acceptance letter is issued.
- vii) **“MARKET RATE”**, shall be the rate as decided by the OIC/EIC on the basis of the cost of materials and labour at the site where the Work is to be executed plus **10%** to cover, all overheads and profits. Provided that no extra overheads and profits shall be payable on the part(s) of Work assigned to other agency(s) by the Contractor as per terms of contract. Schedule(s) referred to in these conditions shall mean the relevant schedule(s) annexed to the tender documents or the standard Schedule of Rates of the **Central Public works Department-CPWD (Delhi Schedule of rate-DSR)** with the amendments thereto issued upto the date of receipt of the tender.

- viii) **“COMPANY”, “EMPLOYER”, “HAL”, “CLIENT”, SHALL MEAN “HINDUSTAN AERONAUTICS LIMITED”.**
- (ix) **“TENDERED VALUE”** Shall mean the value of the entire Work as stipulated in NIT (Notice Inviting Tender) at estimated value.
- (x) **“THE DATE OF COMMENCEMENT OF WORK”**, The date of commencement of Work shall be the date of start as specified in acceptance letter or the first date of handing over of the site, whichever is later, in accordance with the phasing if any, as indicated in the tender document.
- (xii) **“THE ACTUAL DATE OF COMPLETION OF WORK”**, shall mean the date mentioned in the Completion Certificate issued by HAL.
- (xiii) **“GST”**, shall mean Goods and Service Tax - Central, State and Inter State.
- (xiv) **“ORIGINAL CONTRACT VALUE/ Contract sum”**, shall mean the sum stated in the Letter of Acceptance/Contract Agreement.
- (xv) **“LETTER OF ACCEPTANCE (LOA)”**, shall mean the letter from the Accepting Authority to the Contractor, conveying acceptance of the Tender. Legally communication of acceptance of offer is considered complete as soon as it is submitted to Postal authorities / Email.
- (xvi) **“DRAWINGS”**, Shall mean the plans, sections, elevations and details of Works annexed to tender document and such further drawings as the Engineer may issue from time to time, during the progress of Works and shall include tracings and photographic prints.
- (xvii) **“SCHEDULE BANK”**, shall mean a bank included in the second Schedule to the Reserve Bank of India Act 1934, or modification there to.
- (xviii) **“TENDER OR BID”**, shall mean the offer (Technical and/or Financial) made by individual, firm, LLP, Company or corporation for the execution of the Works.
- (xix) **“BILL OF QUANTITIES (BOQ)”**, is a description showing items of work with detailed specification/s and their respective estimated quantities, based on which the Bidder is required to quote.
- (xx) **“PERCENTAGE RATE TENDER”**, means tenders in which the Bidders /Tenderers are required to quote a rate on percentage basis i.e., above or below the total estimated cost put to tender.
- (xxi) **“ITEM RATE TENDER”**, means Tender in which the Bidders/Tenderers are required to quote rates for individual items of work as given in the BOQ.
- (xxii) **“SPECIAL NATURE OF WORK”**, shall mean any Work(s) or part thereof for which Defect Liability Period is more than One year as indicated in the BOQ.

(xxiii) “**CONTRACT AGREEMENT/AGREEMENT**”: shall means the agreement between the parties as per the format provided at annexure-A.

1.3 Interpretations:

- (i) Where the context so requires, words imparting the singular only also include the plural and vice versa. Any reference made to masculine gender includes all genders, as the context may require.
- (ii) Headings and Marginal notes to these General Conditions of Contract shall not be deemed to form part thereof or be taken into consideration in the interpretation or construction thereof or of the contract.

1.4a The Contractor will be furnished with one set of attested copies of the Contract Documents duly signed by both parties comprising of all uploaded documents and subsequent correspondence, Price bid together with all tender drawings as may be forming part of the tender documents except any published documents mentioned (if any) or referred in the tender. None of these documents shall be used for any purpose other than this contract.

1.4B OWNERSHIP OF DRAWINGS AND SPECIFICATIONS:

All drawings and specifications and copies thereof furnished by the HAL to the Bidder/ Contractor are deemed to be the sole property of the HAL.

1.5 WORKS TO BE CARRIED OUT:

The Work to be carried out under the Contract shall, except as otherwise provided in these conditions, include all labourers, materials, tools, plants, equipment, transport, etc. which may be required in preparation of and for and in the full and entire execution and completion of the Works. The descriptions given in the Bill of Quantities (Price bid) shall, unless otherwise stated, be held to include wastage on materials, carriage and cartage, carrying and return of empties, hoisting, setting, fitting and fixing in position and all other labour necessary in and for the full and entire execution and completion of the Work as aforesaid in accordance with good practice and recognized principles.

1.6 SUFFICIENCY OF TENDER:

- a) The Contractor shall be deemed to have satisfied himself before tendering as to the correctness and sufficiency of his tender for the Works and of the rates and prices quoted in the Bill of Quantities, which rates and prices shall, except as otherwise provided, cover all his obligations under the contract and all matters and things necessary for the proper completion and maintenance of the Works, including the Site conditions.
- b) **Quoted rates shall also includes the following:**
 - (i) Working hours as per factory timings.

- (ii) Movement of men, material and stacking all as per conditions of contract and as directed by the OIC/EIC.
- (iii) Removing of surplus materials and stacking all as per conditions of contract and as directed by the OIC/EIC.
- (iv) Shall be for Work on all floors and heights unless otherwise specifically sought by HAL in tender documents.

1.7 DISCREPANCIES, ADJUSTMENT OF ERRORS AND ORDER OF PRECEDENCE:

The several documents forming the Contract are to be taken as mutually explanatory of one another, detailed drawings being followed in preference to small scale drawing and figured dimensions in preference to scale. If any contradictions are observed in different components of the tender, **the following precedence shall be observed:**

- i. Mutually agreed amendment/s executed by Parties.
- ii. Final Deviation Order signed by HAL & the Contractor
- iii. Acceptance Letter by the Accepting Officer and Site handing over letter (*work order*) by Officer-in-Charge.
- iv. Any written clarifications issued by OIC/EIC after submission of tender.
- v. Any Clarifications/Amendments/Addendum issued before submission of tender.
- vi. Notice inviting Tender (NIT)/ Invitation to Bid(ITB)
- vii. Instructions to Tenderers.
- viii. Prequalification Profile.
- ix. Contract Agreement.
- x. Price Bid / BOQ.
- xi. Technical Specifications & Particulars of specifications.
- xii. Tender Drawings.
- xiii. Special Conditions of Contract.
- xiv. General Conditions of Contract, as per standard form.

Note:

1. If there are varying or conflicting provisions made in any one document forming part of the Contract, the PIC/OIC/EIC shall be sole deciding authority with regard to the intention of the document and his decision in this respect shall be final and binding on the Contractor.
2. In the event of any error in the description or in the quantity in Price bid or any omission there from shall not vitiate the Contractor or release the Contractor from the execution of whole or any part of contract comprised there in according to the drawings and specifications, or from any of his obligations under the contract.

1.8 SIGNING OF CONTRACT:

- A) Contractor on receipt of LOA, shall submit the signed copy of same accepted in all respect within seven days from date of LOA to PIC/OIC/EIC. Further, Contractor, shall submit agreement on a non-judicial stamp paper of Rs.200/- in a prescribed format provided in the tender within 30 days from the date of Acceptance Letter failing which penalty of Rs.2500/- per week delay to a maximum of Rs. 10,000/- (or as specified in the SCC or the Contract Agreement) will be levied for delay in submission. Further, no payment for the Work done will be made unless contract is signed by the Contractor.

Contractor shall sign the contract consisting of:-

- (i) Formal contract agreement on a non-judicial stamp paper of Rs.200/- in a prescribed format provided in the tender (Refer Annexure-A).
 - (ii) The Notice inviting tender(NIT), all the documents including drawings, if any, forming the tender as issued at the time of invitation of tender and acceptance thereof together with any correspondence leading thereto.
 - (iii) All Standard forms mentioned in the tender document consisting of
 - (a) Various standard clauses with corrections up to opening date of tender along with annexure thereto.
 - (b) Safety Code mentioned in the tender.
- B) Any Agreement, Bank Guarantee, any Hypothecation deed etc. required to be executed under this Contract shall be submitted by the Contractor with proper stamp duty as per the Formats enclosed respectively. However, the Accepting Officer shall have the rights to alter, modify, delete any content in such formats as deemed fit by him.

1.9. LANGUAGE OF CONTRACT & MODE OF CORRESPONDENCE

a. Language of Contract:

The Contract document shall be drawn up in English. All certificates, notices, written orders or letters, to be given by the HAL or the PIC/OIC/EIC to the Contractor, shall be deemed to have been served, if the same are delivered to the Contractor or his Authorised Representative, or delivered or left at or posted by speed post / registered post to the given address of the Contractor or Contractor's registered office or principal place of business and essentially delivering the same by e-mail duly attached with scanned copy of such certificates, notices, written orders or letters and Proof of Dispatch (POD). Such documents shall be deemed to have been received on the day they are left or delivered, or in the case of postal transmission, on the day they would ordinarily have reached but not exceeding 7 days from the date of posting inclusive of day of posting, in any case.

b. Address for communication:

The Contractor shall furnish his postal address/ registered office address which shall also include e-mail address for communication.

c. Change of Address:

Either party may change the nominated address by prior written notice to the other party. However, either party shall not change their email address during currency of the contract without obtaining prior consent from the PIC/OIC/EIC.

1.10 LAWS GOVERNING THE CONTRACT:

The contract shall be governed by the laws in force in India, and the State of Karnataka, to the extent they may apply.

1.11 HANDING OVER OF SITE FOR COMMENCEMENT OF WORK:

The Contractor having signed the contract, the PIC/OIC/EIC will forthwith give him notice to commence the Work by issuing Work order mentioning handing over of Site and the Contractor shall upon receipt of such notice commence the works and carry them on at such point or points and in such portions as directed by PIC/OIC/EIC from time to time. Work shall start on priority basis as per HAL requirement/notification. However, if any portion of site is not made available by HAL for any reason whatsoever no claim on account of this towards compensation or otherwise will be entertained. The handing over of Site for carrying on the Works shall not confer any right over work site except temporary possession only for the purpose of the Works under the Contract.

CLAUSE 1A: SECURITY DEPOSIT

- a) The successful tenderer will be required to furnish security deposit for the fulfillment of contract. The security deposit shall be 10% of the Original Contract Value. This amount will not be altered during the execution of Work due to deviation, either plus or minus.
- b) Security Deposit shall consist of two parts, viz.:
 - i. Performance Guarantee to be submitted at award of Work and
 - ii. Retention money to be recovered from Running Bills. (5% of Running Bills including final bill which will be treated as Defect liability deposit [DLD])
- c) Accordingly, Performance Guarantee shall be 5% of Original contract value.
- d) Performance Guarantee in the form of DD/Pay order/Bankers Cheque is acceptable for any value of Works. It shall be deposited by the Contractor within 21 days from the date of Letter of Acceptance for the Work.
- e) For contract value of Rs.10lakhs and above, Performance Guarantee in the form of Bank Guarantee (BG) is acceptable, at the cost of the Contractor.

- f) Performance Guarantee in the form of bank guarantee should be submitted as per standard format (Refer Annexure – C) given in the tender document and shall be submitted within 21days from the date of letter of acceptance for the Work, failing which HAL shall have the option of revoking the LOA, at the risk and cost of Contractor.
- g) Notwithstanding the above, any delay in depositing the Performance Guarantee either in the form of DD/Pay order/ Banker cheque/ Bank guarantee as above, shall attract a penal recovery for the delay period on the balance performance Guarantee amount [if EMD is deposited] @ 2% of performance Guarantee amount per week or part thereof with a maximum penalty of 25% Performance Guarantee part of security deposit.
- h) The performance bank guarantees issued by Nationalized / Scheduled Banks in India only will be acceptable.
- i) The performance bank guarantee should be on Non – Judicial Stamp Papers of prescribed value.
- j) The performance bank guarantee shall cover the entire period of completion of the Work or extended period, plus three months.
- k) It is obligatory on the part of Contractor to extend the performance bank guarantee without any additional financial implication to HAL in case the period of contract has been extended (with or without Liquidated Damages). Failure by the Contractor to extend the validity of the performance guarantee as described herein would result in the HAL encashing and realising the full amount under the existing performance bank guarantee.
- l) The Defect Liability Deposit 'DLD' (Deducted retention money or Bank guarantee towards retention money) shall continue to be enforceable till all the dues of the Company under or by virtue of the agreement have been fully paid and its claims satisfied or discharged or till the Company certifies that the terms and conditions of the agreement / contract have been fully and properly met by the said Contractor (s).
- m) Contractor shall ensure that any/all bank guarantee shall be sent through Registered post with A.D. by issuing Bank directly to OIC/EIC of HAL.
- n) In exceptional cases, the original bank guarantee can be submitted by the Contractor to OIC/EIC who shall record the reasons in writing for receiving bank guarantee directly from the Contractor, subject to a written confirmation from the issuing Bank that it has issued the subject Bank guarantee, sent directly to HAL. Any payment due to the Contractor under the Contract shall be admitted only after receipt of written confirmation of the BG from the issuing bank.

- o) Contractor has to ensure that bank guarantee shall be free from all infirmities and typographical error/deletions/inclusions, riders, etc. and shall be duly authenticated by the bank's authorised signatory with official seal. If forwarded/submitted Bank Guarantee is not in the prescribed format, it shall be returned to the bank on intimation to Contractor and the Contractor shall re-submit an appropriate bank guarantee within the time prescribed above. No extension shall be granted for submission of faulty/improper bank guarantee.
- p) Bank guarantee submitted by Contractors should be unconditional and irrevocable and has to be in the specified format only. Hence, HAL will verify the bank guarantees before acceptance. Contractor shall submit a declaration that the bank guarantee/s have been obtained lawfully, legitimately and through normal banking channels and that there has been no fraud, undue influence or corrupt practices in obtaining the same from a bank/s.
- q) However, in case of contracts involving maintenance of building and services/any other Work after construction of same building and services/other Work, then 50% of performance guarantee shall be retained as Security Deposit. The same shall be returned year wise proportionately.
- r) In the bank guarantee, the name, designation and code/identity numbers of the Bank Officer/officers signing the bank guarantee should be incorporated. The covering letter from issuing Bank shall have details and address indicating the person for further correspondence regarding authenticity of bank guarantee.
- s) The Contractor will not be generally allowed to start the Work unless performance security deposit has been paid. However, in exigency and to facilitate the completion of Work, the same may be allowed with the prior approval of competent HAL Authority.
- t) No payment shall be released to the Contractor unless Performance Guarantee is submitted and Contract Agreement is executed.
- u) Where JV participation is allowed, the BG towards Performance Guarantee shall be provided by all partners in proportion to their participation in the project.
- v) In case of GTE tenders (Global Tender Enquiry), the Performance Guarantee should be in the same currency as the contract and must confirm to Uniform Rules for Demand Guarantees (URDG 758), an international convention regulating international securities.
- w) **Claims of performance guarantee:**
HAL shall have full rights whatsoever to en-cash any bank guarantee submitted under this Contract at any time during the validity of the guarantee and the Contractor shall have no right or claim whatsoever in the matter of encashment of the bank guarantee

amount by HAL and any disputes/ claim whatsoever in this regard shall only be settled by means of Dispute Resolution as provided for in contract and the decision of HAL as to what amount is due to HAL from the said bank against the guarantee and as to Contractor has committed breach of contract or not, shall be final and binding on the guarantor-bank and the Contractor shall have no right to interfere with the same and the bank shall have full rights in terms of the guarantee to make immediate payments against the bank guarantee to HAL without the Contractors consent and without referring the matter to the Contractor.

- x) **Notwithstanding the above and in addition thereto**, HAL shall make a claim under the performance guarantee (notwithstanding and/or without prejudice to any other provisions in the Contract Agreement) in the event of:
- i. Failure by the Contractor to pay HAL any amount due, either as agreed by the Contractor or determined under any of the Clauses/Conditions of the agreement, within 30 days of the service of notice to this effect by OIC/EIC.
 - ii. HAL on expiry of the contract, shall retain such portion of the said bank guarantee as may be considered sufficient to cover any incorrect or excess payments made on the bills to the Contractor, until the final audit report on the account of Contractor's bill has been received and examined.
 - iii. In the event of the contract being determined or rescinded under provision of any of the Clause/Condition of the contract, the performance guarantee shall stand forfeited in full and shall be absolutely at the disposal of the HAL.

y) **Returning of Performance guarantee:**

Performance guarantee will be returned within 30 days of the issue of the Defect Liability Certificate (taking over Certificate with a list of defects)/ Completion Certificate without any interest. This shall not relieve the Contractor from his obligations and liabilities, to make good any failures, defects, imperfections, shrinkages, or faults that may be detected during the defect liability period.

CLAUSE 1B: RETENTION MONEY

- a) Retention Money will be deducted at 5% from Running Bills & Final bill and retained till the expiry of the defect liability period. The total of performance guarantee & retention money will not exceed 10% of contract amount. However, retention money recovered will not be less than 5% of final bill value including deviations if any.
- b) No interest shall be payable to the Contractor on the amount retained in Cash/ BG towards retention money.
- c) All compensations or the other sums of money payable by the Contractor under the terms of this contract may be deducted from, the retention money or from any sums

which may be due to or may become due to the Contractor by HAL on any account whatsoever and in the event of his retention money being reduced by reason of any such deductions or sale as aforesaid, the Contractor shall within 10 days make good in cash any sum or sums which may have been deducted from retention money.

- d) In the event, the total sum of retention money exceeding Rs.5lakhs, then on completion of the Works and issuance of completion certificate, the retention money as deducted above may be released at the discretion of HAL against Bank guarantee to cover the amount that may be so released. The said bank guarantee shall be valid for the entire duration of the defect liability period plus 60days and shall be issued by a scheduled bank. To the extent applicable, the provisions regarding submission of performance bank guarantee, supra will apply here also.

CLAUSE 2: PRE-ESTIMATED LIQUIDATED DAMAGES (LD) FOR DELAY

If the Contractor fails to maintain the required progress in terms of Clause 5 or to complete the works and clear the Site on or before the Contract or the justified extended date of completion as per Clause 5 (excluding any extension under Clause 5.5) as well as any extension granted under Clauses 12 and 15, he shall, without prejudice to any other right or remedy of the Company on account of such breach, pay agreed a pre-estimated liquidated damages, 'LD' (not being penalty) calculated as stipulated below:

Completion period as originally stipulated		LD Amount	Maximum
A.	For Works up to Six months	1% per week on contract sum	10%
B.	For Works beyond Six months up to Twenty Four Months	½ % per week on contract sum	7½%
C.	For Works above Twenty four Months	¼ % per week on contract sum	5%

- The amount of LD may be adjusted or set off against any sum payable to the Contractor under this or any contract with HAL. (When the delay is not a full week or in multiples of a week, but involves a fraction of a week the LD payable for the fraction shall be proportional to the number of days involved.)
- The recovery of such LD amount shall not relieve the Contractor from his obligation to complete the Work or from any other obligation and liability under the Contract. HAL's decision on LD payable shall be final and binding on the Contractor.
- Provided that LD during the progress of Work before the justified extended date of completion for delay under this clause shall be for non-achievement of sectional completion or part handing over of Work on stipulated/justified extended date for such part Work or if delay affects any other Works/services. This is without prejudice

to right of action by HAL under Clause 3 for delay in performance and claim of compensation under that clause.

- iv. In case determination of LD amount under this clause has not been finalized and the Work has been determined under (Clause-3), the right of under this clause shall remain post determination of contract but levy of LD shall be for days the progress is behind the schedule on date of determination as assessed by the PIC/OIC/EIC, after due consideration of extension without LD. The LD for delay, if not decided before the determination of contract, shall be decided after determination of contract.
- v. In case, the Contractor does not achieve a particular milestone mentioned in the approved financial milestone or the re-scheduled milestone(s), the amount shown against that milestone shall be withheld @ 2% of the milestone value and the same shall be adjusted against the LD levied for delay in completion of Work. With-holding of this amount on failure to achieve a milestone, shall be automatic without any notice to the Contractor. However, if the Contractor catches up with the progress of Work on the subsequent milestone(s), the withheld amount shall be released. In case the Contractor fails to make up for the delay in subsequent milestone(s), 2% of the amount mentioned against each milestone missed subsequently also shall be withheld. However, no interest, whatsoever, shall be payable on such withheld amount. (The amount withheld for non achievement of milestones in any case will not exceed the maximum LD amount levied/liveable for delay in completion of Work)
- vi. The Contract shall always be deemed to be one where time is the essence of the contract. Any extension/s granted by HAL(under any circumstances) shall be construed as having been granted under paragraph 3 of Section 55 of the Indian Contract Act, 1872 by reserving liberty to levy LD under this Clause 2.
- vii. In case, before the completion of the whole works, any part of works has been certified by the PIC/OIC/EIC as completed and occupied or used by the HAL, the LD for any period of delay after such certification shall be reduced in the proportion which the value of the part certified bears to the value of the whole of the works (Contract sum).

CLAUSE 3: WHEN CONTRACT CAN BE DETERMINED

Subject to other provisions contained in this clause, HAL may, without prejudice to any other rights or remedy against the Contractor in respect of any delay, not following safety norms, inferior Workmanship, any claims for damages and/or any other provisions of this contract or otherwise, and whether the date of completion has or has not elapsed, by notice in writing absolutely determine the contract in any of the following cases:

- i. If the Contractor having been given by the Officer-in-Charge a notice in writing to rectify, reconstruct or replace any defective Work or that the Work is being performed in an

inefficient or otherwise improper or un-Workman like manner fails to comply with the requirement of such notice of Officer-in-Charge for a period of seven days thereafter.

- ii. If the Contractor has, without reasonable cause, suspended the progress of the Work or has failed to proceed with the Work with due diligence and continues to do so after a notice in writing of seven days from the Officer-in-Charge.
- iii. If the Contractor fails to complete the Work or section of Work with individual date of completion on or before the stipulated or justified extended date, on or before such date of completion; and the PIC/OIC/EIC without any prejudice to any other right or remedy under any other provision in the contract has given further reasonable time in a notice given in writing in that behalf as either mutually agreed or in absence of such mutual agreement by his own assessment making such time essence of contract and in the opinion of PIC/OIC/EIC the Contractor will be unable to complete the same or does not complete the same within the period specified.
- v. If the Contractor persistently neglects to carry out his obligations under the contract and/or commits default in complying with any of the terms and conditions of the contract and does not remedy it or take effective steps to remedy it within 7 days after a notice in writing is given to him in that behalf by the PIC/OIC/EIC.
- v. If the Contractor shall offer or give or agree to give to any person in HAL service or to any other person on his behalf any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract for HAL.
- vi. If the Contractor shall enter into a contract with HAL in connection with which commission has been paid or agreed to be paid by him or to his knowledge, unless the particulars of any such commission and the terms of payment thereof have been previously disclosed in writing to HAL.
- vii. If the Contractor had secured the contract with HAL as a result of wrong tendering or other non-bonafide methods of competitive tendering or commits breach of Integrity Agreement.
- viii. If the Contractor being an individual, or if a firm/LLP, any partner thereof shall at any time be adjudged insolvent or have a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation or composition (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or composition or arrangement for the benefit of his creditors or purport so to do, or if any application be made under any Insolvency Act for the time being in force for the sequestration of his estate or if a trust deed be executed by him for benefit of his creditors.
- ix. If the Contractor being a company shall pass a resolution or the court shall make an order that the company shall be wound up or if a receiver or a manager on behalf of a creditor

shall be appointed or if circumstances shall arise which entitle the court or the creditor to appoint a receiver or a manager or which entitle the court to make a winding up order.

- x. If the Contractor shall suffer an execution being levied on his goods and allow it to be continued for a period of 21 days.
- xi. If the Contractor assigns (excluding part(s) of Work assigned to other agency(s) by the Contractor as per terms of contract), transfers, sublets (engagement of labour on a piece-Work basis or of labour with materials not to be incorporated in the Work, shall not be deemed to be subletting) or otherwise parts with or attempts to assign, transfer, sublet or otherwise parts with the entire Works or any portion thereof without the prior written approval of the Officer-in-Charge.
- (xii) Contractor fails to comply any applicable laws.

When the Contractor has made himself liable for action under any of the cases aforesaid, the Officer-in-Charge on behalf of the HAL shall have powers:

- (a) To determine the contract as aforesaid so far as performance of Work by the Contractor is concerned (of which determination notice in writing to the Contractor under the hand of the Officer-in-Charge shall be conclusive evidence). Upon such determination, retention money already recovered, retention money payable and performance guarantee under the contract shall be liable to be forfeited and shall be absolutely at the disposal of the HAL.
- (b) After giving notice to the Contractor to measure up the Work of the Contractor and to take such whole, or the balance or part thereof, as shall be un-executed out of his hands and to give it to another Contractor to complete the Work. The Contractor, whose contract is determined as above, shall not be allowed to participate in the tendering process for the balance Work including any new items needed to complete the Work.
- (c) In the event of above courses being adopted by the Officer-in-Charge, the Contractor shall have no claim to compensation for any loss sustained by him by reasons of his having purchased or procured any materials or entered into any engagements or made any advances on account or with a view to the execution of the Work or the performance of the contract. And in case action is taken under any of the provision aforesaid, the Contractor shall not be entitled to recover or be paid any sum for any Work thereof or actually performed under this contract unless and until the Officer-in-Charge has certified in writing the performance of such Work and the value payable in respect thereof and he shall only be entitled to be paid the value so certified.

CLAUSE 3A: TERMINATION OF CONTRACT DUE TO NON-AVAILABILITY OF SITE

In case, the Work cannot be started due to reasons not within the control of the Contractor within 1/8th of the stipulated time for completion of Work or one month whichever is higher, either party may terminate the contract by giving notice to the other party stating the reasons. In such eventuality, the performance guarantee of the Contractor shall be refunded within following time limits:

- (i) If the Tendered value of Work is up to Rs. 1Crore: 15 days.
- (ii) If the Tendered value of Work is more than Rs.1 Crore and upto Rs.10 Crore : 21 days
- (iii) If the Tendered value of Work exceeds Rs. 10 Crore : 30 days

Neither party shall claim any compensation for such eventuality. This clause is not applicable for any breach of the contract by either party.

CLAUSE 4: CONTRACTOR LIABLE FOR COMPENSATION EVEN IF ACTION NOT TAKEN FOR DETERMINATION OF CONTRACT

Contractor liable to pay compensation even if action not taken under Clause 3

In any case in which HAL has to take action as per Clause-3 thereof, shall have become exercisable and the same are not exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions hereof and such actions shall notwithstanding be exercisable in the event of any future case of default by the Contractor and the liability of the Contractor for compensation shall remain unaffected. In the event of the Officer -in-Charge exercising all or any of the powers vested in him under the preceding clause he may, if he so desires, after giving a notice in writing to the Contractor, take possession of (or at the sole discretion of the Officer-in-Charge which shall be final and binding on the Contractor) or use as on hire (the amount of the money for such hire being also in the final determination of the Officer -in-Charge) all or any tools, plant, materials and stores, in or upon the Works, or the site thereof belonging to the Contractor, or procured by the Contractor and intended to be used for the execution of the Work/or any part thereof, paying or allowing for the same in account at the contract rates, or, in the case of these not being applicable, at current market rates to be certified by the Officer -in-Charge, whose certificate thereof shall be final, and binding on the Contractor, site in-charge or other authorized agent to remove such tools, plant, materials, or stores from the premises (within a time to be specified in such notice) in the event of the Contractor failing to comply with any such requisition, the Officer -in-Charge may remove them at the Contractor's expense or sell them by auction or private sale on account of the Contractor and his risk in all respects and the certificate of the Officer-in-Charge as to the expenses of any such removal and the amount of the proceeds and expenses of any such sale shall be final and conclusive against the Contractor.

CLAUSE 5: TIME AND EXTENSION FOR DELAY

The time allowed for execution of the Works as specified in the tender document or the extended time in accordance with these conditions shall be the essence of the contract. The execution of the Work shall commence from such time period as mentioned in Tender/LOA or from the date of handing over of the site, notified by the OIC/EIC, whichever is later. If the Contractor commits default in commencing the execution of the Work as aforesaid, the performance guarantee shall be forfeited by HAL and shall be absolutely at the disposal of the HAL without prejudice to any other right or remedy available in law.

5.1) As soon as possible but within 7 (seven) Working days of award of Work and in consideration of

- (a) Schedule of handing over of site as specified in Work order.
- (b) Schedule of issue of designs/Drawings as specified in Work order.
 - i. The Contractor shall submit a Time and Progress Chart for each mile stone. The OIC / EIC may within 7 (seven) Working days thereafter, if required modify, and communicate the program approved to the Contractor failing which the program submitted by the Contractor shall be deemed to be approved by the Officer -in-Charge. The Work programme shall include all details of balance drawings and decisions required to complete the contract with specific dates by which these details are required by Contractor without causing any delay in execution of the Work. The chart shall be prepared in direct relation to the time stated in the contract documents for completion of items of the Works. It shall indicate the forecast of the dates of commencement and completion of various trades of sections of the Work and may be amended as necessary by agreement between the OIC/EIC and the Contractor within the limitations of time imposed in the Contract documents.
 - ii. In case of non submission of construction programme by the Contractor, the program approved by the OIC/EIC shall be deemed to be final and binding on the Contractor.
 - III. The approval by the OIC/EIC of such programme shall not relieve the Contractor of any of the obligations under the contract.
 - iv. The Contractor shall submit the Time and Progress Chart and progress report using the mutually agreed software or in other format decided by OIC/EIC for the Work done during previous month to the Officer-in-charge on or before 5th day of each month. This shall also indicate the equipment & manpower schedule. Contractor shall maintain hindrance register at site wherein details of physical hindrances are recorded and it shall be attested by the Engineer-in-charge or his authorized

representative at site, as and when the hindrances have occurred. **(Note: 5.1(b)(i), (ii) & (iii) are not mandatory for value of Works less than Rs.50 Lakhs/ AMC Works/ Service Works/ Repair Works”)**

5.2) If the Work(s) be delayed by:

- (i) Force majeure as defined in Clause 37, or
- (ii) Serious loss or damage caused by fire to the Works, or
- (iii) Civil commotion, local commotion of workmen, strike or lockout, affecting any of the trades employed on the Work (by reason not attributable to Contractor), or
- (iv) Delay on the part of other Contractors or tradesmen engaged by HAL in executing Work not forming part of the contract, or
- (v) Any other cause like above which, in the reasoned opinion of the HAL is beyond the Contractor's control;

then upon the happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the OIC/EIC but shall nevertheless use constantly his best endeavours to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the HAL to proceed with the Works. It is made clear that local commotion, strike or lock-out, etc. of personnel of Contractor or its Sub-contractor shall not entitle any relief to the Contractor.

The Contractor shall have no claim of damages for extension of time granted or rescheduling of milestone/s for events listed in 5.2.

5.3) In case the Work is hindered by the HAL or for any reason / event, for which the HAL is responsible, HAL, if justified, give a fair and reasonable extension of time and reschedule the milestone/s for completion of Work. Such extension of time or rescheduling of milestone/s shall be without prejudice to any other right or remedy of the parties in contract or in law; provided further that for concurrent delays under this sub clause and sub clause (5.2) to the extent the delay is covered under sub clause (5.2) the Contractor shall be entitled to only extension of time and no damages

5.4) Request for rescheduling of Milestones or extension of time, to be eligible for consideration, shall be made by the Contractor in writing for seeking rescheduling of milestones or extension of time to the OIC/EIC, not later than 14 days of the Scheduled date of Completion. The Contractor shall indicate in such a request the period by which rescheduling of milestone/s or extension of time is desired. With every request for rescheduling of milestones, or if at any time the actual progress of Work falls behind the approved programme by more than 10% of the stipulated period of completion of contract, the Contractor shall produce a revised programme which shall include all details of pending drawings and decisions

required to complete the contract and also the target dates by which these details should be available without causing any delay in execution of the Work.

5.4.1) In any such case the HAL may give a fair and reasonable extension of time for completion of Work or reschedule the milestones. OIC/EIC shall finalize/ reschedule a particular milestone before taking an action against subsequent milestone. Such extension or rescheduling of the milestones shall be communicated to the Contractor by the OIC/EIC in writing, within 21 days of the date of receipt of such request from the Contractor in prescribed form. In event of non application by the Contractor for extension of time OIC/EIC after affording opportunity to the Contractor, may give, supported with a programme (as specified under 5.4 above), a fair and reasonable extension within a reasonable period of occurrence of the event. Any or all such extension/s, if any, shall be deemed to have been granted under paragraph 3 of Section 55 of the Indian Contract Act, 1872 with right to claim LD, if intended. Contractor shall be required to continue the Works till the decision regarding extension of time is communicated by OIC/EIC.

5.5) In case the Work is delayed by any reasons, in the opinion of the OIC/EIC, by the Contractor for reasons beyond the events mentioned in Clause 5.2 or Clause 5.3 or Clause 5.4 and beyond the justified extended date; without prejudice to right to take action under Clause 3, HAL may grant extension of time required for completion of Work without rescheduling of milestones. The Contractor shall be liable for levy of pre-estimated liquidated damages for delay for such extension of time.

CLAUSE 6: COMPUTERIZED MEASUREMENT BOOK(MB)

- i. OIC/EIC shall, except as otherwise provided, ascertain and determine by measurement the value of Work done in accordance with the contract.
- ii. All measurements of all items having financial value shall be entered by the Contractor and compiled in the shape of the computerized measurement Book having pages of A-4 size as per the format given in the tender so that a complete record is obtained of all the items of Works performed under the contract.
- iii. All such measurements and levels recorded by the Contractor or his authorized representative along with HAL authorized representative from time to time, during the progress of the Work, shall be got checked by the Contractor from the OIC/EIC as per interval or program fixed in consultation with Officer-in-Charge or his authorized representative. After the necessary corrections made by the OIC/EIC, the measurement sheets shall be returned to the Contractor for incorporating the corrections and for resubmission to the OIC/EIC for the dated signatures by the OIC/EIC and the Contractor or their representatives in token of their acceptance.

- iv. Whenever bill is due for payment, the Contractor would initially submit draft computerized measurement sheets after joint measurement and these measurements would be got checked/test checked from the OIC/ EIC.
- v. The Contractor shall, thereafter, incorporate such changes as may be done during these checks/test checks in his draft computerized measurements, and submit to the HAL a computerized measurement book, duly bound, and with its pages machine numbered. The OIC/EIC and/or his authorized representative would thereafter check this MB, and record the necessary certificates for their checks/test checks.
- vi. The final, fair, computerized measurement book given by the Contractor, duly bound, with its pages machine numbered, should be 100% correct, and no cutting or over-writing in the measurements would thereafter be allowed. If at all any error is noticed, the Contractor shall have to submit a fresh computerized MB with its pages duly machine numbered and bound, after getting the earlier MB cancelled by the OIC/EIC. The Contractor shall submit two spare copies of such computerized MB's for the purpose of reference and record of HAL.
- vii. The Contractor shall also submit to the OIC/EIC separately his computerized abstract of cost and the bill based on these measurements, duly bound, and its pages machine numbered along with two spare copies of the bill. Thereafter, this bill will be processed for payment.
- viii. The Contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for checking of measurements/levels by the OIC/EIC or his representative.
- ix. Except where any general or detailed description of the Work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the specifications notwithstanding any provision in the relevant standard method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurements shall be taken in accordance with the relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available then a mutually agreed method shall be followed.
- x. The Contractor shall give not less than seven days' notice to the Officer-in-Charge or his authorized representative in charge of the Work before covering up or otherwise placing beyond the reach of checking and/or test checking the measurement of any Work in order that the same may be checked and/or test checked and correct dimensions thereof be taken before the same is covered up or placed beyond the reach of checking and/or test checking measurement and shall not cover up and place beyond reach of measurement any Work without consent in writing of the Officer-in-Charge or his authorized representative in charge of the Work who shall within the aforesaid period of seven days inspect the Work,

and if any Work shall be covered up or placed beyond the reach of checking and/or test checking measurements without such notice having been given or the Officer-in-Charge's consent being obtained in writing the same shall be uncovered at the Contractor's expense, or in default thereof no payment or allowance shall be made for such Work or the materials with which the same was executed.

- xi. The payments to Contractors for the Work done or other services rendered are made on the basis of measurement recorded in the measurement book.
- xii. The measurement book is the basis of all accounts of quantities of Work done by Contractor. It should be so written that the transactions are readily traceable.
- xiii. OIC/EIC or his authorized representative may cause either themselves or through another officer of the department to check the measurements recorded by Contractor and all provisions stipulated herein above shall be applicable to such checking of measurements or levels.
- xiv. It is also a term of this contract that checking and/or test checking the measurements of any item of Work in the measurement book and/or its payment in the interim, on account of final bill shall not be considered as conclusive evidence as to the sufficiency of any Work or material to which it relates nor shall it relieve the Contractor from liabilities from any over measurement or defects noticed till completion of the defects liability period.

CLAUSE 7: RAR (RUNNING ACCOUNT REMITTANCE) BILLS PAYMENT

- i. RAR bills can be processed as and when Contractor submits the bill and subject to maximum of two bills in a month. Contractor shall claim RAR Bill indicating the quantities of Work done/executed and rates adopted. The quantities billed shall be as per the joint measurement taken at site along with the representative of OIC/EIC duly certified from OIC/EIC. Following documents shall be submitted by the Contractor along with each RAR Bill:
 - (a) Delivery challan /Private property form (PP form) for the materials incorporated in the Work for which bill is submitted for payment.
 - (b) Purchase cash memo / Proforma Invoice as applicable for major items incorporated in the Work.
 - (c) Wage certificate for proper payment to the labourers as per labour laws.
 - (d) Compliance of statutory payments as per law for the labours/ Workers engaged such as ESI, PF remittance challans etc.
 - (e) Test certificates for various materials wherever required as decided by EIC.
 - (f) Laboratory Test certificates if carried out during the period of billing from NABL accredited laboratory to ensure the quality as per the contract specification / standards specified.

- (g) The Theoretical consumption of cement, re-conciliation statement of reinforcement and Structural Steel statements, RMC statement must be enclosed along with each bill for civil Works.

RAR Bill shall not be considered having been submitted by the Contractor unless it is in the manner and accompanied by documents as set forth above.

- ii. On submission of RAR bills by Contractor to the OIC/EIC, 75% of the RAR Bill value after deducting 5% towards Retention Money shall be released within Ten(10) working days after technical scrutiny which shall involve consideration of:

- (a) Value of Work executed after deducting all previous running accounts payments already paid.
- (b) Cost of stores issued by HAL if any
- (c) Charges for electricity and water supplied by HAL if any.
- (d) Balance mobilization advance with interest recoverable from the Contractor, if any; and
- (e) Any other dues recoverable by HAL from the Contractor under the present or any other contract.
- (f) Penalties/compensation if any due to non compliance of statutory provisions
- (g) Withholding for the compensation for delay in completion of Work.

The balance 25% of the RAR Bill value after deducting 5% towards Retention Money shall be released after detailed scrutiny by HAL within Twenty Eight(28) working days.

- iii. The payment timelines as stated above is on an ideal condition and in the event of any delay in payment, no claims whatsoever due to delays on payment including that of interest shall be payable to the Contractor.
- iv. The payments towards the items ordered as deviation, either due to variation in quantity or due to inclusion of non-tendered item will be allowed in RAR Bill subject to approval of same by the HAL.
- v. The item of Work partially executed / being executed shall be admitted for payment in RAR Bill as per the certification of OIC/EIC. The statement showing rate analysis how part rates are derived is to be enclosed along with bill. A register shall be maintained for this purpose at site. The rate for such item as decided by OIC/EIC is final and binding on the Contractor.
- vi. Any payment made by HAL against an RAR Bill shall be regarded as payment by way of advances against final payment only and shall not preclude the requiring of bad, unsound and imperfect or unskilled Work to be rejected, removed, taken away and reconstructed or re-erected. Any certificate given by the OIC/EIC relating to the Work done or materials delivered forming part of such payment, may be modified or corrected by any subsequent

such certificate(s) or by the final certificate and shall not by itself be conclusive evidence that any Work or materials to which it relates is/are in accordance with the contract and specification. In case of any discrepancy, the OIC/EIC shall have the right to alter, modify, reduce or diminish the quantities or classification entered in the Measurement Books, Any such interim payment, or any part thereof shall not in any respect conclude, determine or affect in any way powers of the OIC/EIC under the contract or any of such payments be treated as final settlement and adjustment of accounts or in any way vary or affect the contract. In such cases, HAL shall have the right to recover any amount paid in an earlier bill/bills from any subsequent bill/bills and should the amount to be recovered be more than the amount of the subsequent bills, the Contractor shall on demand from the OIC/EIC immediately refund the amount to the HAL within 7days, failing which he shall have to pay interest 1% per month till the said extra amount is paid back by him.

- vii) Pending consideration of extension of date of completion, RAR Payments can continue to be made as herein provided without prejudice to the right of HAL to take action under the terms of this Contract for delay in the completion of Work, if the extension of date of completion is not granted by the competent authority.

CLAUSE 7A: PAYMENT OF BILLS AFTER SUBMISSION OF STATUTORY DOCUMENTS

No RAR Bill shall be paid for the Work till the applicable labour licenses, registration with EPFO, ESIC and BOCW(Building & other Construction Workers)Welfare Board, whatever applicable is submitted by the Contractor to the Engineer-in-Charge.

CLAUSE 7B: PAYMENT OF PRE - FINAL BILL

RAR Bill post the completion of Work can be admitted for payment and can be considered as Pre-Final Bill in the following cases:

- i. Where the Final Deviation quantities including NTI are agreed without any protest / reservations by the Contractor, the Contractor has, in writing, accepted the final quantities as per the Pre-Final Bill and Final Deviation Order is pending approval of HAL.
- ii. Where the Contractor is not in a position to prepare and submit the Final Bill for various reasons which are attributable to Contractor and Contractor requests for payment of Pre-Final Bill with the valid reasons.
- iii. In case extension of time is not approved even after completion of the Work, the applicable LD amount shall be withheld and released only after approval of extension of time along with Final Bill.

CLAUSE 8: COMPLETION CERTIFICATE AND COMPLETION PLANS

Within ten days of the completion of the Work, the Contractor shall give notice of such completion to the OIC/EIC and within thirty days of the receipt of such notice, the OIC/EIC shall inspect the

Work and if there is no defect in the Work, shall furnish the Contractor with a final certificate of completion, otherwise a provisional certificate of physical completion indicating defects:

- i. To be rectified by the Contractor and/or
- ii. For which payment will be made at reduced rates, shall be issued.

But no final certificate of completion shall be issued, nor shall the Work be considered to be complete until the Contractor shall have removed from the premises on which the Work was executed all scaffolding, surplus materials, rubbish and all huts and sanitary arrangements required for his/their Work people on the site in connection with the execution of the Works as shall have been erected or constructed by the Contractor(s) and cleaned off the dirt from all wood Work, doors, windows, walls, floor or other parts of the building, in, upon, or about which the Work is to be executed or of which he may have had possession for the purpose of the execution; thereof, and not until the Work shall have been measured by the OIC/EIC.

If the Contractor fails to comply with the requirements of this clause as to removal of scaffolding, surplus materials and rubbish and all huts and sanitary arrangements as aforesaid and cleaning off dirt on or before the date fixed for the completion of Work, HAL may at the expense of the Contractor remove such scaffolding, surplus materials and rubbish etc., and dispose of the same as he(OIC/EIC) thinks fit and clean off such dirt as aforesaid, and the Contractor shall have no claim in respect of scaffolding or surplus materials as aforesaid except for any sum actually realized by the sale thereof.

CLAUSE 9: PAYMENT OF FINAL BILL

On completion of the Work and recording of measurements of all the items executed including NTI's and deviations, a final deviation statement will be drawn duly representing the actual quantum of Work executed against each item in the BOQ, Non-Tendered Items and deviations.

- i. On receipt of approved final deviation order from PIC/OIC/EIC, the Contractor shall submit the Final Bill in the prescribed format within three months. To enable the Contractor to do so, the OIC/EIC will furnish to him necessary statements showing recoveries to be made on account of stores issued, hire charges for tools and plant supplied, charges recoverable for electricity and water consumed etc., if any.
- ii. Along with submission of the Final Bill, the Contractor shall sign a 'No Claim Certificate' (format at Annexure - F) against HAL stating that they do not have any claim or demand in respect of the Contract except for the payment of Final Bill and the Defect Liability Deposit or any other refundable deposits like, retention money, if any etc. If the Contractor does not sign the 'No Claim Certificate', the amount due will not be disbursed to the Contractor pending issue of such No-claim Certificate or settlement of disputes, if any. No interest shall be paid by HAL on any pending dues in case No-claim Certificate is not issued or any dispute is raised by the Contractor.

- iii. No further or additional claims shall be made by the Contractor after submission of the final bill and any further or additional claims (if any) shall be deemed to have been unconditionally waived and extinguished. The Contractor shall not be entitled to make any claim whatsoever against HAL under or by virtue of or arising out of this Contract, nor shall HAL entertain or consider any such claim, if made by the Contractor, after he has signed a “No Claim Certificate” in favour of HAL. The Contractor shall be debarred from disputing the correctness of the item/s covered by “No Claim Certificate”. The “No Claim Certificate” furnished by the Contractor shall be treated as the “Discharge Certificate” by the Contractor, which discharges the HAL from all liabilities under the Contract, except to the extent provided in sub-clause (ii) above.
- iv. Where the Contractor is not in a position to prepare the final bill, or not submitting the final bill due to whatsoever reasons even after three (3) months from approval of Final Deviation Order, the OIC/EIC may give due notice by registered post/speed post indicating a specific time limit for submission of final bill, which shall not exceed 45 days from the expiry of the said three month period.
- v. If the Contractor does not respond and submit the Final Bill, within the aforesaid period of 45 days, the Officer- in- charge / Engineer In Charge shall be entitled to prepare & process the Final Bill ex-parte and the same will be binding on Contractor, and no further claim or submission of any bill (final or otherwise) from the Contractor shall be accepted.
- vi. On receipt of the Final Bill duly signed by the Contractor, the same will be scrutinized by the Engineer-in-Charge to see that the claim is in order. He will also attach to the Final Bill, a statement showing the Stores issued for incorporation in Work along with recoveries, if any, a statement showing the theoretical requirement and actually incorporated by the Contractor in the Work, and whether there has been any over – issue / under– issue of stores to the Contractor.
- vii. Where either the Contractor has not fully utilized the Stores issued for incorporation in the Work or where the quantities used are less than those theoretically required resulting in Work being below specifications, HAL will examine the case to see what action should be taken against the Contractor.

CLAUSE 9A: PAYMENT OF CONTRACTOR’S BILLS TO BANKS & RECOVERY OF TAXES

- i. All payments to the Contractor shall be made through Electronic Clearing System (ECS) or National Electronic fund transfer (NEFT) or Real time gross settlement (RTGS). The Contractor shall furnish his bank account details, as certified by his Bankers. All amounts payable to the Contractor shall be directly credited to his bank account.

In case, the Contractor is having his account with a bank not having Electronic Clearing System (ECS or NEFT, RTGS), the Contractor is required to open a bank account with the bank having this facility.

All payments to the Contractor shall be made by above means only.

ii. TAXES

(a) PAYMENT OF GST:

Contractor shall be entitled to reimbursement of GST paid, upon submission of GST Invoice and GST Challan for having paid the same to the Department.

(b) PAYMENT OF WELFARE CESS:

It shall be the sole responsibility of the Contractor as employer to ensure compliance of all the statutory obligations under the Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 (hereafter referred as "BOCW Act") and the Building and other Construction Workers' Welfare Cess Act, 1996 and the rules made thereunder (hereafter referred as "Cess Act"). The Contractor undertakes that it shall apply and obtain registration certificate specifying the scope of work under the relevant provisions of the Construction Workers' Act from the appropriate Authorities prior to commencement of work under the Contract. If at any point of time during the contract period, non-compliance of the provisions of the Construction Workers' Act and the Cess Act, and the rules made thereunder is observed, HAL reserves the right to withhold a reasonable amount from the payables to discharge any obligations on behalf of Contractors. The Contractor shall declare to undertake any liability or claim arising out of employment of building workers and shall indemnify HAL from all consequences / liabilities / penalties in case of non-compliance of the provisions of the BOCW Act and the Cess Act.

(c) RECOVERY OF INCOME TAX:

Recovery of Income Tax under Section 194(c) of Income Tax 1961 introduced by the Finance Act 1972 and further Amendments thereon will be made from the gross payments payable at source on all contract Works with value above Rs.10,000/-, at the prevailing rates.

In addition to above tax recoveries, any statutory recoveries introduced by the Central or State Governments can also be recovered and deposited as mandated by the respective Governments.

CLAUSE 10A: MATERIALS TO BE PROVIDED BY THE CONTRACTOR

- i. The Contractor shall, at his own expense, provide all materials, required for the Works other than those which are stipulated to be supplied by the HAL as mandated in the tender document.

The Contractor shall, at his own expense and without delay, supply to the Engineer-in-Charge samples of materials to be used on the Work and shall get these approved in advance. All such materials to be provided by the Contractor shall be in conformity with the specifications laid down or referred to in the contract. The Contractor shall, if requested by the OIC/ EIC furnish proof, to the satisfaction of the OIC/EIC that the materials so comply, including with appropriate laboratory test reports, if required. The OIC/EIC shall within thirty days of supply of samples or within such further period as he may require intimate to the Contractor in writing whether samples are approved by him or not. If samples are not approved, the Contractor shall forthwith arrange to supply to the OIC/EIC for his approval, fresh samples complying with the specifications laid down in the contract. When materials are required to be tested in accordance with specifications, approval of the OIC/EIC shall be issued after the test results are received.

- ii. The Contractor shall at his risk and cost submit the samples of materials to be tested or analyzed and shall not make use of or incorporate in the Work any materials represented by the samples until the required tests or analysis have been made and materials finally accepted by the OIC/EIC. The Contractor shall not be eligible for any claim or compensation either arising out of any delay in the Work or due to any corrective measures required to be taken on account of and as a result of testing of materials.
- iii. The Contractor shall, at his risk and cost, make all arrangements and shall provide all facilities as the OIC/EIC may require for collecting, and preparing the required number of samples for such tests at such time and to such place or places as may be directed by the Engineer-in-Charge and bear all charges and cost of testing unless specifically provided for otherwise elsewhere in the contract or specifications. The Engineer -in- Charge or his authorized representative shall at all times have access to the Works and to all Workshops and places where Work is being prepared or from where materials, manufactured articles or machinery are being obtained for the Works and the Contractor shall afford every facility and every assistance in obtaining the right to such access.
- iv, All rejected material will at once be removed from the site by the Contractor; the cost of removal shall be borne by the Contractor. The Engineer-in-Charge shall have full powers to require the removal from the premises of all materials which in his opinion are not in accordance with the specifications and in case of default, the Engineer-in-Charge shall be at liberty to employ at the expense of the Contractor, other persons to remove the same without being answerable or accountable for any loss or damage that may happen or arise to such materials. The Engineer-in-Charge shall also have full powers to require other proper materials to be substituted thereof and in case of default, the Engineer-in-Charge may cause the same to be supplied and all costs which may attend such removal and substitution shall be borne by the Contractor.

CLAUSE 10AA: QUALITY CONTROL DURING EXECUTION OF WORK

- i, Quality Lab: For field testing of materials and Workmanship, quality lab shall be set-up by the Contractor at Works site. This shall be in conjunction to the approved quality plan.
- ii, Testing of materials: Testing of materials will be made as per Quality Plan provided in the Contract in the field laboratory established at the site. However, certain tests which cannot be done at site shall be got done at NABL approved laboratory and expenditure on this account shall be borne by the Contractor and no extra claim whatsoever shall be entertained.
- iii, Regular mandatory test and any additional tests if required, shall be carried out in accordance with the procedure laid down in Indian Standards/ as directed by Engineer-in-Charge by the Contractor at his cost.
- iv, A list of mandatory tests to be conducted is indicated in the Quality plan it may be specifically noted that the tests to be conducted are not limited to the mandatory tests alone and additional test if required and directed by the Engineer-In-Charge on any material including the approved Works etc., shall be carried out by the Contractor at his cost.
- v, In the case of non-availability of cube test results for any batch of concrete / structural member, the Engineer may resort to core test or any other destructive / Semi destructive / non- destructive tests for ascertaining the strength of concrete. If the strength of the concrete is found to be lower than the strength specified, the remedial measures and penal recovery thereof will be regulated as per relevant IS code/ Standards.
- vi, The Contractor may specifically note that the testing shall be done in Govt. / Govt. (NABL) approved laboratory only.
- vii, Total station, Theodolite, levelling instruments, prismatic compass / chain, steel and metallic tapes and all other surveying and material testing instruments found necessary on the Works shall be provided by the Contractor at his expense for the due performance of this contract as instructed by the Engineer-in-Charge.

CLAUSE 10B:

I. SECURED ADVANCE ON MATERIALS

- (a) The Contractor, shall be entitled to be paid during the progress of the execution of the Work up to 75% of the assessed value of materials or an amount not exceeding 75% of the material element cost in the tendered rate of the finished item of the Work, whichever is lower, which are in the opinion of the OIC/EIC non-perishable, non-fragile and non-combustible and which have been brought on the site in connection therewith and are adequately stored and/or protected against damage by weather or other causes but which have not at the time of advance been incorporated in the Works.

- (b) Advance payment under this clause will be fully adjusted while admitting the next RAR payment and fresh advance against materials at site shall be considered against fresh certification given by the Engineer-in-charge.
- (c) The materials shall be insured by the Contractor against loss due to theft, damage, and other means.
- (d) For the Works costing more than Rs. 100 Lakhs, where CAR policy is available, no separate insurance is required for advance against material.
- (e) Payment in respect of materials collected at site will be authorized only by the OIC/ EIC certifying that: -
 - 1. Only non-perishable materials are considered for advance
 - 2. The materials have physically been brought to site and have not been incorporated in the Work. The stores are required for the Work
 - 3. They have been stored satisfactorily and are not likely to deteriorate in stock; and they have been valued at rates not higher than current market rates.(Note: For the purpose of evaluating the cost of the materials, the Contractor's bills towards the purchase of the materials will be compared with the derived rate of those materials from the item rates under the contract and 75% of the cost as per the bills or such derived rates whichever is less, will be considered for payment of materials advance.)
- (f) Purchase / Cash vouchers / Proforma of invoices / Test Certificates [wherever required as decided by OIC/EIC] shall be furnished by the Contractor.
- (g) In case the test certificates are not produced by the Contractor, laboratory test from a NABL accredited laboratory will be carried out by HAL for all major value material of contract to ensure the quality as per contract specifications/ standards before accepting the item. The necessary test charges will be borne by Contractor.
- (h) For material for which advances have been paid, the Contractor will be required to sign a letter of hypothecation of the material to HAL, to be valid for period between date of payment of advance and till the date of consumption of the material for the Works.
- (i) The Contractor shall be responsible for the safe custody of the materials and shall not remove them from the site without the prior written approval of the Engineer-in-charge.

II. MOBILIZATION ADVANCE

This clause will be operated for Works costing **Rs.500 Lakhs** and above

- (a) If considered justified in certain specialized and capital intensive Works, an interest-bearing mobilisation advance may be paid to the Contractor exclusively for the costs of mobilisation

up to 10 (ten) per cent of the contract price on the provision by the Contractor of an unconditional BG from Scheduled Bank. Such BGs shall remain effective until the advance payment has been fully repaid, but the amount thereof shall be progressively reduced by the amount repaid by the Contractor, as indicated in the interim payment certificates.

- (b) The aforesaid advance of 10 (ten) per cent may be paid in two instalments, each of five per cent. The first one may be paid on commencement of the Work and provision by the Contractor of the unconditional BG in respect of the advance. The second instalment may be paid on certification by the OIC/EIC of the Contractor having achieved a financial progress of 10 (ten) per cent of the contract price, as also provision of a BG by the Contractor for this part of the advance. Mobilisation Advance mentioned herein shall not include the margin money and bank commission, and so on, paid by the Contractor for procurement of BGs against mobilisation advance.
- (c) The Mobilization Advance shall be used by the Contractor exclusively for mobilisation expenditure including the acquisition of construction-related plant and equipment. Should the Contractor misappropriate any portion of the advance, it shall become due and payable immediately to HAL, and no further advance will be made to the Contractor thereafter. In such cases, the Contractor shall also be liable for appropriate action under the contract i.e, encashment of BG's. No advance shall be admissible on equipment purchased under a hire purchase scheme/financing arrangement or on hired equipment.
- (d) Contractor shall submit utilization certificate for the mobilization advance drawn. Mobilization advance will be given in two instalments and the second instalment will be released after getting satisfactory utilization certificate from the Contractor for the first instalment.
- (e) All terms applicable to BG against Performance Guarantee shall mutatis mutandis apply to BG against Mobilization Advance.

III. INTEREST & RECOVERY OF MOBILIZATION ADVANCE:

- (a) The Bank Guarantee taken towards security of "Mobilisation Advance" shall be at least 110% of the advance so as to enable recovery of not only principal amount but also the interest portion, if so required. (Any change in the rate of interest shall be stipulated in the Tender documents or as may be notified by the HAL from time to time and same shall be applicable.)
- (b) The Contractor shall furnish the Bank Guarantee in HAL's prescribed format (**Refer Annexure-E**) towards mobilization advance, inclusive of interest calculated considering the recovery schedule. However, part 'Bank Guarantees' (BGs) against the mobilization advance can be taken in as many numbers as the proposed recovery instalments and should be equivalent to the amount of each instalment.

- (c) The recovery of mobilization advance shall be recovered on monthly instalment basis. The instalments shall commence when 20% of the scheduled contract period has elapsed and fully recovered when 80% of the scheduled contract period is over (The month of start & completion of recovery of mobilization advance to be rounded off to nearest full month) and shall not be linked to progress of Work. The repayment of advances shall be done through proportionate percentage deductions from running bill (periodic/ interim payment)
- (d) The mobilization advance shall bear interest at SBI Marginal Cost of Funds based lending rate (MCLR) of interest as prevailing on the last date of tender submission. This shall be recovered by HAL from the Contractor together with the recovery of principal as and when it falls due as stipulated.
- (e) Any delay in recovery / refund of mobilization advance beyond stipulated period shall attract penal interest at 4% over and above SBI MCLR as considered above is payable by the Contractor to HAL. The rate of interest / penal interest shall undergo a change depending upon change in MCLR
- (f) The bank guarantees shall be valid up to the stipulated period of recovery / refund plus sixty days. The bank guarantee will be discharged on recovery of entire mobilization advance together with interest thereon.

CLAUSE 10C: PRICE VARIATION

This clause shall only be applied for the Works costing more than **Rs.100.00 Lakhs** with completion period of **18 months and above**. Further, in case where contract period is extended, price variation shall also be payable for extended period provided such extension is without levy of LD. However, this clause will not be applicable for renovation and periodic maintenance Works. **Further, this clause is not applicable for tenders where the original completion period is less than 18 months even if the work is extended beyond 18 months."**

- i. Under this clause, the amount payable to the Contractor shall be adjusted in respect of the rise or fall in the cost of labour, fuel and construction materials of the Work.
- ii. This clause is not intended to cover the full compensation for any rise or fall in costs to the Contractor which is presumed to be covered in the unit rates and prices included in the contract to cover the contingencies of such uncovered portion of rise or fall of costs.
- iii. The index [W1, F1, L1] shall be frozen as on the scheduled date of completion as mentioned in Work order whatsoever reason attributed for extension of time. In case the schedule date of completion is between first and fifteenth day of a particular month, the index of previous month is to be considered as frozen Index W1, F1, L1 However if the schedule date of completion is on 16th day of the month or thereafter, the index for that particular month shall be reckoned and if the index decreases during the extended period, same shall be considered for final settlement.

- iv. The index [W1, F1, L1] shall be determined based on the Average indices of all commodities for W1, average indices for Fuel & Power for F1 (Base =100 for the year 2011-12) for the period under reckoning as published by Economic Advisor to Govt. of India, Ministry of Industry & Commerce [<http://eaindstry.nic.in>] and L1 for labour all India Consumer Price Index Numbers for Unskilled adult mazdoor [base 2016=100] Issued by Ministry of Labour & Employment, Office of the Chief Labour Commissioner(C) New Delhi for CONSTRUCTION OR MAINTENANCE OF ROADS OR RUNWAYS OR IN BUILDING OPERATIONS or etc., by annually is available on website <http://labour.nic.in> under Minimum Wages in Mines and establishment falling under Govt. of India for the period of the Bill under consideration viz from date of pervious bill [date of commencement in case of first [bill] to date of current bills [date of virtual completion in case of final bill or any earlier cut-off date as fixed). In case the bill is prepared between first and fifteenth day of a particular month, the index of previous month is to be considered as W1, F1, L1. However, if the bill is prepared on 16th day of the month or thereafter, the index for that particular month shall be reckoned.
- v. Reimbursement / Refund on variation in price of Construction Materials:
- $$Vm = \{(60/100) (Rn - Rn-1) + Mn - Mn-1\} \{(W1-W0)/W0\}$$
- where
- Vm = Variation in price of materials [i.e. increase or decrease in the amount in rupees to be reimbursed or recovered]
- Rn = Gross value of Work done [Excluding advance on materials at site upto the period under reckoning]
- Rn-1 = Gross value of Work done [Excluding advance on materials at site considered in the bill prior to the period under reckoning]
- W1= Average all India Wholesale Price Index for all commodities (Base =100), 2011-12 for the period under reckoning as published by Economic Advisor to Govt. of India, Ministry of Industry & Commerce [<http://eaindstry.nic.in>] for the period of the Bill under consideration.
- Wo=All India Wholesale Price Index for all commodities on the last date for submission of tender [including extended date if any]
- Mn-1= Advance against materials at site above considered in the bill prior to the period under reckoning.
- vi. The adjustment on material is Worked out on the basis that material component in the building construction Work is 60% of the value of Work done, the rest being labour and profit. But in the initial stages of construction Work, it might so happen than the cost of materials used exceeds 60% which is taken as an average and therefore adjustment gets Worked out on negative side even though the economic index might have gone up. In such cases, the negative adjustment shall also have to be made in the bill.

Mn = Advance against materials at site [other than covered under above) considered in the bill under reckoning

- vii. Reimbursement / Refund on variation in prices of fuel Fuel cost component for the contract as a whole shall be taken KP% i.e. 1.5% of the of the value of the Work executed under the contract.

$$VF = \{[1.5x(R_n - R_{n-1})]/100\} \times [(F_1 - F_0)/F_0] \text{ Where}$$

VF = Variation in prices of fuel to be adjusted

F1= Whole sale price index for sub group for fuel & power [base2011-12= 100]published by economic adviser to Government of India.

FO= As for F1 but the index as on the last due date for receipt of tenders

- viii. Reimbursement / Refund on variation in prices of Labour

$$VL = \{[20x(R_n - R_{n-1})]/100\} \times [(L_1 - L_0)/L_0]$$

VL = Variation in price of labour i.e. increase or decreases in the amount in rupees to be reimbursed or recovered

L1 = Average all India Consumer Price Index Numbers for Workers – CPI(IW) [base 2016=100] declared by Labour Bureau, Govt of India for CONSTRUCTION OR

MAINTENANCE OF ROADS OR RUNWAYS OR IN BUILDING OPERATIONS etc. for unskilled adult mazdoor available on website <http://labour.nic.in> under Minimum Wages in Mines and establishment falling under Govt. of India **(Refer Annexure-D)**

Lo = All India consumer price index Numbers for Industrial Workers [base 2016= 100) ruling on the last date of submission of tender.

(If the last date of submission of tender is between 1st and 15th of any month, then previous month economic index is considered as Lo. However, if the last date of submission of tender is between 16th to end of the month, economic index of the same month is considered as Lo)

- ix. The following principles shall be followed while Working out the indices mentioned in above.

- (a) The compensation for escalation shall be worked out at quarterly intervals and shall be with respect to the cost of Work done as per bills paid during the three calendar months of the said quarter. The dates of preparation of bills as finally entered in the Measurement Book by the EIC/ date of submission of bill finally by the Contractor to the department in case of computerized measurement books shall be the guiding factor to decide the bills relevant to the quarterly interval. The first such payment shall be made at the end of three months after the month (excluding the month in which tender was accepted) and thereafter at three months' interval. At the time

of completion of the Work, the last period for payment might become less than 3 months, depending on the actual date of completion.

- (b) The index relevant to any quarter/period for which such compensation is paid shall be the arithmetical average of the indices relevant to the three calendar months. If the period up to date of completion after the quarter covered by the last such instalment of payment, is less than three months, the index shall be the average of the indices for the months falling within that period.
- (c) The Contractor shall within the reasonable time of his becoming aware of any alteration to the payment of wages of labour consequent on fixation of minimum wages under any law, statutory rule or order, give written notice thereof, to the EIC stating that the same is given pursuant to this condition together with all information relating thereto which he may be in a position to supply.

CLAUSE 10D: DISMANTLED MATERIAL, EXCAVATED MATERIAL AND TREASURES AS HAL PROPERTY

- i. The Contractor shall treat all materials obtained during dismantling of a structure as HAL's property and such materials shall be moved to HAL store/disposed of to the best advantage of HAL according to the instructions in writing issued by the Engineer-in-Charge. Materials obtained from demolition / dismantling Work shall remain with the Contractor at his own risk till such time the Contractor shift them to the HAL Stores. Should the Contractor fail to remove such dismantled materials to HAL stores within 10 days from the date of completion, the Engineer-in-Charge will be entitled to remove them at the risk and cost in all respects of the Contractor.
- ii. All gold, silver, oil and other materials of any descriptions and all precious stones, coins, treasures, relics, antiquities and other similar items which may be found in or upon the site shall be the property of the company. The Contractor shall duly preserve the same to the satisfaction of the Company and shall from time to time deliver the same to such person or persons as the Company may appoint to receive the same.

CLAUSE 11: WORK TO BE EXECUTED IN ACCORDANCE WITH SPECIFICATIONS, DRAWINGS, ORDERS ETC.

- i. The Works, the subject of the contract, specified and provided for, or that may be necessary to be done to form and complete any part thereof, shall be executed and completed in the best and most substantial manner, with materials of the best and most approved quality of their respective kinds, agreeable to the particulars contained in or implied by the specification, or as referred to and represented by the drawings and memorandum thereon/or as referred to by any of the said further drawings, instructions and directions, and shall be to the full satisfaction of the OIC/EIC.

- ii. The Contractor shall comply with the provisions of the contract and with the care and diligence execute and maintain the Works and provide all labour and materials, tools and plants including for measurements and supervision of all Works, structural plans and other things of temporary or permanent nature required for such execution and maintenance in so far as the necessity for providing these, is specified or is reasonably inferred from the contract. The Contractor shall take full responsibility for adequacy, suitability and safety of all the Works and methods of construction.
- iii. The OIC/EIC shall have full liberty at all reasonable times to inspect and examine the Works, materials and Workmanship which to him, may appear defective, unfit or improper for the several purposes to which they are applied, or intended to be applied, or not in accordance with the specifications of the said drawings, memoranda instructions or directions respectively and every such time reject any or all of such Works, materials and Workmanship.

CLAUSE 12: DEVIATIONS/ VARIATIONS EXTENT AND PRICING

HAL shall have power (i) to make alteration in, omissions from, additions to for the original specifications, drawings, designs and instructions that may appear to him to be necessary or advisable during the progress of the Work, and (ii) to omit a part of the Works in case of non-availability of a portion of the site or for any other reasons and the Contractor shall be bound to carry out the Works in accordance with any instructions given to him in writing signed by the OIC/EIC and such alterations, omissions, additions shall form part of the contract as if originally provided therein and any altered, additional which the Contractor may be directed to do in the manner specified above as part of the Works, shall be carried out by the Contractor on the same conditions in all respects.

12.1: DEVIATION LIMITS FOR PERCENTAGE RATE CONTRACT

Following limits of deviation is applicable for Percentage rate types of contract:

- (i) Below Rs 50.00 Lakhs (+/-)20% and
- (ii) Above Rs 50.00 Lakhs (+/-) 10%.

12.1.1 PRICING OF DEVIATIONS FOR PERCENTAGE RATE CONTRACT

- (a) In case of Extra / Non Tendered Items:-
 - a.1) Deviations will be priced at Schedule A [Bill of Quantities] rates where the item is already included in Schedule A [Bill of Quantities].
 - a.2) In respect of items not included in Price Bid but where items are found in the schedule items (CPWD Delhi Schedule of Rate items), these shall be paid as per the schedule rate plus cost index (at the time of tender) plus/minus percentage above/ below quoted contract amount.

- a.3) Where it is not possible to derive the rate from the schedule items (CPWD Delhi Schedule of Rates items), i.e. the item is not available in DSR, the same will be based on the material cost to the Contractor, which will include taxes if any etc., plus a profit of 10%. In this case Contractor has to produce satisfactory evidence in the form of cash vouchers GST Invoice as proof of expenditure. The material cost shall be based on cash vouchers and derivation for labour and other factors shall be done based on actual at site. In such cases the EIC/OIC will make an analysis of the rate payable to the Contractor based on actual and after satisfying himself of the reasonableness of the rate, shall give a certificate that “The Rate is checked for its Reasonableness”.

(b) Pricing of items beyond deviations limit:

Deviations ordered in respect of quantities in individual items shall not exceed (+/-) 50% of the quantity of that individual item. However, in case of exceeding this deviation limit, the items will be paid at market rates after deriving the same based on CPWD DAR format.

12.2: DEVIATION LIMITS FOR ITEM RATE CONTRACT

Following limits of deviation is applicable for item rate types of contract:

- (a) Lump sum contracts, based on drawings and specifications (also Design & Execution contracts) (+/-)10%
- (b) All other Works contracts
 - (i) Below Rs.50.00 Lakhs (+/-)20% and
 - (ii) above Rs.50.00 Lakhs (+/-) 10%.
- (c) Ordering of deviations is also subject to the following conditions:
 - 1) Deviations ordered in respect of quantities in individual items shall not exceed (+/-) 50% of the quantity of that individual item. However, in case of exceeding this deviation limit of non HFR items, the same shall be operated with the awarded rates for the completion of Work as per the contract without any extra claim.
 - 2) The value of additions of new items not already in the contract shall not exceed 50% of the deviation limit(for the total contract value) prescribed in contract. These items will be called Non Tendered Items and the rates for the same will be worked out as detailed in the subsequent para.
 - 3) The total value of Work including deviation and Non- tendered items shall not exceed the prescribed deviation limit as above.

12.2.1: PRICING OF ITEMS BEYOND DEVIATIONS LIMIT AND FOR FRESH NON TENDER ITEMS (I.E EXCLUDING HFR ITEMS EXCESS 20%)

Deviations are to be priced in accordance with the following provisions:

- (a) Deviations will be priced at Bill of Quantities rates where the item is already included in Bill of Quantities.
- (b) In respect of items not included in Bill of Quantities but where similar items are found in Bill of Quantities, rates derived directly from Bill of Quantities items where such a direct derivation is possible. If the Bill of Quantities rate is an HFR rate derivation will not be done from that rate and the other methods of pricing as detailed below shall be followed.
 - b.1) Where the rate cannot directly be derived from Bill of Quantities, the same will be worked out with reference to Bill of Quantities and standard schedule of rates on Pro. Rata Basis with percentage of application and above the same. Here also if the schedule rates are HFR rates, the same shall not be used for derivation
 - b.2) Where the above alternatives are not possible, the rate will be taken / derived from CPWD Delhi Standard Schedule of rates(DSR) with cost index considered being estimation and increased / decreased by the Contractor's percentage [Tender Percentage] for pricing of deviations as inserted in the contract.
 - b.3) Non Tendered Items shall not be derived from Freak Rates.
 - b.4) Where it is not possible to derive the rate from the CPWD DSR i.e. the item is not available in CPWD DSR, the same will be based on the material and labour cost to the Contractor, plus a profit of 10% on expenditures excluding GST and GST shall be considered on derived rate. In this case Contractor has to produce satisfactory evidence in the form of cash vouchers/Invoices as proof of expenditure/purchase. The material cost shall be based on cash vouchers/invoices and actual labour cost and other factors shall be considered to arrive at the total cost. In such cases the EIC/ OIC will make an analysis of the rate payable to the Contractor based on Engineering norms such as CPWD DAR and after satisfying himself of the reasonableness of the rate, shall give a certificate that "The Rate is checked for its Reasonableness".

12.2.2: PRICING OF DEVIATIONS FOR HIGH FREAK RATE (HFR) ITEMS

- (a) Deviation in HFR items upto 20% will be paid at quoted rate.
- (b) For deviation beyond 20% limit, item will be treated as Non-Tendered Item. Rate for the same will be worked out based on market rate and will be compared with quoted rate. Lowest among these rates will be paid only for the deviated quantity beyond 20%.
- (c) For working out market rates, details provided at above para 12.2.1 (b.4) shall be followed.

12.3: All deviation orders will be signed by the Contractor for their acceptance.

12.4: Amendment to the contract agreement as per the format at **Annexure-B** shall be executed for the FDO quantities which are beyond the total deviation limits.

CLAUSE 13: FORECLOSURE OF CONTRACT DUE TO ABANDONMENT OR REDUCTION IN SCOPE OF WORK

If any time after acceptance of the tender HAL decides to abandon or reduce the scope of Work for any reason whatsoever and hence not require the whole or any part of the Works to be carried out, the Officer-in-Charge shall give notice in writing to that effect to the Contractor. The compensation, if any payable for such foreclosure of Work will be discussed mutually between HAL and the Contractor and settled after taking into consideration the actual financial loss, if any, suffered by the Contractor on account of foreclosure of the contract, which in no case shall exceed 2% of cost of incomplete work on the date of closure. The Contractor shall have no claim to any payment of compensation or otherwise whatsoever on account of any loss of profit or advantage which he might have derived, but for the foreclosure of the whole or part of the Works or reduction in Scope of work. HAL shall have the option to take over the Contractor's materials or any part thereof, either brought to the site or for which the Contractor is legally bound to accept the delivery from the suppliers.

CLAUSE 14: CARRYING OUT PART WORK AT RISK & COST OF CONTRACTOR

If Contractor:

- i. At any time makes default during currency of Work or does not execute any part of the Work with due diligence and continues to do so even after a notice in writing of 7 Working days in this respect from the Officer-in-Charge; or
- ii. Commits default in complying with any of the terms and conditions of the contract and does not remedy it or takes effective steps to remedy it within 7 Working days even after a notice in writing is given in that behalf by the OIC/EIC; or Fails to complete the Work(s) or items of Work with individual dates of completion, on or before the date(s) so determined, and does not complete them within the period specified in the notice given in writing in that behalf by the OIC/EIC.
- iii. The Officer-in-Charge without invoking action under Clause-3 may, without prejudice to any other right or remedy against the Contractor which have either accrued or accrue thereafter to HAL, by a notice in writing to take the part Work / part incomplete Work of any item(s) out of his hands and shall have powers to:
 - (a) Take possession of the site and any materials, constructional plant, implements, stores, etc., thereon; and/or

- (b) Carry out the part Work / part incomplete Work of any item(s) by any means at the risk and cost of the Contractor.
- iv. HAL shall determine the amount, if any, recoverable from the Contractor for (a) non-completion of part of the Work or (b) for removal of any item(s) from the Contractor and got executed at the risk and cost of the Contractor, by third parties. HAL shall be entitled to recover such loss / damages from payments due to the Contractor. The liability of Contractor on account of loss or damage suffered by HAL because of action under this clause shall not exceed 10% of the tendered value of the Work.
- v. The certificate of the Engineer-in-Charge as to the value of Work done shall be final and conclusive against the Contractor provided always that action under this clause shall only be taken after giving notice in writing to the Contractor. Provided also that if the expenses incurred by the HAL are less than the amount payable to the Contractor at his agreement rates, the difference shall not be payable to the Contractor.
- vi. Any excess expenditure incurred or to be incurred by HAL in completing the part Work/ part incomplete Work of any item(s) or the excess loss of damages suffered or may be suffered by HAL as aforesaid after allowing such credit shall without prejudice to any other right or remedy available to HAL in law or as per agreement be recovered from any money due to the Contractor on any account, and if such money is insufficient, the Contractor shall be called upon in writing and shall be liable to pay the same within 30 days.
- vii. If the Contractor fails to pay the required sum as per this clause within the aforesaid period of 30 days, the Engineer-in-Charge shall have the right to sell any or all of the Contractors' unused materials, constructional plant, implements, temporary building at site etc. and adjust the proceeds of sale thereof towards the dues recoverable from the Contractor under the contract and if thereafter there remains any balance outstanding, it shall be recovered in accordance with the provisions of the contract. In the event of this action being adopted by the Officer-in-Charge, the Contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any engagements or made any advance on any account or with a view to the execution of the Work or the performance of the contract.

CLAUSE 15: SUSPENSION OF WORK

- i. The Contractor shall, on receipt of the order in writing of the Officer-in-Charge, (whose decision shall be final and binding on the Contractor) suspend the progress of the Works or any part thereof for such time and in such manner as the Officer-in-Charge may consider necessary so as not to cause any damage or injury to the Work already done or endanger the safety thereof for any of the following reasons:
 - (a) On account of any default on the part of the Contractor or;

- (b) For proper execution of the Works or part thereof for reasons other than the default of the Contractor; or
- (c) For safety of the Works or part thereof.

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

ii. If the suspension is ordered for reasons (b) and (c) in sub-para (i) above:

- (a) The Contractor shall be entitled to an extension of time equal to the period of every such suspension PLUS 25%, for completion of the item or group of items of Work for which a separate period of completion is specified in the contract and of which the suspended Work forms a part, and;
- (b) If the total period of all such suspensions in respect of an item or group of items or Work for which a separate period of completion is specified in the contract exceeds thirty days, the Contractor shall, in addition, be entitled to such compensation as the Officer-in- Charge may consider reasonable in respect of salaries and/or wages paid by the Contractor to his employees and labour at Site, remaining idle during the period of suspension, adding thereto 2% to cover indirect expenses of the Contractor provided the Contractor submits his claim supported by details to the Officer-in-Charge within fifteen days of the expiry of the period of 30 days.
- (c) If the Works or part thereof is suspended on the orders of the Officer-in-Charge for more than three months at a time, except when suspension is ordered for reason (a) in sub para (i) above, the Contractor may after receipt of such order serve a written notice on the Officer-in-Charge requiring permission within fifteen days from receipt by the Officer in- Charge of the said notice, to proceed with the Work or part thereof in regard to which progress has been suspended and if such permission is not granted within that time, the Contractor, if he intends to treat the suspension, where it affects only a part of the Works as an omission of such part by HAL or where it affects whole of the Works, as an abandonment of the Works by HAL, shall within ten days of expiry of such period of 15 days give notice in writing of his intention to the Officer-in-Charge. In the event of the Contractor treating the suspension as an abandonment of the contract by HAL, he shall have no claim to payment of any compensation on account of any profit or advantage which he might have derived from the execution of the Work in full but which he could not derive in consequence of the abandonment. He shall, however, be entitled to such compensation, as the Officer-in-Charge may consider reasonable, in respect of salaries and/or wages paid by him to his employees and labour at site, remaining idle in consequence adding to the total thereof 2% to cover indirect expenses of the Contractor provided the

Contractor submits his claim supported by details to the Officer-in-Charge within 30 days of the expiry of the period of 3 months.

- iii. Except under this provision, no other stoppage or other no-performance of work at Site shall constitute Suspension.

CLAUSE 16: ACTION IN CASE WORK NOT DONE AS PER SPECIFICATIONS

All Works under or in course of execution or executed in pursuance of the contract, shall at all times be open and accessible to the inspection and supervision of the Officer-in – charge or his authorized subordinates in charge of the Work and all the superior officers, or any organization engaged by the HAL for Quality Assurance and of the Chief Technical Examiner’s Office, and the Contractor shall, at all times, during the usual Working hours and at all other times at which reasonable notice of the visit of such officers has been given to the Contractor, either himself be present to receive orders and instructions or have a responsible agent duly accredited in writing, present for that purpose. Orders given to the Contractor’s agent shall be considered to have the same force as if they had been given to the Contractor himself. If it shall appear to the Officer-in-charge or his authorized subordinates in charge of the Work or his subordinate officers or the officers of the organization engaged by the HAL for Quality Assurance or to the Chief Technical Examiner or his subordinate officers, that any Work has been executed with unsound, imperfect, or unskilful Workmanship, or with materials or articles provided by him for the execution of the Work which are unsound or of a quality inferior to that contracted or otherwise not in accordance with the contract, the Contractor shall, on demand in writing which shall be made within twelve months of the completion of the Work from the Officer-in-Charge specifying the Work, materials or articles complained of notwithstanding that the same may have been passed, certified and paid for forthwith rectify, or remove and reconstruct the Work so specified in whole or in part, as the case may require or as the case may be, remove the materials or articles so specified and provide other proper and suitable materials or articles at his own charge and cost. In the event of the failing to do so within a period specified by the Officer-in- Charge in his demand aforesaid, then the Contractor shall be liable to pay compensation at the same rate as under LD Clause of the contract (for non-completion of the Work in time) for this default.

In such case the Officer-in-Charge may not accept the item of Work at the rates applicable under the contract but may accept such items at reduced rates as the authority specified in price bid may consider reasonable during the preparation of on account bills or final bill if the item is so acceptable without detriment to the safety and utility of the item and the structure or he may reject the Work outright without any payment and/or get it and other connected and incidental items rectified, or removed and re-executed at the risk and cost of the Contractor. Decision of the Officer-in-Charge to be conveyed in writing in respect of the same will be final and binding on the Contractor.

CLAUSE 17: CONTRACTOR LIABLE FOR DAMAGES, DEFECTS DURING DEFECT LIABILITY PERIOD

- i. If the Contractor or his working people or servants break, deface, injure or destroy any part of building in which they may be working, or any building, road, road kerb, fence, enclosure, water pipe, cables, drains, electric or telephone post or wires, trees, grass or grassland, or cultivated ground contiguous to the premises on which the Work or any part is being executed, or if any damage happens to the Work while in progress, from any cause whatever or if any defect, shrinkage or other faults appear in the Work within twelve months after a certificate final or otherwise of its completion shall have been given by the Officer in- Charge as aforesaid arising out of defect or improper materials or workmanship the Contractor shall upon receipt of a notice in writing on that behalf make the same good at his own expense or in default the Officer-in-Charge cause the same to be made good/ repaired/rectified by other workmen and deduct the expense from any sums that may be due or at any time thereafter may become due to the Contractor, or from his Retention Money. The Retention Money of the Contractor shall not be refunded before the expiry of twelve months from the actual date of completion indicated in the completion certificate or till the final bill has been prepared and passed whichever is later.
- ii. The materials as well as the workmanship and finish of the whole of the contract Works shall be best of their kind, and should any materials be brought upon the Site or on the land or property of the Company or on the places where any operations are being carried out in connection with the Works, which are in the judgement of the Officer- in- charge /Engineer in charge of an inferior description and improper to be used in the Works, the said materials shall be removed. All inferior workmanship or finish shall be amended by and at the cost of Contractor forthwith, or within such period or periods as the Officer- in- charge / Engineer in charge direct, and the Contractor shall pull down, amend and reconstruct any Work he may have erected upon an insufficient foundation, or that he may have insufficient cured and protected against immediate and further injury whether arising or likely to arise in the future from weight pressure, action of water or otherwise, on being required to do so by the Officer- in- charge/ Engineer in charge.

CLAUSE 17A: DEFECT LIABILITY DEPOSIT (DLD) AND DEFECT LIABILITY PERIOD (DLP)

- i. 5% of bill value shall be recovered from RAR Bills (which has been recovered in the form of Retention money) as a part of Security deposit and same will be treated as Defect Liability Deposit.(There will be no recovery of retention money for Works of routine maintenance/ Services in nature, Term contract Works & AMC)
- ii. Except for special nature/ item of Work where separate defect liability period or specific performance is mentioned in the tender document, the defect liability period is one (1) year

for all the Works from the date of completion as indicated in the completion certificate. During this period the Contractor will be responsible to rectify all the defects noticed and attributable to the Work done by Contractor.

- iii. If any defects are noticed during this period by HAL, it will be informed to the Contractor in writing to inspect and rectify the defects noticed. In case Contractor fails to attend the defects within a reasonable time as indicated in the intimation letter, OIC/EIC shall proceed ahead with rectification of defects at the risk & cost of the Contractor. The cost incurred by HAL towards rectification shall be recovered from the defaulting Contractor from the Defect Liability Deposit. If this money to be recovered is higher than the DLD, it will be recovered from any amount due to Contractor from any other contract in HAL or by any other means.
- iv. **Prior to completion of DLP**, to assess the defects, if any, representative of the Contractor along with OIC/EIC has to carry out a final joint inspection of the completed Works on the previous month to the end of DLP. Findings have to be recorded and certified and necessary corrective action to be taken up by the Contractor for rectification of identified defects if any. OIC/EIC will recommend for release of Defect liability deposit amount at the end of defect liability period or after rectification of defects whichever is later.
- v. In addition to conditions as above, DLD amount of the Work shall not be refunded till the Contractor produces a clearance certificate from the Labour Officer. As soon as the Work is virtually complete, the Contractor shall apply for the clearance certificate to the Labour Officer under intimation to the Engineer-in-Charge. The Engineer-in-Charge, on receipt of the said communication, shall write to the Labour Officer to intimate if any complaint is pending against the Contractor in respect of the Work. If no complaint is pending, on record till after 3 months after completion of the Work and/or no communication is received from the Labour Officer to this effect till six months after the date of completion, it will be deemed to have received the clearance certificate and the DLD amount will be released if otherwise due.
- vi. In case of Works of routine maintenance/ services in nature, terms contract & AMC Works, the security deposit submitted by the Contractors shall be refunded within one month from the date of final payment or within one month from the date of completion of the maintenance contract whichever is earlier

CLAUSE17B: DLD & DLP FOR SPECIAL NATURE OF WORKS

(The following clause is applicable only where the special nature of items of works are indicated in the Contract as a part of the Work).

DLP and DLD for special nature of items: For special nature / items of Works, the DLD period has been indicated in the BOQ items from actual date of completion of entire Work. 10% of executed amount for special nature / items of Work will be considered as defect liability deposit for such items of Work. This amount will be withheld for a period as specified in BOQ. A

guarantee on non-judicial stamp paper of Rs.200/- or as specified against an item in the BOQ has to be furnished by the Contractor along with the final bill.

CLAUSE 18:CONTRACTOR TO SUPPLY TOOLS & PLANTS ETC.

- i. The Contractor shall provide at his own cost all materials machinery, tools & plants as required for the Work and as specified by HAL in the tender. In addition to this, appliances, implements, other plants, ladders, cordage, tackle, scaffolding and temporary Works required for the proper execution of the Work, whether original, altered or substituted and whether included in the specifications or other documents forming part of the contract or referred to in these conditions or not, or which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-in-Charge as to any matter as to which under these conditions he is entitled to be satisfied, or which he is entitled to require together with carriage therefore to and from the Work. During currency of the contract it shall be the responsibility of the Contractor to safeguard all materials (tools, tackles, plant, equipment etc. either issued by HAL or brought by the Contractor), against all losses, damages, on account of thefts shortages, fire or any reasons whatsoever and HAL shall not be responsible for loss, damages etc. as aforesaid. The Contractor shall solely be responsible for protecting and securing such property.
- ii. No Company's plant, material or labour will ordinarily be lent or hired to the Contractor. Exceptional cases must have the prior approval of the company in writing.
- iii. All materials, tools, implements and other things brought by the Contractor upon the Company's Works shall thereupon become, and shall required to remain at the work site till completion of work or removed with the written permission of OIC/EIC and be considered in possession of the Company, the Contractor having only the right of using the same for the purpose of the contract. After the Works have been completed and all obligations under the contract duly fulfilled, the Company shall return to the Contractor the tools, implements and surplus or waste materials then remaining upon the company's Works to be removed by him forthwith and cleared away. Nevertheless the company shall not at any time be liable for the loss of any of the said materials, tools, implements or other things, but the whole of this liability shall fall upon the Contractor, the same as if they had remained in his possession.
- iv. The Contractor shall also supply without charge provide the requisite number of persons with the means and materials, necessary for the purpose of setting out Works, and counting, weighing and assisting the measurement for examination at any time and from time to time of the Work or materials. Failing his so doing, the same may be provided by the Engineer-in-Charge at the expense of the Contractor and the expenses may be deducted, from any money due to the Contractor, under this contract or otherwise and/or from his security deposit or the proceeds of sale thereof, or of a sufficient portions thereof.

- v. The Contractor shall observe, perform & comply with the requirements of all statutes & bye-law & shall also serve notices on the authorities having control of the road surfaces before the same are broken up & he shall likewise serve notice on the owners of sewers, drains, water, gas or other mains, electric cables & other things which may be in way affected by the execution of the contract Works.

CLAUSE 18A: RECOVERY OF COMPENSATION PAID TO WORKMEN

In every case in which by virtue of the provisions sub- section (1) of section 12 of the Employees Compensation Act, 1923, if HAL is obliged to pay compensation to a workman employed by the Contractor, in execution of the Works or any part thereof, HAL will recover from the Contractor, the amount of the compensation so paid; and without prejudice to the rights of the HAL under sub- section(2) of section 12 , of the said Act, HAL shall be at liberty to recover such amount or any part thereof by deducting it from the RAR bill payments or retention money or from any sum due by HAL to the Contractor whether under this contract or otherwise. HAL shall not be bound to contest any claim made against it under sub- section (1) of section 12, of the said Act, except on the written request of the Contractor and upon his giving to HAL full security for all costs for which HAL might become liable in consequence of contesting such claim.

CLAUSE 18B: ENSURING PAYMENT AND AMENITIES TO WORKERS IF CONTRACTOR FAILS

- i. Contractors are expected to have gone through Contract Labour (Regulation and Abolition) Act 1970 and Contract Labour (Regulation and Abolition) Rules before quoting for the tender, which interalia contain the following:
- (a) Safeguard the welfare and health of labourers.
 - (b) Ensuing timely payment of wages to the labourers by the Contractors.
 - (c) Provide Rest Rooms and Canteen Facility and First Aid Facility.
 - (d) Obtain Registration Certificates and License issue by the competent authority.

The Contractor shall duly comply with all the requirement of the all applicable Laws and Act as given at clause No. 19 or as applicable from time to time and shall keep HAL fully indemnified & harmless against any action or proceedings, costs of claims, loss or any liability arising against HAL at the instance of the Workmen employed by the Contractor, or of authorities under the respective Acts & against breach of any of the provision of the above said Acts.

- ii. In every case in which by virtue of the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, and of the Contract Labour (Regulation and Abolition) Central Rules, 1971, if HAL is obliged to pay any amounts of wages to a workman employed by the Contractor in execution of the Works, or to incur any expenditure in providing welfare and health amenities required to be provided under the above said Act and the rules under Clause 19H or under the Rules framed by Government from time to time for the protection

of health and sanitary arrangements for Workers employed by HAL Contractors, **HAL** will recover from the Contractor, the amount of wages so paid or the amount of expenditure so incurred; and without prejudice to the rights of the HAL under sub-section(2) of Section 20, and sub-section (4) of Section 21, of the Contract Labour (Regulation and Abolition) Act, 1970, HAL shall be at liberty to recover such amount or any part thereof by deducting it from the retention money or from any sum due by HAL to the Contractor whether under this contract or otherwise HAL shall not be bound to contest any claim made against it under sub- section (1) of Section 20, sub-section (4) of Section 21, of the said Act, except on the written request of the Contractor and upon his giving to the HAL full security for all costs for which HAL might become liable in contesting such claim.

CLAUSE 19: LABOUR LAWS TO BE COMPLIED BY THE CONTRACTOR

- i. The Contractor shall obtain a valid license under the Contract Labour (Regulation and Abolition) Act 1970, Contract Labour (Regulation and Abolition) Central Rules, 1971, and other applicable laws/rules before the commencement of the Work from Competent Authority within thirty days of issue of acceptance letter and submit to the Officer-in Charge / Engineer-in-charge. Contractor shall continue to have a valid license until the completion of the Work. The cost of obtaining license i.e. licence fee etc., shall be borne by the Contractor. Contractor shall not commence the Work without obtaining valid labour license. The Contractor shall also submit an Indemnity Bond (**Refer Annexure.G**) executed on a stamp paper of Rs.200/- indemnifying HAL against all the statutory requirement of the Labour Department.
- ii. The Contractor shall also comply with provisions of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
- iii. The Contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act, 1986.
- iv. 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(BOCW) Welfare Cess Act, 1996.Any failure to fulfil these requirements shall attract the penal provisions of this contract arising out of the resultant non-execution of the Work.

CLAUSE 19A: ENGAGEMENT OF LABOUR

The Contractor shall not employ any labour below the age of 18 years directly or through petty contractors or sub-contractors for execution of the Work.

CLAUSE 19B: PAYMENT OF WAGES

- i. The Contractor shall pay to labour employed by him either directly or through sub-contractors, wages not less than fair wages as per the direction issued by Chief labour

commissioner(C), Ministry of Labour & employment or the Contract Labour (Regulation and Abolition) Act, 1970 and the contract Labour (Regulation and Abolition) Central Rules, 1971, wherever applicable.

- ii. 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.
- iii. 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 direction issued by Chief Labour Commissioner(C), Ministry of Labour & employment from time to time in regard to payment of wages, wage period, deductions from wages recovery of wages not paid and deductions unauthorized made, maintenance of wage books or wage slips publication of scale of wage 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
- iv. The Contractor shall engage labour only on and during the hours of working day unless he obtains the prior written approval of the Engineer to do otherwise. If such approval is given no liability in respect of any excess cost arising there from shall be incurred by the HAL.
- v.
 - (a) The Engineer-in-Charge concerned shall have the right to deduct from the moneys due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers by reason of non-fulfilment 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/Rules/applicable laws.
 - (b) Under the provision of Minimum Wages (Central) Rules, 1950, 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.
 - (c) In the case of Union Territory of Delhi, however, as the all inclusive minimum daily wages fixed under Notification of the Delhi Administration No.F.12(162)MWO/ DAB/ 43884-91, dated 31-12-1979 as amended from time to time are inclusive of wages for the weekly day of rest, the question of extra payment for weekly holiday would not arise.

- v. The Contractor shall comply with the provisions of the Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees Liability Act, 1938, Employees Compensation Act, 1923, Industrial Disputes Act, 1947, Maternity Benefits Act, 1961, and the Contractor's Labour (Regulation and Abolition) Act 1970, or the modifications thereof or any other applicable laws and the rules made there under from time to time.
- vi. The Contractor shall indemnify and keep indemnified HAL against payments to be made under and for the observance of the laws aforesaid and as per the direction issued by Chief Labour Commissioner(C), Ministry of Labour & employment or any other authority without prejudice to his right to claim indemnity from his sub-contractors.
- vii. 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.
- viii. 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.
- ix. 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

CLAUSE 19C: SECURITY AND PROTECTION &WATCHMAN, LIGHTS ETC., TO BE PROVIDED BY THE CONTRACTOR:

- i. In respect of all labour directly or indirectly employed in the Work for the performance of the Contractor's part of this contract, the Contractor shall at his own expense arrange for the safety provisions as per Safety Code given in the tender. In case the Contractor fails to make arrangement and provide necessary facilities as aforesaid, he shall be liable to pay a penalty as decided by the PIC/OIC for each default and in addition, the Officer-in- Charge shall be at liberty to make arrangement and provide facilities as aforesaid and recover the costs incurred in that behalf from the Contractor.
- ii. The Contractor shall at his cost, provide any necessary temporary enclosures, gates, entrances etc., for the protection of the Work and materials and for altering and adopting same as may be required and removing at completion of the Works and making good all Works disturbed.
- iii. During inclement weather, the Contractor shall suspend concreting or plastering for such time as the Engineer- in-Charge may direct and shall protect such Work in course of execution from damage by approved measures.
- iv. Should the Work be suspended by reason of rain, strike, lockouts or any other cause, the Contractor shall at his cost take all precautions necessary for the protection of the Work and shall make good any damage arising from any of these causes.

- v. The Contractor shall at his expense cover up and protect from any cause, all new Work and supply all temporary doors protection to windows, and any other requisite protection for the whole Work executed, whether by himself or special tradesmen or sub-Contractors, and any damage caused must be made good by the Contractor at his own expense.
- vi. All fences, trees, shrubs, grass, lawn and other surfaces about the buildings or approaches thereto, which are required to be maintained are to be kept free from damage due to operations in connection with the Work, at Contractors expense, as directed by the OIC/EIC.
- vii. The Contractor shall at his own cost provide night watchmen at all parts of the Work where necessary or required by the Engineer. He shall also keep all open trenches, excavation or other dangerous places properly and sufficiently lighted between sunset and sunrise and shall provide and fix proper fencing, hoarding and temporary bridges to protect and assist the public traffic. The Contractor shall also at his own cost erect temporary fences on the site of Works where required by the Engineer.

CLAUSE 19D: SAFETY OF WORKERS & REPORTING OF ACCIDENT

The Contractor shall be responsible for safety of all employees/labour employed by him on Works, directly or through petty Contractors or sub- Contractors and shall report accidents, occurring on Works to the Engineer or the Engineer's representative, and shall make every arrangement to render all possible assistance and to provide prompt and proper medical attention.

In case of fatal accident, it will be Contractor's responsibility to report accident to police keeping the Engineer advised of the same. The compensation for affected Workers or their relatives shall be paid by the Contractor in such cases with utmost expedition in accordance with the **Employees's Compensation Act**

CLAUSE 19E: HEALTH AND SANITARY ARRANGEMENTS FOR WORKERS

- i. 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, at his cost provide adequate latrine accommodation and keep the same in a clean and sanitary condition to the satisfaction of the Public Health Authorities and shall cause such latrines and night soil to be cleared away whenever and shall make good all Works disturbed by these conveniences.
- ii. **Sanitation** - The Contractor(s) shall make arrangements for conservancy and sanitation in the labour camps according to the rules of the Local Public Health and Medical Authorities.
- iii. **Disposal of Excreta** - The Contractor(s) shall make necessary arrangements for the disposal of excreta from the latrines by trenching or incineration which shall be according to the requirements laid down by the Local Health Authorities. If trenching or incineration

is not allowed, the Contractor(s) shall make arrangements for the removal of the excreta through the Municipal Committee/authority and inform it about the number of labourers employed so that arrangements may be made by such Committee/authority for the removal of the excreta. All charges on this account shall be borne by the Contractor and paid direct by him to the Municipality/authority.

- iv. **Medical facilities at site:** The Contractor shall, at his own cost, provide first aid and medical facilities at site as may be prescribed by the OIC/EIC.
- v. **Use of Intoxicants:** The Contractor shall also ensure that no labour or employee is permitted to Work at the site in an intoxicated state or under the influence of any drugs or alcoholic drinks/beverages/substances (medicinal or otherwise) or any narcotic drugs or psychotropic substances.

CLAUSE 19F: ACTION IN CASE OF CONTRACTOR NOT FOLLOWING LABOUR LAWS

- i. 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 Labour (Regulation and Abolition) Act 1970, and the Contract Labour (R& A) Central Rules 1971, for the protection of health and sanitary arrangements for Work-people employed by the Contractor(s) (hereinafter referred as “the said Rules”) the Office-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 aforesaid, the Officer-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 expense and as per 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 erected 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 remodelled 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).
- ii. The Contractor(s) shall provide efficient arrangements for draining away sullage water so as to keep the camp neat and tidy.

- iii. The Contractor(s) shall make necessary arrangements for keeping the camp area sufficiently lighted to avoid accidents to the workers.
(For the purpose of this clause, Camp/Hut standard, relevant CPWD GCC standards will prevail unless otherwise specified in the tender document.)

CLAUSE 19G: LAND FOR TEMPORARY LABOUR SHED IN HAL PREMISES

No quarters/ Land shall be provided, free of cost, by the HAL for the accommodation of Contractor or any of his staff employed on Works. In case of availability of HAL vacant land for construction of temporary sheds for Contractor labour at site/near to site, same will be provided on chargeable basis based on request of Contractor after obtaining necessary approval from head of division, at his sole discretion and such terms and conditions as he may impose. Such provision of vacant land shall be purely on licence / permissive basis and no lease or other legal interest or right therein shall be deemed to have been created in favour of the Contractor or any third party. Prevailing/fixed monthly licence fee will be recovered from the RAR bills of the Contractor. In case of Contractor wishes to pay the monthly licence fee separately, same is acceptable in the form of DD drawn in favour of HAL. Further, if Contractor is in default in proceeding with the Work and action has been initiated as per Clause -3 of GCC, balance rent will be recovered from amount due to the Contractor at HAL. In such cases, Contractor has to clear the area and vacate the same within 15 days of notice served to the Contractor in this regard. If Contractor fails to clear out and vacate the site to HAL after the lapse of notice period, HAL will get site cleared at the risk & cost of Contractor. The provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 shall apply in this regard.

CLAUSE 19H: DISMISSAL OF CONTRACTOR PERSONNEL

- i. The Contractor shall on the request of the Engineer-in-Charge immediately dismiss from the Work any person/s employed there who may in the opinion of the Engineer-in-Charge be unsuitable or incompetent to conduct himself and such person shall not be employed or allowed on the Work without the permission of the Engineer- in-Charge and the persons so removed shall be replaced as soon as possible by competent substitutes. The Contractor shall forthwith comply with all such requirements.
- ii. In respect of maintenance/repair or renovation Works etc., where the labour have an easy access to the individual houses, the Contractor shall issue identity cards to the labourers, whether temporary or permanent and he shall be responsible for any untoward action on the part of such labour.

CLAUSE 19I: UNAUTHORIZED OCCUPATION OF BUILDING UNDER CONSTRUCTION

Any or all building/s or structure/s constructed shall always be deemed to be in the lawful possession of HAL and HAL shall have the unrestricted right to enter upon, inspect, etc., the site and the structure/s, subject to taking to all safety and precautionary measures (during construction). It shall be the responsibility of the Contractor to see that the building or structure under construction is not occupied by anybody unauthorized during or after the completion construction and that after completion all property of the Contractor is cleared there from. If such building though completed is occupied illegally or not cleared out fully, then the Engineer-in-Charge shall have the option to refuse to accept the said building/buildings in that position. Any delay in acceptance on this account will be treated as the delay in completion and for such delay, a levy upto 5% of tendered value of Work may be imposed by the OIC whose decision shall be final both with regard to the justification and quantum and be binding on the Contractor. However, OIC through a notice may require the Contractor to remove the illegal occupation or to clear it out, any time on or before construction and delivery.

CLAUSE 19J: EMPLOYMENT OF SKILLED/SEMI SKILLED WORKERS

The Contractor shall provide and employ on the Site only such personnel who are technically and otherwise sufficiently skilled and experienced in their respective fields and such foremen and supervisory staff as are competent to supervise the Work, as per the Contract requirements. The Contractor shall provide and employ skilled, semi-skilled and un-skilled labour as is necessary for proper and timely execution of the Work.

CLAUSE 19K: CONTRIBUTION OF EPF AND ESI

- i. Provident Fund Benefits to employees by or through contractors under Employees Provident Fund and Miscellaneous Provisions Act, 1952 and its amendments.

It is an express condition that the Contractor will comply with the provision of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and its amendments. or as revised and the scheme framed there under in respect of every person employed by him or in connection with the Work of the company.

- (a) The contribution of provident fund which is at present 12% or as revised shall be recovered from the wages of labourers by the Contractors and the Contractor, as an employer shall also have to contribute an equal amount and remit the same to PF authorities latest by 15th of every following month or as per Law.
- (b) It is also agreed to, that the company shall be entitled to recover (in case the Contractor fails to comply) from him or in any other manner all such sums and charges paid / payable or incurred by HAL in connection with the Provident Fund in respect of the Contractors workmen, such sums including employees contribution,

cost of administering the act or scheme, administrative expenses incurred by HAL in connection with the extension of the Provident Fund Benefits of such employees. For this purpose the Contractor shall furnish at the commencement of (each month) financial year the particulars of persons employed by him, lengths of services of such employees and the details of Provident Fund Benefits extended to them to HAL Accounts Department.

- ii. **Under the ESI Act 1948**, as amended from time to time the Contractor shall have to recover employees' monthly contributions from their wages and also the Contractor's as an employer shall contribute his monthly contribution as shown in the table below and remit the same to ESI authorities latest by 15th of the following month or as per Law.

- (a) The Contractor shall maintain Register showing the names, addresses and other particulars of the insured persons and also obtain ESI / Medical Identity Cards and distribute them to his labourers as employed by him.

Minimum daily wage of employee	Employees contribution (recoverable from Employee)	Employer's contribution	Total contribution (Employees & Employer's contribution)
As notified by Statutory Government Agency from time to time.	0.75% of the wages(Rounded off to higher rupee)	3.25% of the wages	4% of the wages

NOTE: The above are current rates as notified under ESI Act and subject to revision by the Government time to time.

- (b) The Company shall be entitled to recover from the Contractor (in case the Contractor fails to comply) all sums and charges paid / payable or incurred by HAL in connection with the Employees State Insurance contribution, in respect of the Contractor's Workmen such sums including their contribution, cost of administering the act and administrative expenses incurred by HAL etc., For this purpose the Contractor shall furnish to HAL at the commencement of each month the particulars of persons employed by the Contractor together with the length of service of such employees and the details of Provident Fund Benefits extended to them.

CLAUSE 19L: PENALTY FOR NON PAYMENT OF STATUTORY CONTRIBUTION LIKE ESI, PF, LABOUR LICENCE, ETC.

The Contribution such as ESI, PF etc., paid to the respective authorities to be made on or before 15th of every month or as prescribed in the act, otherwise interest or penalty charged by the respective authority on such payment is to be paid by the Contractor. If the authorities demand, such amount shall be recovered from the payment of Contractor which is due from HAL and remitted to the respective authorities.

CLAUSE 20: 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 from time to time.

CLAUSE 21: SUB-CONTRACTING

The Contractor shall not subcontract the whole of the works, except where otherwise provided in the Contract, the Contractor shall not sub-contract any part of the works without the prior consent of the PIC/OIC/EIC in writing. Any such consent shall not relieve the Contractor from any of his liability or obligation under the Contract and he shall always be primarily responsible for the acts, defaults and negligence of any sub-contractor, his representatives, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor.

- i. In case Contractor intends to sub-contract a specialized job (PEB, Structural glazing, water proofing, bitumen, aluminium Works, epoxy works, Cranes, HVAC works, Electrical works, Data & voice etc., as detailed under special conditions of contract) he shall submit a proposal in writing seeking permission of OIC for the same. While submitting the proposal to HAL, Contractor shall ensure the following:
 - (a) The sub-contractor shall have successfully completed at least one Work similar to work proposed for subcontract, costing not less than one work of 80% or two works of 50% or three works 40% value of Work to be sub-contracted, in last 5 years through a works contract,
 - (b) The sub-contractor shall have average annual turnover of which is more than 30% or above in last 3 financial years excluding the current financial year of the value of Work being subcontracted.
- ii. Provided that the Contractor shall not be required to obtain such consent for the following (Not considered as a subcontracting)
 - (a) Specific Work which need to be executed by OEM / Material supplier.
 - (b) The subcontracting of any part of the Works for which the sub-contractor is named in the contract.
 - (c) Equipment erection by the authorised representatives / Technical personal
- iii. Sub-contracting may be allowed for specialize items of Work, such as reinforced earth retaining walls, pre-stressing works, and so on. Procurement of material in accordance with the specifications/ standards specified in the Contract, hiring of equipment or engagement of labour, procurement of equipment specified in contract as per the terms and conditions of contract will not mean sub-contracting. The total value of subcontracted Work should

not exceed the percentage of the contract value. (Percentage if any indicated while inviting tender)

- v. All statutory requirements such as ESI, EPF, Labour License etc., should be in the name of the principal Contractor only. Any such consent shall not relieve the Contractor from any of his liability or obligation under the contract and he shall be responsible for the acts, defaults and neglects of any sub-contractor, his representative, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor.
- vi. Sub-contracting by the Contractor without the approval of the HAL shall be a breach of contract, unless explicitly permitted in the contract.

CLAUSE 22: AMOUNT PAID AS COMPENSATION

All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of HAL without reference to the actual loss or damage sustained and whether or not any damage shall have been sustained.

CLAUSE 23: CHANGES IN CONTRACTOR'S CONSTITUTION TO BE INTIMATED

Where the Contractor is a partnership firm or LLP or a company, the previous approval in writing of the Engineer-in-Charge shall be obtained before any change is made in the constitution thereof. Where the Contractor is an individual such approval as aforesaid shall likewise be obtained before the Contractor enters into any partnership or share holders' agreement where under the partnership firm or LLP or company would have the right to carry out the Works hereby undertaken by the Contractor. If previous approval as aforesaid is not obtained, the Contract shall automatically stand cancelled and suitable action may be taken and consequences shall ensue as provided in the Clause-3 and the applicable laws.

CLAUSE 24: LIFE CYCLE COST

The Contractor shall be responsible for safety, quality and soundness of the buildings including structural elements beyond maintenance period. The Contractor shall have obligation to rectify such defects minimum up to **5 (five) years** from the date of completion of Work. The defects have to be rectified within a reasonable time and in any event not exceeding forty-five days after issue of notice by OIC/Engineer- in-Charge. If Contractor does not take corrective action within 45 days, then action for debarring of the agency shall be taken by the PIC/OIC/EIC (This clause is not applicable for rectification of defects in building/facility/service due to usage)

CLAUSE 25: DISPUTE RESOLUTION MECHANISM

25A. AMICABLE SETTLEMENT

In the event of any dispute, difference or controversy of whatever nature, however arising under or out of or in relation to contract (including its interpretation), between the parties, either / any of

the parties to the Contracts shall give a 30 days written notice to the other/s, with all the details of the Dispute/s. On receipt of same, both parties (HAL & Contractor) shall use all reasonable endeavours to resolve the dispute mutually and amicably.

25B.CONCILIATION

1. If the parties are unable to resolve the Dispute amicably within 45 days of the receipt of the written notice as specified under sub-clause 25a, the aggrieved Party shall notify the other party in writing to refer the Dispute to Conciliation for its resolution.
2. Conciliation proceedings shall be conducted in accordance with the Part III of the Arbitration & Conciliation Act, 1996 or applicable law by a Conciliation Committee ('HAL Conciliation Committee' or 'HCC') comprising of three (3) independent members with expertise in the field of Engineering, Finance and Law. Provided, if the total value of the Dispute including claim and counter claim is less than 1crore, the HCC shall comprise of only one member with expertise in the field of Engineering.
3. CMD, HAL shall have the sole discretion to nominate the members of HCC;
4. Upon constitution of HCC which shall not be later than 14 days of the notification by the aggrieved party to refer the Dispute to Conciliation and before commencement of the Conciliation Proceedings, the members of HCC shall give a declaration of independence and impartiality to both the parties.
5. HCC shall conclude its proceedings in maximum 5 meetings, and give its recommendation within 90 days of its first meeting. In exceptional cases, the Parties and the HCC can agree for 2 further meetings.
6. The recommendations of HCC are non-binding and the parties may decide to accept (even with modifications) or reject the same. However, such acceptance or rejection of the recommendations of HCC shall be conveyed by the parties to each other as well the HCC within a period of 14 days from date of recommendations given by HCC.
7. In the event of the conciliation proceedings being successful, the parties to the dispute shall sign a settlement agreement duly authenticated by HCC within a period of 14 days from date of conveying acceptance of HCC's recommendations. Such settlement agreement would be binding on the parties in term of sections 73& 74 read with Section 30 of the Arbitration & Conciliation Act, 1996 / as amended from time to time.
8. Each member of the HCC shall be paid a fee of Rs. 20,000/- per meeting. However, in any circumstances, the total fee payable to the member(s) of HCC should not exceed 5% of the Dispute value, CMD HAL shall be the sole authority to review or revise the fee payable to members of HCC. Such fee shall be equally borne by both the parties. The Contractor shall deposit 50% of its share before the start of first meeting with HAL which shall be responsible for remitting the amounts to the member(s) of HCC.

9. The parties shall keep confidential all matters relating to the conciliation proceedings including:
 - (a) Minutes of HCC Meetings
 - (b) Recommendations of HCC
 - (c) Views expressed or suggestions made by the other party in respect of possible settlement of the dispute.
 - (d) Admissions made by the other party in the course of HCC Proceedings.
 - (e) Proposals made by the HCC.
 - (f) The fact that the other party had indicated his conciliation to accept a proposal for settlement made by HCC .
10. Parties shall not rely upon conciliation proceedings or proposals made therein as evidence in any forum/ arbitration / court proceedings whether or not such proceedings relate to the dispute that is subject of the conciliation proceedings.

25C.ARBITRATION

- i. In the event of failure of conciliation proceedings, the aggrieved party shall within 30 days of failure of the conciliation proceedings invoke this clause by giving a notice (Notice of Arbitration) to the other party specifying all the points of dispute with details of the amount to be referred to arbitration.
- ii. The dispute shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and the Rules of Arbitration Centre - Karnataka (Domestic and International), Bangalore by a single Arbitrator (in case the value of the claim, excluding interest is less than Rs.50crores) or a panel of three arbitrators (in case the value of the claim, excluding interest is more than Rs.50crores). The seat of Arbitration shall be at place from where Work was awarded.
- iii. **Arbitration in case of dispute or difference between HAL and any other Public Sector Enterprise or Govt department:**

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial Contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Department/Organisations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for its resolution through AMRCD (Administrative Mechanism for resolution of CPSU's disputes) as mentioned in DPE OM No. 05/0003/2019-FTS-10937 dated 14th December, 2022 and the decision of AMRCD on the said dispute will be binding on both the parties.

- iv. Parties agree that neither party shall be entitled for any pre-reference or pendente-lite interest and the Arbitral Tribunal shall have no right to award the same. It is further agreed

that no claim for loss of profit, loss of business opportunity, extended stay compensation, idling (except wherever permitted by the Contract) or losses on account of force majeure events can be made by the Contractor and the Arbitral Tribunal shall not be authorised to adjudicate any such claims.

- v. The parties agree that notwithstanding any dispute between them, each party shall proceed with the performance of its respective obligations, pending resolution of the Dispute in accordance with this clause.
- vi. The language of proceedings, documents or communications shall be in English.
- vii. The reasoned arbitral award shall be binding on the Parties and shall be final.

25D.JURISDICTION.

All disputes and differences arising out of or in connection with any matter under the contract shall be tried by courts situated at the place as specified in the contract agreement.

25e. Arbitrations Awards: In cases where the HAL has challenged an arbitral award and, as a result, the amount of the arbitral award has not been paid, 75% of the arbitral award (which may include interest up to date of the award) shall be paid by the HAL to the contractor/ concessionaire against a Bank Guarantee (BG). The BG shall only be for the said 75% of the arbitral award as above and not for the interest which may become payable to the HAL should the subsequent court order require refund of the said amount.

CLAUSE 26: CONTRACTOR TO INDEMNIFY HAL AGAINST PATENT RIGHTS

The Contractor shall fully indemnify HAL or the agent, servant, or employee of HAL against any action, claim or proceeding relating to infringement or the use of any patent or design rights or any other intellectual property rights, or any alleged patent or design rights or any other intellectual property rights and shall pay any royalties which may be payable in respect of any articles or part thereof included in the contract. In the event of any claims being made or, action brought against HAL or any agent, or servant or employee of HAL in respect of any of the matters aforesaid. The Contractor shall immediately be notified thereof for taking necessary action provided that payment of indemnity shall not apply when such infringement has taken place in complying with the specific directions issued by HAL in writing but the Contractor shall pay any royalties payable in respect of any such use.

CLAUSE 27: LUMP SUM PROVISIONS IN TENDER.

When the estimate on which a tender is made includes lump sum in respect of parts of the Work, the Contractor shall be entitled to payment in respect of the items of Work involved or the part of the Work in question at the same rates as are payable under this contract for such items, or if the part of the Work in question is not, in the opinion of the OIC/EIC payable of measurement, the OIC/EIC may at his discretion pay the lump-sum amount entered in the estimate, and the

certificate in writing of the OIC/EIC shall be final and conclusive against the Contractor with regard to any sum or sums payable to him under the provisions of the clause.

CLAUSE 28 : ACTION WHERE NO SPECIFICATIONS ARE SPECIFIED

In the case of any class of Work for which there is no such specifications as referred to in Clause 11, such Work shall be carried out in accordance with the Bureau of Indian Standards Specifications. In case there are no such specifications in Bureau of Indian Standards, the Work shall be carried out as per manufacturers' specifications. In case there are no such specifications as required above, the Work shall be carried out in all respects in accordance with the instructions and requirements of the PIC/OIC/EIC.

CLAUSE 29 : WITHHOLDING AND LIEN IN RESPECT OF SUM DUE FROM CONTRACTOR

- i. Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the Contractor, HAL shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the Contractor and for the purpose aforesaid, HAL shall be entitled to withhold the said Retention money or the entire security deposit if any, furnished as the case may be and also have a lien over the same pending finalization or adjudication of any such claim.
- ii. In the event of the security deposit being insufficient to cover the claimed amount or amounts or if no security deposit has been taken from the Contractor, HAL shall be entitled to withhold and have a lien to the extent of the such claimed amount or amounts referred to above, from any sum or sums found payable or which at any time thereafter may become payable to the Contractor under the same contract or any other contract with HAL pending finalization or adjudication of any such claim.
- iii. It is an agreed term of the contract that the sum of money or moneys so withheld or retained under the lien referred to above, by the HAL will be kept withheld or retained as such by the HAL till the claim arising out of or under the contract is determined by the conciliation, arbitrator (if the contract governed by the Arbitration Clause) or by the competent court as the case may be and that the Contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the Contractor.
- iv. For the purpose of this clause, where the Contractor is a partnership firm, LLP company or a consortium (if applicable) including a company, HAL shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner / company, as the case may be whether in his individual capacity or otherwise.

CLAUSE 29A: LIEN IN RESPECT OF CLAIMS IN OTHER CONTRACTS

Any sum of money due and payable to the Contractor (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the OIC/ EIC against any claim of HAL in respect of payment of a sum of money arising out of or under any other contract entered into by the Contractor with HAL..It is an agreed term of the contract that the sum of money so withheld or retained under this clause by the OIC/EIC will be kept withheld or retained as such by the OIC/EIC till HAL's claim arising out of the same contract or any other contract is either mutually settled or determined by means of dispute resolution as provided for in the applicable contract, as the case may be and that the Contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the Contractor.

CLAUSE 29B: TECHNICAL EXAMINATIONS AND OVER PAYMENTS / UNDER PAYMENTS

- i. The Company reserves the right to carry out post-payment audit and technical examination of the RAR Bills/ Final Bill including all supporting vouchers, abstracts, etc. The Company further reserves the right to enforce recovery of any overpayment when detected, notwithstanding the fact that the same matters are subject matter of pending arbitration/ conciliation proceedings. In such event, if the Contractor does not voluntarily agree/admit such recoveries, HAL shall be at full liberty to make such amendments, etc. to its pleading in the arbitration proceedings, irrespective of the stage thereof.
- ii. If as a result of such audit and technical examination any overpayment 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 Company from the Contractor or if any underpayment is discovered, the amount shall be duly paid to the Contractor by the Company without any interest thereon whatsoever.

CLAUSE 30: WATER FOR WORKS

- i. Contractor should make their own arrangements for supply of water. Water if available only will be supplied by the HAL and the Contractor shall be charged for the quantity of water consumed by him at commercial tariff of the respective area or as indicated in the tender document. The Contractor shall make his own arrangements to tap and store water from the point indicated by the water supply section. The Contractor should also provide a meter. In case the meter is not provided or the meter goes out of order, the assessment of water consumption will be based on Rs.20/- per thousand rupees value of Work done priced only in respect of such items where the consumption of water is involved.
- ii. Further, Contractor may dig borewell with the prior written approval of HAL at his cost. In this case, no recovery shall be made for the water used. On completion of the Work,

borewell may be handed over to HAL along with accessories on as is where basis without any claim for the borewell expenses incurred by the Contractor. The Contractor shall obtain all statutory approvals and all statutory payments shall be borne by the Contractor. The quality of the water from the borewell shall be tested by the Contractor by bearing all the costs and water will be permitted to be utilized only after meeting the relevant standards and on approval of OIC/EIC.

CLAUSE 31: ELECTRICITY FOR WORKS

The LT power supply if available at the project site, shall have to be tapped off by the Contractor from the tap off point indicated to him by the HAL authorities at his own cost. The Contractor has to lay the cables, provide required joints and terminate to their power supply board which consists of suitable rating energy meter, safety devices like MCB / MCCB / ELCB etc., for control and distribution. The energy will be supplied on chargeable basis based on the prevailing norms set by Electric Supply Company /Board of the respective areas towards temporary power connection for construction purpose. The supply shall not be given unless the temporary electric installation is certified as safe by the EIC/OIC. However, no claim for extension of Work shall be entertained on account of non-availability of power by HAL. The Contractor thus shall have his own back-up arrangement for such circumstances. In case power supply is not available at the project site, the agency shall arrange the same without any extra claims on this account. In case the energy meter is not provided or the energy meter goes out of order, the assessment of electricity consumption will be based on prevailing tariff of the respective city/state.

CLAUSE 32: EMPLOYMENT OF TECHNICAL STAFF AND EMPLOYEES

- i. The Contractor shall either himself supervise the execution of the contract or shall appoint competent and experienced engineers on his own for supervision of the Work. Where the Contractor is not a qualified engineer or even if he is so qualified but in the opinion of the OIC/EIC, cannot give full attention to the Works, the Contractor shall at his own expense employ adequate engineers to supervise the Work and to receive instructions from the Officer-in-Charge. The following shall be the minimum number of engineers to be employed for the contract:

Cost of Work (Rs. In Crores)	Requirement of Technical		Minimum experience (Years)	Designation Technical staff	Rate at which recovery shall be made from the Contractor in the event of not fulfilling
	Qualification	Number (of Civil + E&M component)			
More than 100	Graduate Engineer (Major Component)	1	20 (and having experience of one similar nature of Work)	Project Manager with degree in major discipline of Engineering	Rs. 60,000/- per month
	Graduate Engineer	2+1	12 (and having experience of one similar nature of Work)	Deputy Project Manager	Rs. 40,000/- per Month per person
	Graduate Engineer or Diploma Engineer	4+2	5 or 10 respectively	Project / Site Engineer	Rs. 25,000/- per month per person
	Graduate Engineer	1+1	8	Quality Engineer	Rs. 25,000/- per month per person
	Diploma Engineer	1	8	Surveyor	Rs. 20000/- per month per person
	Graduate Engineer	1+1	6	Project Planning/ billing	Rs. 20000/- per month per person
More than 50 to 100	Graduate Engineer	1	20 (and having experience of one similar nature of Work)	Project Manager	Rs. 60,000/- per month
	Graduate Engineer	1+1	12 (and having experience of one similar nature of Work)	Deputy Project Manager	Rs. 40,000/- per Month per person
	Graduate Engineer or Diploma Engineer	1+1	5 or 10 respectively	Project/ Site Engineer	Rs. 25,000/- per month per person
	Graduate Engineer	1+1	8	Quality Engineer	Rs. 25,000/- per month
	Diploma Engineer	1	8	Surveyor	Rs. 15000/- per month
	Graduate Engineer	1+1	6	Project Planning/ billing Engineer	Rs. 20000/- per month per person
More than 20 to 50	Graduate Engineer	1	20 (and having experience of one similar nature of Work)	Project Manager	Rs. 60,000/- per month
	Graduate Engineer	1	12 (and having experience of one similar nature of Work)	Deputy Project Manager	Rs. 40,000/- per Month per person

Cost of Work (Rs. In Crores)	Requirement of Technical		Minimum experience (Years)	Designation Technical staff	Rate at which recovery shall be made from the Contractor in the event of not fulfilling
	Qualification	Number (of Civil + E&M component)			
More than 20 to 50	Graduate Engineer or Diploma Engineer	1+1	5 or 10 respectively	Project/ Site Engineer	Rs. 25,000/- per month per person
	Graduate Engineer or Diploma Engineer	1+1	2 or 5 respectively	Project Planning / quality/ billing Engineer	Rs. 20,000/- per month per person
More than 10 to 20	Graduate Engineer	1	10 (and having experience of one similar nature of Work)	Project Manager	Rs. 30,000/- per month
	Graduate Engineer or Diploma Engineer	1	5 or 10 respectively	Project/ Site Engineer	Rs. 25,000/- per month
	Graduate Engineer or Diploma Engineer	1+1	2 or 5 respectively	Planning / quality/ billing Engineer	Rs. 20,000/- per month per person
	Graduate Engineer or Diploma Engineer	1+1	2 or 5 respectively	Project Planning / quality/ billing Engineer	Rs. 20,000/- per month per person
	Graduate Engineer Graduate Engineer or Diploma Engineer	1 1+1	3 (and having experience of one similar nature of Work) 2 or 5 respectively	Project Manager Project Planning / quality/ billing Engineer	Rs. 25,000/- per month Rs. 15,000/- per month per person
More than 1.5 to 5	Graduate Engineer or Diploma Engineer	1+1	2 or 5 respectively	Project Manager cum planning/ quality/ Site/billing Engineer	Rs. 15,000/- per month per person
More than 15 lacto 1.5Crore	Graduate Engineer or Diploma Engineer	1 of major component	2 or 5 respectively	Project Manager cum planning/ quality/ Site/billing Engineer	Rs. 20,000/- per month per person
Less than 15 Lac	Diploma Holder Civil/Electrical Engineering	1	min. of 6 months experience in Work of the nature contracted or a person with 2years experience in supervising of Civil or Electrical Works	Site Engineer	Rs. 15,000/- per month per person

- ii. On acceptance of the tender, the Contractor shall furnish within 14 days to OIC/EIC for his approval, site set up with list of engineers, supervisors and other staff to be employed by him with their date of joining, along with proof of their respective qualifications and bio-data.
- iii. Non- deployment or less qualified staff deployed by a Contractor is a serious breach of terms of contract. Therefore, for the first time Contractor shall be warned in writing and necessary recoveries as per the rate mentioned in the table above shall be affected.. Notwithstanding the above and the recovery that may be made by HAL, the Contractor shall always be required to deploy adequate trained personnel, at all times during the pendency of the Contract.

CLAUSE 33: LEVY/TAXES PAYABLE BY CONTRACTOR

- i. Unless specifically mentioned other-wise elsewhere in the Contract, all rates quoted in the Bill of Quantities;
 - (a) Shall be deemed to be inclusive of all types of taxes, duties levies, fees and charges etc., imposed by Central/State Govt. and local bodies Compensation Cess, Labour Cess, Custom Duty, royalties and other levies. It shall also include all other costs including loading, un-loading, insurance, transportation, testing and certification expenses **except GST**.
 - (b) GST at prevailing percentage is added in the BOQ at the end or as specified in the BOQ.
 - (c) Payment of GST on Works Contract is the entire responsibility of the Contractor. Contractor shall be entitled for reimbursement of GST paid, upon submission of GST Invoice and GST Challan for having paid the same to the Department
- ii. The following Acts to be referred hereunder and elsewhere in the tender document as “GST”:
 - (a) Central Goods & Services Tax Act 2017 (CGST),
 - (b) Integrated Goods & Services Tax Act, 2017 (IGST),
 - (c) Union Territories Goods and Services Tax Act, 2017 (UTGST),
 - (d) Goods and Services Tax (Compensation to States) Act, 2017 (Compensation Act),
 - (e) Karnataka Goods & Service Tax Act 2017 or applicable State’s GST Acts,
 - (f) Any other statutory regulation passed by the Central / State Government/s on Goods & Service Tax.
 - (g) Any other tax levied by any statutory authority in addition to Goods and service tax and charged in the Tax Invoice raised by the Contractor.

- iii. Tenderer warrants having valid registration under applicable GST. A copy of the registration certificate should be submitted along with the offer.
- iv. Contractor's right to getting payment is subject to submission of a Valid Tax Invoice which would enable the Service Recipient (HAL) to claim Input Tax Credit in compliance with the provisions of the GST. Tax Invoice submitted by the Contractor shall mention the SAC/ HSN Code as applicable, Basic Price, applicable GST Rate and amount and all other essential information required to be mentioned as per the provisions of GST Rules, 2017.
- v. Contractor shall warrant the value that is attributable to GST and the corresponding rate of tax that is chargeable is included in the total price charged in the Tax Invoice. The total amount as per the Tax Invoice shall be considered as the final price inclusive of GST and no claim for payments, whether or not, for only taxes or a price inclusive of taxes, shall be admitted at a later stage on any ground whatsoever.
- vi. Any tax in the nature of Goods & Service Tax (GST) would be payable, when the invoice submitted by the Contractor is compliant with the provisions of GST law and contains all particulars as per statute.
- vii. In case there is an upward revision in the applicable rate of tax (GST) post submission of bid, the Contractor shall submit a copy of the relevant statute/notification evidencing change of applicable rates for claiming payment from HAL as per revised GST rates. Similarly if there is downward revision of applicable tax rate post submission of bid, the benefit of lower tax liability shall be passed on to HAL.
- viii. Contractor also warrants to duly comply all relevant provisions of the GST Laws including filing returns, paying taxes within the stipulated period so that no hindrance can be faced by HAL to claim Input Tax Credit as per provisions of the GST Law.
- ix. Contractor shall fully indemnify to Service Recipient (HAL) on first demand against any claims, liabilities, actions, demands, Loss, costs and expenses occurred/imposed to the Service Recipient (HAL) on account of his failure to fully/partially discharge the statutory levies in time, or his failure in adherence of the applicable laws in force. For any such non-compliance, HAL reserves the right to withhold the payment until appropriate action are taken in a mutually agreeable manner.

CLAUSE 34: TERMINATION OF CONTRACT ON DEATH OF CONTRACTOR

Without prejudice to any of the rights or remedies under the contract, if the Contractor (being an individual, or in case of a Firm or LLP, its partner/s) dies or attains legal disability, HAL shall have the option of terminating the contract without any compensation to the Contractor. HAL shall have the right to get the Work completed by itself, or through any other Contractors or agency.

CLAUSE 35: IF A RELATIVE/SIS WORKING IN HAL THEN A PERSON/S SHALL NOT BE ALLOWED TO TENDER

A Bidder or Tenderer shall not be permitted to tender for Works in the Division of HAL responsible for award and execution of Works in which his near relative is posted as an officer in any capacity. He shall also intimate the names of persons who are working with him in any capacity or are subsequently employed by him and who are near relatives to any Officer in the HAL. Any breach of this condition by the Bidder/Tenderer would render him liable to be removed from the approved list of vendors of HAL/and shall be debarred from tendering in HAL for any breach of this condition.

NOTE: By the term “near relatives” means wife, husband, parents and grandparents, children and grand-children, brothers and sisters, uncles, aunts and cousins and their corresponding in-laws.

CLAUSE 36: THEORETICAL CONSUMPTION OF MATERIAL

- i. After completion of the Work and also at any intermediate stage in the event of Non reconciliation of materials issued theoretical quantity of materials used in the Work shall be calculated on the basis and method given hereunder:-
 - (a) Quantity of cement & bitumen shall be calculated on the basis of quantity of cement & bitumen required for different items of Work as shown in the BOQ mentioned in tender document. In case any item is executed for which standard constants for the consumption of cement or bitumen are not available in the above mentioned schedule/statement or cannot be derived from the same shall be calculated on the basis of standard formula to be laid down by the OIC/EIC.
 - (b) Theoretical quantity of steel reinforcement or structural steel sections shall be taken as the quantity required as per design or as authorized by OIC/EIC, including authorized lappages, chairs etc, plus 3% wastage due to cutting into pieces, such theoretical quantity being determined and compared with the actual, each diameter wise, section wise and category wise separately.
 - (c) Theoretical quantity of G.I. & C.I. or other pipes, conduits, wires and cables, pig lead and G.I./M.S. sheets shall be taken as quantity actually required and measured plus 5% for wastage due to cutting into pieces (except in the case of G.I./M.S. sheets it shall be 10%), such determination & comparison being made diameter wise & category wise.
 - (d) For any other material as per actual requirements, the decision of the PIC/OIC regarding theoretical quantities of materials which should have been actually used shall be final and binding on the Contractor.

- ii. The said action under this clause is without prejudice to the right of the HAL to take action against the Contractor under any other conditions of contract for not doing the Work according to the prescribed specifications.

CLAUSE 37: FORCE MAJEURE ('FM')

- i. Force Majeure means and includes conditions or events beyond control of either parties (HAL & Contractor) like war, fighting, acts of public enemy, civil commotion, sabotage, serious loss or damage by fire, floods, explosions, epidemics, pandemics, strikes, lockouts (and not attributable to the Contractor) or acts of God.
- ii. Delays in performance of contractual obligations under influence of FM conditions are condonable by the other party without any right to termination or damages, provided, notice of the happening of any such event is given by the affected party to the other within 15 (fifteen) days from the date of occurrence. Works under the contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist. However, if such event continues for a period exceeding 120 days, either party may at its option terminate the contract by giving notice to the other party.
- iii. Neither party by reason of such event be entitled to terminate the contract or have claim for damages against the other in respect of such non-performance or delay in performance, if not covered under insurance.
- iv. The obligations under the contract shall be resumed as soon as practicable after the event has come to an end or ceased to exist.
- v. In case of doubt or dispute, whether a particular occurrence should be considered an "event" as defined under this, clause the decision of the OIC shall be final and binding.
- vi. If the Contract is foreclosed under this clause, the Contractor shall be paid fully only for the quantity of work executed thus far, along with accepted measurements, under the Contract, but not for any defective Work or Work done which has been destroyed or damaged before its measurement. The OIC/EIC shall have the option to take over any plant and material lying at site, at rates provided for in the contract, failing that, as per rates which are determined to be fair and reasonable by the OIC/EIC.
- vii. If no notice is issued by either party regarding the event within 15 days of occurrence, the said event shall be deemed not to have occurred and the contract will continue to have effect as such.

CLAUSE 38: APPRENTICES ACT PROVISIONS TO BE COMPLIED WITH

The Contractor shall, during the currency of the contract, when called upon by the Engineer-in-Charge, engage and also ensure engagement by sub-contractors and other employed by the Contractors in connection with the Works such numbers of apprentices in the designated trades as prescribed by the Central Government and for such period as may be required by

the Engineer-in-Charge. The Contractor shall train them as required under the Apprentices Act, 1961 and the rules made there and shall be responsible for all obligations of the employer under the said act including the liability to make payment(s) to apprentices as required under the said act.

CLAUSE 39: QUOTED RATE TO REMAIN FIRM THROUGHOUT THE CONTRACT

- i. The rates as per the accepted Bill of Quantities shall be firm and hold good till the completion of the works, and no additional claim or amount shall be admissible on account of fluctuations in market rates, increase in fees royalties unless specifically provided for in the Contract, under any circumstances. Hence, the Contractor shall agree not to petition or claim for revision of rates tendered by him under any circumstances or at any stage of the Work, either during execution or at the time when the Final Bills are settled.
- ii. Price variation shall be allowed, only if applicable, as per the Contract.

CLAUSE 40: UNDERSTANDING OF SITE CONDITION

The Contractor shall fully satisfy himself or shall be deemed to have fully satisfied himself as to the nature of the Site, the soil, sub-soil, natural and man-made surroundings, existing structures (if any) at Site or in the vicinity, weather conditions, requirements, availability of resources, third party claimants or occupants (if any), the dimensions, levels, layout, character and nature of all roads, existing drains, sewers, electricity, water, gas or other mains, electric cables and other things as regards any connection they may have with the works of the subject of the Contract. The Contractor shall also inspect the site works and surroundings, the means of access thereto. Contractor shall generally obtain his own information on all matters concerning the Site and works to be executed thereon and of all matter and things which may in any way influence his Tender or the works. No claims for extra works, delay due to site conditions or otherwise will be allowed in consequence of any misunderstanding, error, incorrect information on these points, or if any other inaccuracies in reference thereto, which may appear on the drawings or in the specification nor shall the contract be nullified in consequence of any such misunderstanding, error, incorrect information or inaccuracies.

CLAUSE 41: INSURANCE

- i. All other insurances, as applicable, apart from CAR shall be arranged by Contractor from insurance companies duly approved by IRDA, as agreed by EIC in the name of HAL and shall be for the full value of the Contract sum. The Contractor shall lodge with the HAL the policies and receipts of the premium for such insurance and shall maintain such policies in force until the entire completion of the Work as certified by the Engineer- in-Charge.
- ii. Contractor shall provide for adequate cover to his employees as per provisions of Employees's Compensation Act.

CLAUSE 42: INDEMNIFICATION

Indemnity against all actions of Contractor:

The Contractor shall hold and save harmless and indemnify HAL and its employees, from all actions, suits, proceedings, loss, costs, damages, charges, claims and demands of every nature and description brought against or recovered from HAL and their employees by reason of any act, deed, omission or commission of the Contractor and/or his representative and/or his Employees and/or his sub-contractors in the execution of the works under the Contract. All the sums payable by HAL by way of compensation to any third party/ies, under any of these conditions, shall be recovered from the dues of the Contractor, without reference to the actual loss or damage sustained, and whether or not any damage shall have been sustained.

CLAUSE 43: CAR POLICY

- i. The Contractor's All Risk (CAR) policy (Applicable for value of Work costing more than Rs100 Lakhs) shall be taken for the risk to commence from the date of actual commencement of Work as per Work Order for the Contract Sum till actual completion of Work against fire, Lightning, explosion, impact, flood, inundation, storm, earthquake, subsidence, landslide, theft, burglary, riot and strike, civil war and terrorist damage. The policy compensates individual against death, loss of limbs, loss of eyesight, permanent total disablement, permanent partial disablement and temporary total disablement, solely and directly resulting from accidental injuries. Any item not covered under above policy shall be the responsibility of Contractor. The policies of the Contractor shall remain in force throughout the period of execution of the works except for any specific insurance covers necessary for a shorter period.

Before commencing the Work, it shall be obligatory for the Contractor to obtain, at his own cost, insurance cover in the joint name of the Contractor and HAL under the following requirements.

- ii. Liability for death or injury to any person or loss to any property (other than the Work) arisen out the performance of the Contract.
- iii. Construction plant, Machinery and Equipment brought to site by the Contractor Any other insurance cover as may be required by the law of the land like Workmen Insurance etc. with Insurance Company approved by the PIC/OIC.
- iv. In case of such loss or damage as aforesaid, the money payable under any such insurance shall be received by HAL. This will be subject to:-
 - (a) Risk covered.
 - (b) Claims on realization shall be passed to the Contractor according to value of the claims accepted by the insurance company for his damaged portion of Work after deducting 15% towards services rendered by the HAL for processing the claim(s). The

amount so disbursed to the Contractor(s) shall be limited to the amount calculated on the basis of his accepted rates in the contract with the HAL.

- (c) The Contractor shall also obtain any additional insurance cover as per the requirement of the contract in the event of his contract not having been previously cancelled under contract conditions.
 - (d) Such insurance shall be one in respect of all works, unless otherwise expressly specified in the tender conditions.
- v. If the Contractor fails to effect or keep in force or provide adequate cover as acceptance to the Engineer-in- Charge in the insurance policies mentioned above, then in such cases, the Engineer-in-Charge may effect and keep in force any such insurance or further insurance on behalf of the Contractor. The recovery shall be made at the rate of 1.5 times the premium /premiums paid by the EIC in this regard from the payment due to the Contractor or from the Contractor's performance security. However, the Contractor shall not be absolved from his responsibility and / or liability in this regard.

CLAUSE 44: MATERIAL SUPPLIED BY HAL

i. **Materials to be supplied by the HAL:**

After the acceptance of tender, the Contractor shall make request in writing to the OIC/EIC for the materials to be supplied by the HAL (if applicable), if any, in accordance with the approved programme for execution of works.

- ii. **Cost to be borne by Contractor:** The materials shall be issued to the Contractor at the HAL stores or near the project site. The Contractor shall bear the cost of loading, transporting to site, unloading, storing safely under cover, as required.
- iii. **Return of surplus materials:** All surplus materials issued to the Contractor by the OIC/EIC for use, incorporation or fixing in the works (including preparatory Works, if any) shall, on completion of or before closure of works, be returned by the Contractor at his expense. However, the materials considered unserviceable by the OIC/EIC shall not be taken back. Appropriate credit for the acceptable returned surplus material will be given to the Contractor, if full payment has been received by HAL.

CLAUSE 45: PROGRESS REVIEW MEETINGS

The Contractor/s shall agree to execute the Work progressively in co-ordination with the concerned OIC/ EIC. Further, Contractor is required to attend progress review meetings regularly. The purpose of a progress review meeting shall be to review the work done, to plan for remaining Work and to deal with the matters related to the Work. The OIC/EIC or his nominee shall record the minutes of the progress review meetings and minutes will be shared with all the attendees. The responsibilities of the parties for actions to be taken is to be decided by the OIC/EIC either

at the progress review meeting or after the progress review meeting and stated in writing to all who attended the meeting.

CLAUSE 46: APPROVAL OF WORKS BY STAGES:

- i. All Works consisting of more than one process shall be subject to examination and approval at each stage by the Officer-in-Charge/ Engineer-in-charge or his nominee thereof and the Contractor shall give due notice in writing to the Officer-in-Charge/ Engineer-in-charge when such stage is ready. Approval of works by stages shall be recorded in Work / Stage Passing Register. In default of such notice being received, the Officer-in-Charge/ Engineer-in-charge shall be entitled to disallow the Work or any part thereof at any time he may choose and in the event of any dispute, the decision of the Officer-in-Charge/ Engineer-in-charge thereon shall be final and conclusive.
- ii. If any Work is so disallowed, the same shall be redone by the Contractor at his cost to the satisfaction of the Officer-in-charge/ Engineer-in-charge. Also in the event of failure of the Contractor to give notice, he shall uncover any part of the works and/or make openings in or through the same as the Officer-in-charge/ Engineer-in-charge may direct for his verification and shall make good such part to the satisfaction of the Officer-in-charge at the Contractor's expense.

CLAUSE 47: PROVISION OF EMBEDDING ELECTRIC CONDUITS & OTHER SERVICE LINES ETC.

Provisions shall be made during the progress of Work for embedding electric conduits, etc., wherever necessary or as directed. Opening shall be left for service lines, machine foundations as required and as per instructions of the Engineer-in-Charge.

CLAUSE 48: INFERIOR MATERIALS OR WORKMANSHIP TO BE AMENDED

The materials as well as the workmanship and finish of the whole of the contract works shall be best of their kind, and should any materials be brought upon the site or on the land or property of the company or on the places where any operations are being carried out in connection with the works, which are in the judgement of the Officer- in- charge /Engineer in charge of an inferior description and improper to be used in the works, the said materials shall be removed, all inferior workmanship or finish shall be amended by and at the cost of Contractor forthwith, and within such period or periods as the Officer- in- charge / Engineer in charge direct, and the Contractor shall pull down, amend and reconstruct any Work he may have erected upon an insufficient foundation, or that he may have insufficient cured and protected against immediate and further injury whether arising or likely to arise in the future from weight pressure, action of water or otherwise, on being required to do so by the Officer- in- charge/ Engineer in charge.

CLAUSE 49: POWER TO VARY WORKS

The Company shall have full power and authority from time to time, and at all times to order Works additional to the scope of work, and to make an issue such further drawings and to give such further instructions and directions as may appear necessary or proper for the guidance of the Contractor and the good and sufficient execution of Works, the Contractor will have to comply with and be bound by the said further drawings, instructions and directions according to the true intent and meaning thereof, and as fully and effectually as though they had accompanied, or has been mentioned or referred to in the original drawings and specification. The Company shall also have power to vary or alter the levels or positions of any of the Works, the subject of this contract, or may order any of the Works contemplated thereby to be omitted with or without the substitution of any other Works in lieu thereof or may order any Work or any portion of the Work executed or partly executed, to be removed, changed or altered and, if needed other Works shall be substituted in lieu thereof, and the difference of expense occasioned by any such increase, diminution or alteration so ordered and directed shall be added to, or deducted from the amount of the contract, agreeably at the prices for similar Work set forth in the Bill of Quantities or failing which as a derivative to similar Works in the schedule of prices attached thereto, and in the absence of such similar Work being scheduled, then such Work shall be carried out at the rates entered in DSR and applicable cost index which the total tendered amount bears to the estimated cost of the entire Work put to tender.

The Company will in no case become liable to the payment of any charge in respect any such conditions, alterations or deviations, unless the instructions for the performance of the same shall have been given in writing and signed by the OIC/EIC nor unless such instructions distinctly state that the matter thereof is to be the subject of an extra or varied charges, in the Work order hereinafter set forth or unless the claim thereafter shall be made in writing, signed by the Contractor and be made within the week in which the Work is executed and the materials used, and before the same shall have been placed out of view, or beyond check or measurement, nor unless the value of any altered or varied works or of any further works, shall wherever practicable, have been determined and settled before such altered or varied or further works shall have been commenced. Such value in case of dispute, shall be ascertained by the OIC/EIC, who shall determine in all cases whether such previous determinations and settlements were practicable or not, and in all cases when he shall consider the same to have been practicable, the Contractor shall not be entitled to make any claim in respect of such altered, or varied or further works. It shall in the opinion of the OIC/EIC, in any special instance become necessary to execute any additional or substituted Work, either wholly or in part “By the day” the claim therefore shall not to be recognized unless the Contractor shall have delivered to OIC/EIC within one week day, and so on from day to day a true and exact list of the names, occupations, time and wages of the several Workmen engaged during the previous day, on any and every such Work in respect

of whom a change “By the day” is intended to be made in the next succeeding weekly claim Work in respect of whom a change “By the day” shall be made unless, in the opinion of the OIC/EIC, it is impracticable or unreasonable to determine the value of the amount of Work in manner otherwise provided for in these General Conditions.

CLAUSE 50:

- i. **Precaution against injury to property adjacent to Works in progress:** The Contractor shall take special care, by the erection of temporary fences, and by every other means which circumstances may render necessary to prevent all injury and damage to or trespass upon the lands, roads, fences or property adjacent to the site of Works, and he shall confine the passage of his workmen to existing public roads and footpaths. He shall likewise pay and satisfy all claims whatsoever and from whomsoever, for temporary occupation, way leaves, damages, trespass or otherwise, in reference to the said lands, roads, fences and property adjacent, and bear the Company harmless from any and all such claims. If any greater extent of lands than the site or Works be required by the Contractor for his operations, he shall obtain and occupy the same at his own cost and charge
- ii. **Precautions against accidents or injury:** The Contractor shall, at his own expense, share, protect, support, alter, restore, make good and maintain, as may be necessary, all buildings, water and gas pipes, sewage, drains, electrical cables and other things, which may be disturbed, exposed or injured during the execution of the works, or in consequences of the execution of the works and shall also provide for the continuous use of all buildings, pipes, sewers, drains, electric cables and other things, the use of which may be liable to interruption during the progress of the works. The Contractor shall at his own expense restore all such buildings, water and gas pipes, sewage, drains, electric cables and other things to the satisfaction of the owners thereof, and he shall likewise, at his own expense, construct and maintain such works as may be necessary for the due permanent support of all such buildings, pipes, sewage, drains, electric cables and any extra timbering which may be temporarily required, and all labour in fixing and removing the same and shall at his own expenses provide other things not within the construction of the works, and keep indemnified, the company and its officers from and against all actions, suits, claims, penalties, liabilities, costs, expenses and demands whatsoever, by reasons of on account of damages to such buildings, pipes, sewage, drains, electric cables and other things whether caused by the execution of the contract Works or the insufficiency of the aforesaid permanent support. The Company may deduct the expenses thereby incurred or to which the company or its officers may thereby be put or be liable, or which may be incidental thereto, from the amounts of any sum or sums due or to become due to the Contractor or may recover the same by action at law or otherwise from the Contractor, and the Company may compromise any such action, suits, or other proceedings, or such

items as it shall see fit and the Contractor shall thereupon forthwith pay the Company the sum or sums paid by the Company upon the occasion thereof and shall in every case pay such sum or sums and shall fully indemnify the company according to the present stipulation.

- iii. **Damage to persons and property:** The Contractor shall be responsible for all injury to persons, animals or things and for all structural and decorative item, damages to property which may arise from the operation or neglect of himself or of any nominated sub-Contractor or any employees, of either, whether sub injury or damage arises from carelessness, accident or any other cause whatsoever in any way connected with the carrying out of his contract. The Contractor shall indemnify the HAL and hold it harmless in respect of all and any expenses arising from any much injury or damage to persons or property as aforesaid and also in respect of injury or damage under any Act of any legislature or otherwise and also in respect of any award of compensation or damage consequent upon such claim.
- iv. **Loss to private property & injury to Workmen:** The Contractor shall at his own expense reinstate and make good to the satisfaction of the Engineer-in-Charge and pay compensation for any injury loss or damage occasioned to any property or rights whatever including property and rights of HAL (or agents, servants or employees of HAL) the injury, loss or damage arising out of or in any way in connection with the execution or purposed execution of the contract and further the Contractor shall indemnify HAL against all claims enforceable against HAL or which would be so enforceable by a private person, in respect of any such injury (including claim resulting in death), loss or damage to any person whosoever or property including all claims which may arise under the Employess's Compensation Act 1923 or otherwise.

CLAUSE 51: FURNISHING INVOICES ON DEMAND

- i. The Contractor, whenever required, shall produce for examination by the OIC/EIC, any quotation, invoice, cost or other account books, vouchers, receipts, letters, memoranda or any copy of or extract from any such documents and also furnish information and returns, as may be required, relating to the execution of this contract. The OIC/EIC decision on the question of relevancy of any documents, information or returns shall be final and binding on the Contractor.
- ii. If any part or item of the Work is allowed to be carried out by a sub-contractor, the OIC/EIC shall have power to secure the books of such sub-Contractor, through the Contractor, and shall have power to examine and inspect the same.
- iii. In case the Contractor does not submit the aforesaid invoice and documents, then HAL shall be entitled to withhold payment/s in the subsequent bills, to the extent of the value of the demanded invoices and documents.

CLAUSE 52: SITE RELATED

52A: TEMPORARY ROAD

The Contractor shall, at his expense, provide such temporary roads on the Site as may be necessary for the proper performance of the Contract and for his own convenience but not otherwise. Upon completion such roads shall be broken up & levelled where so required by the drawings at Contractor's expense unless the OIC/EIC shall otherwise direct.

52B: NIGHT WORKS:

Night Works will be permitted depending on requirement/need basis subject to obtaining prior approval from HAL and other statutory authorities. However, no additional payment will be made for night work. The Contractor shall make adequate lighting and safety arrangements for night working. He shall also be responsible for any claim on account of any injury to or loss of life, of anyone, arising out of inadequate lighting, safety arrangements or due to any other failure of the Contractor.

52C: OFFICE FOR HAL'S ENGINEER ON SITE:

The Contractor shall, at his cost provide a separate Office (of suitable size) for the HAL's Engineers on site with writing table, chairs, electric light and fan, drinking water arrangements etc., as directed by OIC/EIC and clear it away on completion of Work and pay all charges in connection thereof. The Contractor shall also provide facilities for having the HAL's Engineers' Office cleaned every day and kept in good and hygienic condition.

52D: OFFICE ACCOMMODATION FOR CONTRACTOR'S STAFF:

The Contractor shall at his cost provide, fit up and maintain in a portion approved by OIC/EIC, a proper office accommodation for his representative and Contractors staff, which offices shall be open at all reasonable hours to receive instructions, notices or communications and clear away on completion and make good all Work disturbed.

52E: NO OVERLOADING OF SLABS FLOORS, OF BUILDINGS UNDER CONSTRUCTION:

Floors of buildings under construction shall not be loaded by stacks of materials during construction without the prior approval of Engineer-in-Charge. It is important that no load comes on the reinforced concrete floors until they are at least three weeks old and at no time must the load placed upon them exceed the load for which they are designed.

52F. CONTROLLING OF CONTRACTOR LABOUR & POLICE VERIFICATION

- i. The Contractor is to keep all persons under his control and within the boundaries of the Site, and he will be held responsible for the care of the works until their completion and handover, including all works executed and materials deposited on the sites by himself

or suppliers, together with all risks arising from weather, carelessness of apprentices, damage or loss by thefts or by any other cause and is to allow for all necessary watching and protective lighting.

- ii. The Contractor shall submit Police Verification Certificate to move inside HAL premises during execution of Work and shall submit as affidavit in the prescribed format on non-judicial stamp paper of value Rs. 200/- for conduct and credibility of the labour force engaged for the Work to the OIC/EIC.

CLAUSE 53: CODE OF INTEGRITY FOR PUBLIC PROCUREMENT (CIPP)

Public procurement is perceived to be prone to corruption and ethical risks. To mitigate this, all the bidders/tenderers must abide by the following Code of integrity for Public Procurement (CIPP).

The Bidders/tenderers shall sign a declaration about abiding by a Code of Integrity for Public Procurement (including sub-contractors engaged by them) in enlistment applications and in bid documents accepting that “ In case of any transgression of this code, its name is not only liable to be removed from the list of enlisted vendors, but it would be liable for other punitive actions such as cancellation of contracts, banning and blacklisting or action in Competition Commission of India, and so on.

CLAUSE 54: CORRUPT OR FRAUDULENT PRACTICES

- i. HAL requires and expects that the Bidders / suppliers / Contractors under this contract, observe the highest standard of ethics and professionalism during the procurement and execution of this Contract. In pursuance of this policy, the Company defines for the purpose of these provisions the items set forth below as follows.
 - (a) “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.
 - (b) “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 HAL of the benefits of free and open competition.
- ii. Company will reject a proposal for award of Work if they determine that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- iii. Company will declare a Bidder ineligible, either indefinitely or for a stated period of time to be awarded a contract / contracts if it at any time determines that the Bidder has engaged in corrupt and fraudulent practices in connection with the tender..

CLAUSE 55: SECRECY

- i. The Contractor shall take all steps necessary to ensure that all persons employed on any Work in connection with the contract have notice that Indian Official Secrets Act, 1923 (XIX of 1923) applies to them & will continue to so apply even after the completion of such works under the Contract.
- ii. The Contract is confidential and must be strictly confined to the Contractors own use (except so far as confidential disclosure to sub-contractors or suppliers is necessary) and to the purpose of the contract. All documents/drawings thereof and there from furnished to the Contractor shall be returned to the HAL on completion of the Work or the earlier determination of the contract (cost non-refundable).
- iii. The Contractor shall employ only resident Indian Nationals as his representatives, agents, servants and workmen and verify their antecedents and loyalty before employing them for the Work. He shall ensure that no person of doubtful antecedents and nationality is in any way, associated with the works. If for reasons of technical collaboration or other consideration, the employment of any Foreign Nationals / non-resident Indian is unavoidable, the Contractor shall furnish full particulars to this effect to the Accepting Officer at the time of submission of his tender.
- iv. OIC/EIC shall have full powers and without giving any reason to require the Contractor immediately to cease to employ in connection with this contract any representative, agent, servant, Workmen or employee whose continued employment is in his opinion undesirable. The Contractor shall not be allowed any compensation on this account.

CLAUSE 56: CONFIDENTIALITY

- i. The Bidder / Contractor / Agency shall not store, copy or disclose HAL's data and information whether in written, machine readable or other tangible form or disclosed orally, that is of value to HAL. Also, Bidder / Contractor / Agency agrees to use HAL's data only for the purpose under this Tender / Contract / Agreement, restrict disclosure to any other person or entity or third party and shall safeguard the provided data including from cyber security risks, etc., Bidder / Contractor / Agency should promptly return within 90 days HAL's data in original media and should not keep HAL's data, upon expiry of Tender / Contract / Agreement or early termination of Contract / Agreement and certify that HAL's data has been deleted permanently.
- ii. Non-adherence to this confidentiality clause by the / Contractor / Agency shall be treated, as a material breach of this Tender / Contract / Agreement.
- iii. The provisions of this clause shall survive and remain in force notwithstanding the termination of this Contract / Agreement.

CLAUSE 57: NO GAZETTED ENGINEER TO WORK AS CONTRACTOR WITHIN ONE YEAR OF RETIREMENT

No engineer of gazetted rank or other gazetted officer employed in engineering or administrative duties in an engineering department of the Government of India shall work as a contractor or employee of a contractor for a period of one year after his retirement from government service without the previous permission of Government of India in writing. The 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 Government of India as aforesaid, before submission of the tender or engagement in the Contractor's service, as the case may be.

CONTRACT AGREEMENT

(TO BE EXECUTED ON NON JUDICIAL STAMP PAPER OF VALUE OF RS. 200/- WITHIN 30 DAYS OF ACCEPTANCE LETTER)

CONTRACT No. –

CONTRACT FOR –

ARTICLE OF AGREEMENT made on this _____ day of _____ Two Thousand

Between:

HINDUSTAN AERONAUTICS LIMITED, Bangalore Complex, Bangalore-560 017,

hereinafter referred called “**HAL**” or ‘**Company**’ (which expression shall include its successors-in-interest and administrators, wherever the context or meaning shall so require or permit) of the one part

And:

M/s. _____ having its registered office at

Hereinafter referred to as the “**Contractor**” (which expression shall include its successors-in-interest, executors and administrators, wherever the context or meaning shall so require or permit) of the other part.

Whereas the Contractor/s has/have by tender dated _____ accepted by the Contractor’s letter no. _____ dated _____ offered to execute and fully complete the intended Works in connection with “_____”

in the Company’s Factory area, for the Company, as set forth in the tender as amended and the Drawings, General Conditions of contract, Special Conditions of contract, Specifications, Bill of Quantities and Schedule hereto annexed according to the terms, obligations and conditions therein contained at and for an approximate total sum of _____ (Rupees _____ **only**) and the Company has accepted such itemized rate tender in terms of its letter no. _____ dated _____. GST in all cases being always the Contractor’s/ Contractors’ responsibility.

Now, This Agreement witnesseth as follows: -

The Contractor/s covenant/s and agree/s with the Company that the Contractor/s will within the time of _____ **Months** from the date stipulated in the Work order and in the manner and pursuant and subject to all and singular the terms, obligations and conditions in the said tender as amended and the Drawings, General Conditions, Special Conditions, Specifications, Bill of Quantities and Schedule provided, contained and referred to execute and fully complete all and

singular the Works specified, described or referred to in and by the said tender as amended and the Drawings, General Conditions, Special Conditions, Specifications and Bill of Quantities and Schedule and will well and truly observe, perform, fulfill, submit to and keep all the said terms, obligations, conditions and matters in the said tender as amended and the Drawings, General Conditions, Special Conditions, Specifications and Bill of Quantities and Schedule contained and referred to and on the part of the Contractor/s to be observed, performed, fulfilled, submitted to or kept according to the true intent and meaning of the said tender as amended and the Drawings, General Conditions, Special Conditions, Specifications, Bill of Quantities and Schedule. Any items not covered by the tendered rates will be Worked out as per conditions attached to the tender documents.

In case the Work is not completed in the manner mentioned above to the complete satisfaction of the Company in every respect within the aforesaid time limit of _____ **Months** from the date stipulated in the Work Order, the Contractor/s agree/s to pay a **LD** of _____ of the value of the Work Order for each week of delay beyond the date stipulated for completion, subject, however to a maximum of _____ of the value of the Work Order. It is agreed that time is the essence of the contract.

2. In consideration of the premises the Company covenants with the Contractor/s that it will pay to the Contractor/s at the several times and in the sums, proportions and manner in the said Tender Conditions in that behalf provided the amount accruing from time to time, but subject to conditions therein contained.
3. This agreement further witnesseth that the Contractor/s hereby covenant/s with the Company that in the event of the non-fulfillment in any respect by the Contractor/s of the said covenants, terms, agreements, obligations and conditions on the part of the Contractor/s, the Contractor/s will pay to the Company all loss, damages, costs, charges and expenses as the Company may be directly or indirectly put to in consequence of such non fulfillment by the Contractor/s.
4. If the Contractor fails to perform the contract or carry out the contract to the satisfaction of the Company within the period fixed for the purpose of at any time repudiates the contract before expiry of such period, the Deputy General Manager (Works) or any Officer of the Company so authorizes may, without prejudice to the right of the Company to recover from the Contractor, damages for the breach of the contract, terminate the contract as a whole or terminate a part of the contract at the risk and cost of the Contractor without prior Notice and get the balance Work executed through some other agency and held the Contractor liable for all the losses and expenses incurred by the Company.

The decision of the General Manager - _____ Division or accepting authority of HAL is final with regard to the satisfactory performance of the contract and is binding on both the parties.

5. In the event of any dispute arising in connection with this contract, it is further agreed that such disputes shall be resolved or adjudicated as provided in the GCC or the SCC, as the case may be.
6. The following documents are deemed to form part of this agreement, namely the tender document including the General Conditions, Special Conditions, the Specifications, the Priced Bill of Quantities, the Schedule of rates and prices and the Drawings mentioned in the Specifications, all of which for the purposes of identification have been signed by the Manager (Works), Contract Section, on behalf of the Company and the Contractor/s. The letter of Acceptance and all the letters referred therein will also form part of this agreement.
7. "This agreement further witnesseth that the Contractor/s is/are responsible for any accident/s or other compensation payable to anybody including contract labour employed by or out of the contract arising out of and in the course of execution of this contract and the Company is no way responsible / liable for any payment whatsoever to be made by the Contractor. If for any reason/s the Company is made liable to pay a compensation for any accident arising out of and in the course of execution of this contract, the Contractor shall indemnify the Company to the extent of compensation awarded / ordered by any authority."
8. Subject to the dispute resolution provisions of the GCC and / or SCC, as the case may be, cause of action for any dispute hereunder shall be deemed to have taken place in Bengaluru Urban, and the Courts in Bengaluru City alone shall have jurisdiction.

In Witness Whereof the said parties hereto have hereunto set their hands.

For HINDUSTAN AERONAUTICS LIMITED

(_____ Complex)
GENERAL MANAGER

_____ DIVISION

SIGNATURE OF CONTRACTOR/s

Witnesses;

1.

2.

Witnesses;

1.

2.

AMENDMENT TO CONTRACT AGREEMENT

**(TO BE EXECUTED ON NON JUDICIAL STAMP PAPER OF VALUE OF Rs.200/-
BEFORE PAYMENT OF FINAL BILL)**

AMENDMENT DATED:..... TO CONTRACT No.

NAME OF WORK:

1. WHEREAS on An agreement has been entered into between M/s. (hereinafter referred to as Contractors) and Hindustan Aeronautics Limited (BC), Bangalore – 560 017 (hereinafter referred to as Company) under which the Contractor among other conditions contacted to execute the Work of and fully complete the terms and conditions therein contained in the said agreement dated And the said parties are now desirous of modifying the same agreement in certain particulars, it is hereby agreed to as follows:

2. FIRSTLY that the quantities in individual items have exceeded the limit of deviation on minus side and individual items plus side, and the new trade items incorporated in the contract have exceeded the deviation limit and the Contractor has agreed to execute the revised quantities without any extra claims, on the same terms and conditions and rates for these at which the Work of“ ” under P.O No..... has been entrusted to the Contractor in terms of Company's Acceptance Letter No. FM/1023/..... Dated:..... mentioned in the agreement Dated:

3. SECONDLY that due to the aforesaid deviations and other minor deviations in the items of Work the total approximate value of `..... accepted in Acceptance Letter No. FM/1023/..... Dated: ..... has been altered to `..... (Rupees only) being priced at the rates conditions and terms accepted by the Company's Acceptance Letter No. FM/1023/..... Dated: In connection with the contract Work “ ” P.O No. and the Contractor has agreed to execute the same without any extra claims.

4. Further, it is also agreed to accept the final bill payment of `..... in full and final settlement of all our claims against HAL under the aforesaid contract without raising any disputes.

5. LASTLY THAT the aforesaid Agreement shall continue to subsist and bind the Parties, as amended hereby. All other provisions of the aforesaid Agreement shall continue to be in force and be binding in all respects.

6. WHEREAS that the Work referred to above has been completed and whereas it is necessary that the terms and conditions under which the deviations were agreed to be executed should be embodied in an amendment to contract agreement, the said terms and conditions of amendment are hereby recorded as above.

IN WITNESS WHEREOF the said parties herein set their hands as shown below:

For Hindustan Aeronautics Limited

(---- Complex)

DIVISION HEAD

or

ACCEPTING OFFICER

[As Delegated by Division Head]

CONTRACTOR/s SIGNATURE

WITNESSES:

WITNESSES:

1.

1.

2.

2.

Note: For Service Contracts, Para 2 to be changed as under and other Paras remain same.

2. FIRSTLY due to consequence revision of wages/increase in DA/GST /other statutory increases if any..... Have exceeded the Deviation Limit / contract value and the Contractor has agreed to execute the same without any extra claims, and with the same terms and conditions accepted in agreement Dated.....for service contract of“.....” under P.O No..... has been entrusted to the Contractor in terms of Company's Acceptance Letter No. Dated:..... .

FORMAT OF BANK GUARANTEE BOND FOR SECURITY DEPOSIT / PERFORMANCE GUARANTEE

(TO BE EXECUTED ON NON JUDICIAL STAMP PAPER OF VALUE OF Rs.200/-)

1. In consideration of the HINDUSTANAERONAUTICS LTD., _____ Division (hereinafter called as “HAL”) having agreed to exempt _____ [hereinafter called “the said Contractor/Supplier(s)”] from the demand, under Agreement/ Contract/ Order No. _____ dated _____ (hereinafter called “the said Agreement”/ said Contract/ said Order), made between _____ and _____ for _____ (indicate the scope of supply) of security deposit for the due fulfilment by the said Contractor/Supplier(s) of the terms and conditions contained in the said Agreement/Contract/Order, on production of a bank Guarantee for _____ (indicate the amount in ` / Foreign Currency)(_____ Only), We, _____, (hereinafter referred (indicate the name of the bank) to as “the Bank”) at the request of _____ [Contractor/supplier(s)] do hereby undertake to pay to HAL an amount not exceeding _____ (indicate the amount in **Rupees**) against any loss or damage, costs, charges and expenses, claims caused to/ suffered or would be caused to/ suffered by HAL by reason of any breach by the said Contractor/supplier(s) of any of the terms or conditions contained in the said Agreement/Contract/Order.
2. We _____ (indicate the name of the bank) do hereby unreservedly, irrevocably undertake to pay the amounts due and payable under this guarantee without any demur, merely on demand from HAL within fifteen (15) days of such demand stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by HAL by reason of breach by the said Contractor(s)/supplier of any of the terms or conditions contained in the said Agreement./ Contract/Order or by reason of the Contractor(s)’ failure to perform the said Agreement/ Contract/Order. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding _____ (indicate the amount in ` / Foreign Currency).
3. We undertake to pay to HAL an amount not exceeding _____ (indicate the amount in ` / Foreign Currency) so demanded notwithstanding any dispute or disputes raised by the Contractor(s)/supplier(s) in any suit or proceeding pending before any Court or Tribunal relating thereto. Our liability under this guarantee being absolute and unequivocal.

We, _____ (indicate the name of bank) further agree with HAL that HAL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement/Contract/Order or to extend time of performance by the said Contractor/supplier(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by HAL against the said Contractor(s)/supplier and to forbear or enforce any of the terms and conditions relating to the said agreement/contract/ order and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor/supplier(s) or for any forbearance, act or omission on the part of HAL or any indulgence by HAL to the said Contractor/supplier(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

4. We, _____ (indicate the name of bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of HAL in writing and agree that any change in the constitution of the said contractor(s)/ Supplier(s) or Bank shall not discharge the Bank of its liability under this deed.
5. The validity of Bank Guarantee shall be up to..... (dd/mm/yy) and such date shall be 90 days after the last delivery/Services against the contract. The Bank Guarantee will continue to be enforceable till all the dues of HAL under or by virtue of the said Agreement / Contract / Order have been fully paid and its claims satisfied or discharged or till HAL certifies that the terms and conditions of the said Agreement/Contract/ Order have been fully and properly carried out by the said Contractor/supplier(s) and accordingly discharges this guarantee.
6. This Bank Guarantee shall be governed by and constitute in accordance with Indian Law and shall be subject to exclusive Jurisdiction of Courts in Bengaluru City alone.
7. Dated the _____ day of _____ for _____
_____ (indicate the name of the Bank).

INDICATIVE NOTIFICATION AS ON SEPT-2022

[Visit <http://labour.nic.in> under Minimum Wages in Mines and establishment falling under Govt. of India (Latest circular may please be referred)

F.No.1/16(3)/2022-LS-II
Government of India
Ministry of Labour & Employment
Office of the Chief Labour Commissioner(C)
New Delhi

Dated: 28/9/2022

ORDER

In exercise of the powers conferred by Central Government vide Notification No. S.O. 188(E) dated 19th January, 2017 of the Ministry of Labour and Employment, the undersigned hereby revise the rates of Variable Dearness Allowance on the basis of the average Consumer Price Index for Industrial workers reaching 365.76 from 357.65 as on 30.06.2022 (Base 2016-100) and thereby resulting in an increase of 8.11 points. The revised Variable Dearness Allowance as under shall be payable from 01.10.2022;-

The rates of Variable Dearness Allowance for employees employed in **CONSTRUCTION OR MAINTENANCE OF ROADS OR RUNWAYS OR IN BUILDING OPERATIONS INCLUDING LAYING DOWN UNDERGROUND ELECTRIC, WIRELESS, RADIO, TELEVISION, TELEPHONE, TELEGRAPH AND OVERSEAS COMMUNICATION CABLES AND SIMILAR OTHER UNDERGROUND CABLING WORK, ELECTRIC LINES, WATER SUPPLY LINES AND SEWERAGE PIPE LINES.**

Category of worker	Rates of V.D.A. Area wise per day (in Rupees)		
	A	B	C
Unskilled	188	158	127
Semi-Skilled/Unskilled Supervisory	209	177	147
Skilled/Clerical	229	209	177
Highly Skilled	247	229	209

Therefore the minimum rates of wages showing the basic rates and Variable Dearness Allowance payable w.e.f. 01.10.2022 will be as under :-

Category of worker	Rates of wages including V.D.A. per day (in Rupees)		
	A Area	B Area	C Area
Unskilled	523+188=711	437+158=595	350+127=477
Semi-Skilled/Unskilled Supervisory	579+209=788	494+177=671	410+147=557
Skilled/ Clerical	637+229=866	579+209=788	494+177=671
Highly Skilled	693+247=940	637+229=866	579+209=788

The VDA has been rounded off to the next higher rupee as per the decision of the Minimum Wages Advisory Board.

The classification of workers under different categories will be same as in Part-I of the notification, whereas classification of cities will be same as in the Part-II of the notification dated 19th January, 2017. The present classification of cities into areas A, B & C is enclosed at Annexure I for ready reference.

Remis Tiru
(Remis Tiru)
Chief Labour Commissioner(C)

FORMAT OF BANK GUARANTEE FOR MOBILIZATION ADVANCE PAYMENT

(ON NON JUDICIAL STAMP PAPER OF THE VALUE OF RS.200)

1. In consideration of the HINDUSTAN AERONAUTICS LTD., _____ Division (hereinafter called as “HAL”) having agreed to make advance payment to _____ [hereinafter called “the said Contractor/Supplier(s)”], under Agreement/Contract/Order No. _____ dated _____ (hereinafter called “the said Agreement”/ said Contract/ said Order), made between _____ and _____ for _____ (indicate the scope of supply), for the due fulfilment of the terms and conditions contained in the said Agreement/Contract/ Order, on production of a bank Guarantee for _____ (indicate the amount in ` / Foreign Currency) (\_\_\_\_\_ Only), We, \_\_\_\_\_, (hereinafter referred (indicate the name of the bank) to as “the Bank”) at the request of \_\_\_\_\_ [Contractor/supplier(s)] do hereby undertake to pay to HAL an amount not exceeding \_\_\_\_\_ (indicate the amount in ` / Foreign Currency) against any loss or damage, costs, charges and expenses, claims caused to/ suffered or would be caused to/ suffered by HAL by reason of any breach by the said Contractor/ supplier(s) of any of the terms or conditions contained in the said Agreement/Contract/ Order.
2. We _____ (indicate the name of the bank) do hereby unreservedly, irrevocably undertake to pay the amounts due and payable under this guarantee without any demur, merely on demand from HAL within fifteen (15) days of such demand stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by HAL by reason of breach by the said Contractor(s)/supplier of any of the terms or conditions contained in the said Agreement./ Contract/Order or by reason of the Contractor(s)’ failure to perform the said Agreement/ Contract/Order. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding _____ (indicate the amount in ` / Foreign Currency).
3. We undertake to pay to HAL an amount not exceeding _____ (indicate the amount in ` / Foreign Currency) so demanded notwithstanding any dispute or disputes raised by the

Contractor(s)/supplier(s) in any suit or proceeding pending before any Court or Tribunal relating thereto. Our liability under this guarantee being absolute and unequivocal.

4. We, _____ (indicate the name of bank) further agree with HAL that HAL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement/Contract/Order or to extend time of performance by the said Contractor/supplier(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by HAL against the said Contractor(s)/supplier and to forbear or enforce any of the terms and conditions relating to the said agreement/contract/order and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor/supplier(s) or for any forbearance, act or omission on the part of HAL or any indulgence by HAL to the said Contractor/supplier(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.
5. We, _____ (indicate the name of bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of HAL in writing and agree that any change in the constitution of the said contractor(s)/Supplier(s) or Bank shall not discharge the Bank of its liability under this deed.
6. The validity of Bank Guarantee shall be up to..... (dd/mm/yy) and such date shall be 60 days after the last delivery/Services against the contract. The Bank Guarantee will continue to be enforceable till all the dues of HAL under or by virtue of the said Agreement / Contract/Order have been fully paid and its claims satisfied or discharged or till HAL certifies that the terms and conditions of the said Agreement/Contract/ Order have been fully and properly carried out by the said Contractor/supplier(s) and accordingly discharges this guarantee.
7. This Bank Guarantee shall be governed by and constitute in accordance with Indian Law and shall be subject to exclusive Jurisdiction of Courts in Bengaluru City alone.
8. Dated the _____ day of _____ for _____ (indicate the name of the Bank).

NO CLAIM CERTIFICATE

(To be submitted on Agency's Letter Head)

It is to certify that we have no claim against HAL for the work “.....”
Of Contract No.: Under the Plant order No.: (if any)..... except as
included in the FINAL BILL and Refundable amount of Security Deposit/Performance Guarantee
Deposit if any

Further, it is also agreed to accept the final bill payment of Rs..... (including payments
received through RARs & Pre-Final Bills) in full and final settlement of all our claims against HAL
under the aforesaid contract without raising any disputes.

For M/s

Place:

(Signature with Date and Seal)

FORMAT OF INDEMNITY BOND

(TO BE EXECUTED ON NON JUDICIAL STAMP PAPER OF VALUE Rs.200/-)

This Indemnity Bond is executed on _____ day of _____ 200 ____ in favour of M/s Hindustan Aeronautics Limited., a company incorporated under the Companies Act 1956, having its registered office at No.15/1, Cubbon Road, Bangalore – 560 001 and having a factory complex at Vimanapura, Bangalore 560 017 (herein after called as the “Company”, which expression shall mean and include its successor and assigns) by M/s _____ represented herein by its _____ Sri. _____ s/o _____ aged about _____ years and residing at _____ is not a registered Contractor of HAL (herein after called as the “Contractor” which expression shall mean and include his heirs, executors, administrators, successors and assigns)

Whereas the Contractor/s has/have by tender dated _____ amended by the Contractor’s letter no. _____ dated _____ offered to execute and fully complete the intended Works in connection with “_____” in the Company’s Factory area, for the Company, as set forth in the tender as amended and the Drawings, General Conditions, Special Conditions, Specifications, Bill of Quantities and Schedule hereto annexed according to the terms, obligations and conditions therein contained at and for an approximate total sum of ` _____ (Rupees _____ only) and the Company has accepted such itemized rate tender in terms of its letter no. _____ dated _____. GST in all cases being always the Contractor’s/ Contractors’ responsibility.

NOW THE INDEMNITY WITNESSTH AS FOLLOWS.

WHEREAS the Contractor indemnifies that in respect of the payment made to the labours engaged by him and the company has agreed on the same but subject to keep the company fully indemnified at all times against any claims, decree, notice, loss or liability, costs, action or proceedings which may arise against the company at the instance of the authority under the act of any person or persons of the company making payment to the Contractor.

WHEREAS the Contractor further indemnifies that company that he shall make good any dues claims etc., in respect of labour engaged by him towards provident fund in the contract Works No. _____ executed by him on receipt of the demand in writing from the company without any demur.

WHEREAS the Contractor indemnifies for claims on all injury to person, animal or things or damages to property which may arise from the operation or neglect or omission of himself or

any nominated sub-Contractor or any employee/s or any other cause whatsoever in any way connected with the carrying out of his contract.

WHEREAS the Contractor indemnifies the company for any claims from any other agency / statutory bodies which may arise due to the operation or neglect or omission of that agency involved in carrying out of this contract in whatsoever manner to the person/s or property of HAL even though the Contractor has taken utmost precaution against accident or injury.

WHEREAS the Contractor indemnifies the company for any claims from any other agency / statutory bodies which may arise due to the statutory requirement of all Acts and enactments pertaining to the Labour Laws enforcing maintenance of all records, payments of fees for obtaining Licences etc., all as per the Terms & conditions laid in the Tender document.

WHEREAS the Contractor further indemnifies for claims on payment of all wages or other money to his Worker/s or employees under the payment of wages Act 1963 or employers liability Act 1933, **Employees** compensation Act, ESI act or any other Act or enactment relating thereto and rules framed there under from time to time.

WHEREAS the Contractor indemnifies for the insurance policy coverage for any damage, theft, burglary including force majeure damage due to fire, riot, civil war, damage by Air Craft., etc.

WHEREAS that the liability of the Contractor under the bond shall not be altered, modified or nullified by any change in the Constitution of either the Company or the Contractor and that the decision of the company in respect of any claim shall be final and binding on the Contractor.

IN WITNESS WHERE OF THE CONTRACTOR HAS EXECUTED THESE PRESENT THE DAY MONTH AND YEAR ABOVE MENTIONED.

WITNESSES

CONTRACTOR

1.

2.

NOTARY

INTEGRITY PACT

- a. Bidder can select either or Omnibus Integrity pact (Annexure-I) or standalone Integrity pact (Annexure-II) for signing with HAL.
- b. In case the vendor/Bidder has already signed Omnibus Integrity pact with any Divisions of HAL and same is valid then they can enclose a copy of the same against this tender, instead of signing fresh integrity pact, by providing the details such as date of signing, validity, Division, etc.,
- c. Standalone Integrity pact or Omnibus Integrity pact is applicable to the individual entity / firm who have signed the IP. These IP will not be made applicable for other companies of that group or as a group companies. Each individual entity / firm should sign separate IP.
- d. In case, the validity of Omnibus Integrity pact expired before opening of the bids (first bid), then the concerned Division who received the quotation should sign a fresh IP (either standalone Integrity pact or Omnibus Integrity pact) with vendor, in case the validity of Omnibus Integrity pact not executed by the vendor

(This is to be executed on Rs.200/- non judicial stamp paper and to be uploaded along with the other documents. Please note original to be sent along with the EMD and tender cost to HAL.)

ANNEXURE – H1

OMNIBUS INTEGRITY PACT

Tender Ref. No. & Date:.....

Integrity Pact (Omnibus)

Whereas Hindustan Aeronautics Ltd. (“HAL”) having its registered office at 15/1, Cubbon Road, Bangalore – 560 001, India represented by General Manager / Executive Director hereinafter referred to as the Buyer and the first party, proposes to procure (indicate name or category of the Equipment, like Aircraft Parts/ Avionic Items/ Accessories etc), hereinafter referred to as Goods and/ or Services and / or Works.

And

M/s....., represented by....., Chief Executive Officer (which term, unless expressly indicated by the contract, shall be deemed to include its successors and its assignee), hereinafter referred to as the Bidder(s)/Seller(s) and the second party, is willing to offer/ has offered the Goods and/ or Services and / or Works.

2. Whereas the Bidder(s)/Seller(s) is a private company/public company /partnership/ registered export agency, constituted in accordance with the relevant law in the matter and the Buyer is a Public Sector Undertaking and registered under Companies Act 1956. Buyer and Bidder(s)/Seller(s) shall hereinafter be individually referred to as “Party” or collectively as the “Parties”, as the context may require.

3. Preamble

3.1 Buyer proposes to procure herein referred Goods/ or Services and / or Work sand the Bidder(s)/Seller(s) is willing to offer / has offered / will offer the Goods/ or Services and / or Works under laid down organizational procedures intending to enter into contract/s for supply of/ Goods / etc of all such items/products/Good sand / or Services and / or Works including and the Bidder(s)/Seller(s) is one amongst several Bidders/ Proprietary Vendor/Customer Nominated Source/Licenser who has indicated a desire to bid/supply in such tendering process.

3.2 Buyer has decided that an Omnibus Integrity Pact (Omnibus IP) can be signed with Bidder(s)/Seller(s), which will avoid taking multiple approvals, from both sides for signing IP for individual tender / contract. Bidder(s)/Seller(s) and Buyer are entering into this

Omnibus IP for covering all tenders / contract / agreements / Purchase Order etc., between the Bidder(s)/Seller(s) and Buyer within its ambit.

3.3 The Buyer values and takes primary responsibility for full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness / transparency in its relations with its Bidder(s) and/or Seller(s).

3.4 In order to achieve these goals, the Buyer has appointed Independent External Monitor(s) (IEM) in consultation with Central Vigilance Commission, who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

4. Commitments of the Buyer.

4.1 The Buyer commits itself to take all measures necessary to prevent corruption and fraudulent practices and to observe the following principles:-

- i) No employee of the Buyer, personally or through family members, will in connection with the tender, or the execution of a contract demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
- ii) The Buyer will during the tender process treat all Bidder(s)/Seller(s) with equity and reason. The Buyer will in particular, before and during the tender process, provide to all Bidder(s)/Seller(s) the same information and will not provide to any Bidder(s)/Seller(s) confidential / additional information through which the Bidder(s)/Seller(s) could obtain an advantage in relation to the process or the contract execution.
- iii) The Buyer will exclude from the process all known prejudiced persons.

4.2 If the Buyer obtains information on the conduct of any of its employees which is a criminal offence under the Indian legislation, Prevention of Corruption Act 1988 as amended from time to time or if there be a substantive suspicion in this regard, the Buyer will inform to its Chief Vigilance Officer and in addition can initiate disciplinary action.

5. Commitments of the Bidder(s) / Seller(s).

5.1 The Bidder(s)/Seller(s) commit himself to take necessary measures to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

- i) The Bidder(s)/Seller(s) will not, directly or through any other persons or firm, offer promise or give to any of the Buyer's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage during the tendering or qualification process or during the execution of the contract.

- ii) The Bidder(s)/Seller(s) will not enter with other Bidder(s)/Seller(s) into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- iii) The Bidder(s)/Seller(s) will not commit any offence under the Indian legislation, Prevention of Corruption Act 1988 as amended from time to time. Further, the Bidder(s)/Seller(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Buyer as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

5.2 Adoption of IP by Joint Ventures/Sub-Contractors:

- i) In case the Bidder(s)/ Seller(s) is a Joint Venture, then all the Partners of the Joint Venture should sign this Integrity Pact. The Bidder(s) / Seller(s) shall ensure the compliance of the provisions of this Integrity Pact by all its Joint Venture Partners. Further, the Bidder(s)/Seller(s) shall be held responsible for any violation/breach of the provisions of IP by any one or more of its Partners.
- ii) The Bidder(s)/Seller(s) shall ensure compliance of the provisions of this Omnibus IP by its sub-contractor(s), if any. In this regard Bidder(s)/Seller(s) shall ensure for entering into a similar Integrity pact arrangement with their respective sub-contractor(s) before entering into any specific sub contractual arrangement, in connection with execution of main contract with HAL. The Integrity Pact shall be generally executed in all such cases where the value of sub contract works is Rs.2 Crores (equivalent to MUSD 0.25) and above, the content of IP can be decided by Bidder(s)/Seller(s), which shall be in similar lines of this main Integrity Pact. The signed Integrity Pact needs to be retained by the Bidder(s)/Seller(s) and shall be submitted to HAL, upon seeking such information. Further, the Bidder(s)/Seller(s) shall be held responsible for any violation/breach of the provisions by its sub-contractor(s).

5.3 The Bidder(s)/Seller(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

5.4 Agents / Agency Commission:

The Seller(s)/Bidder(s) confirms and declares to the Buyer that the Seller(s)/Bidder(s) is the original manufacturer or authorized distributor / stockiest of original manufacturer or Govt. Sponsored / Designated Export Agencies (applicable in case of countries where domestic laws do not permit direct export by OEMs) of the Goods and/ or Services and / or Works referred to in tender / offer / contract / Purchase order to which this Omnibus IP applies and has not engaged any individual or firm, whether Indian or Foreign whatsoever,

to intercede, facilitate or in any way to recommend to Buyer or any of its functionaries, whether officially or unofficially, to the award of the tender /contract / purchase order to the Seller(s)/Bidder(s); nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The Seller(s)/Bidder(s) agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller(s)/Bidder(s) has engaged any such individual / firm, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of the respective contract / purchase order, the Seller(s)/Bidder(s) will be liable to refund that amount to the Buyer. The Seller will also be debarred from participating in any RFQ / Tender for new projects / program with Buyer for a minimum period of five years. The Buyer will also have a right to consider cancellation of the Contract / Purchase order either wholly or in part, without any entitlement or compensation to the Seller(s)/Bidder(s) who shall in such event be liable to refund to the buyer, all Agency Commission payments made by the Seller(s)/ Bidder(s) along with interest at the rate of 2% per annum above LIBOR (London Inter Bank Offer Rate) (for foreign vendors) and Base Rate of SBI (State Bank of India) plus 2% (for Indian vendors). The Buyer will also have the right to recover any such amount from any contracts / Purchase order concluded earlier or later with Buyer.

6. Previous Transgression

- 6.1 The Bidder(s)/Seller(s) declares that no previous transgressions have occurred in the last three years from the signing of the Omnibus IP with any other company in any country conforming to the anticorruption approach or with any other Public Sector Enterprise in India that could justify Bidder's/ Sellers' exclusion from the tender process.
- 6.2 If the Bidder(s)/Seller(s) makes incorrect statement on this subject, Bidder(s)/Seller(s) can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason without any liability whatsoever on the Buyer.

7. Company Code of Conduct

Bidder(s)/Seller(s) are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behavior) and a compliance program for the implementation of the code of conduct throughout the company.

8. Sanctions for Violation

- 8.1 If the Bidder(s)/ Seller(s), before award or during execution has committed a transgression through a violation of Clause 5 & Clause 6, above or in any other form such as to put his reliability or credibility in question, the Buyer is entitled to disqualify the Bidder(s)/ Seller(s) from the tender process or take action as per the procedure mentioned herein below:

- i) To disqualify the Bidder(s)/Seller(s) in the tender process & exclusion from future contracts.
 - ii) To debar the Bidder(s)/Seller(s) from entering into any bid from Buyer for a period of two years.
 - iii) To immediately cancel the contract, if already signed / awarded without any liability on the Buyer to compensate the Bidder(s)/Seller(s) for damages, if any. Subject to Clause 5.4, any lawful payment due to the Bidder(s)/Seller(s) for supplies effected till date of termination would be made in normal course.
 - iv) To encash EMD / Advance Bank Guarantees / Performance Bonds/Warranty Bonds, etc. which may have been furnished by the Bidder(s)/Seller(s) to the extent of the undelivered Goods and/ or Services and / or Works.
- 8.2 If the Buyer obtains knowledge of conduct of a Bidder(s)/Seller(s) or of an employee or a representative or an associate of a Bidder(s)/Seller(s) which constitutes corruption, or if the Buyer has substantive suspicion in this regard, the Buyer will inform to its Chief Vigilance Officer.
9. Compensation for Damages
- 9.1 If the Buyer has disqualified the Bidder(s)/Seller(s) from the tender process prior to the award according to Clause 8, the Buyer is entitled to demand and recover the damages equivalent to Earnest Money Deposit in case of open tendering.
- 9.2 If the Buyer has terminated the contract according to Clause 8, or if the Buyer is entitled to terminate the contract according to Clause 8, the Buyer shall be entitled to encash the advance bank guarantee and performance bond/ warranty bond, if furnished by the Bidder(s)/Seller(s), in order to recover the payments, already made by the Buyer for undelivered Goods and/ or Services and / or Works.
- 9.3 The Bidder(s)/Seller(s) shall also be liable to refund to the Buyer, the Agency Commission / payments made by the Seller(s) / Bidder(s) along with interest at the rate of 2% per annum above LIBOR (London Inter Bank Offer Rate) (for foreign vendors) and Base Rate of SBI (State Bank of India) plus 2% (for Indian vendors).
- 9.4 In case of occurrence of violation of any clause of this Omnibus IP then the amount due under this Omnibus IP can be recovered by the Buyer from any Contract/Agreement signed with the Bidder(s)/Seller(s) to which this Omnibus IP is applicable.
10. Independent External Monitor(s)
- a.1 The Buyer has appointed Independent External Monitor(s) for this Omnibus IP in consultation with the Central Vigilance Commission.
- 10.2 As soon as the Omnibus Integrity Pact is signed, the Buyer shall furnish a brief background of the case to the Independent External Monitor(s).

- 10.3 The Bidder(s)/Seller(s), if they deem it necessary, may furnish any information as relevant to their bid to the Independent External Monitor(s). Further, after the award of work, as also, during execution of the contract, any issue specifically raised before the IEMs shall be looked into by the panel of IEMs.
- 10.4 If any complaint with regard to violation of the Omnibus IP is received by the Buyer in a procurement case, the Buyer shall refer the complaint to the Independent External Monitor(s) for their comments / enquiry.
- 10.5 If the Independent External Monitor(s) need to peruse the records of the buyer in connection with the complaint sent to them by the buyer, the buyer shall make arrangement for such perusal of records by the Independent External Monitor(s), in accordance with the CVC guidelines.
- 10.6 The report of enquiry, if any, made by the Independent External Monitor(s) shall be submitted to CMD, HAL as far as possible within 2 weeks, but not more than 30 days for a final and appropriate decision in the matter keeping in view the provision of this Omnibus IP.
11. Law and Place of Jurisdiction
- This Omnibus IP is subject to Indian Laws and exclusive Jurisdiction of Courts at Bangalore, India.
12. Other Legal Actions
- The actions stipulated in this Omnibus IP are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force, relating to any civil or criminal proceedings.
13. Omnibus IP Duration
- 13.1 This Omnibus IP shall come into force from the date when both parties have legally signed it and the validity of this Omnibus IP shall be for ----- (upto 5 years) with applicability to all tenders /orders /contracts /agreements which are executed by the respective Bidder/ tender issued/executed during the existence of this Omnibus IP.
- 13.2 In addition to above, the validity of the Omnibus IP for respective Tender/order/contract/ agreement shall remain valid upto six months from declaration of unsuccessful Bidder. Further, for successful Bidder, validity of this IP shall survive upto 12 months from making last payment w.r.t the respective Tender/order/contract/agreement.
- 13.3 Further, if the Contract/Agreement covered under this Omnibus IP is extended/renewed for any period then this Omnibus IP shall also be deemed extended/renewed for such period of extension/renewal.

- 13.4 If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this Omnibus IP as specified above, unless it is discharged / determined by CMD, HAL.
- 13.5 Should one or several provisions of this Omnibus IP turn out to be invalid, the remainder of this Omnibus IP remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
14. Other Provisions
- 14.1 Changes and supplements need to be made in writing. Side agreements have not been made.
- 14.2 The Bidder(s)/Seller(s) signing this Omnibus IP shall not initiate any Legal action or approach any court of law during the examination of any allegations/complaint by IEM and until the IEM delivers the report.
- 14.3 In view of the nature of this Omnibus IP, this Omnibus IP shall not be terminated by any party and will subsist throughout its stated period.
- 14.4 Nothing contained in this Omnibus IP shall be deemed to assure the Bidder(s)/Seller(s) of any success or otherwise in the tendering process.
15. This Omnibus IP is signed with HAL exclusively and hence shall not be treated as precedence for signing of Integrity Pact / Omnibus IP with MoD or any other Organization.
16. The Parties hereby sign this Omnibus IP at _____ on _____ {Bidder(s)/ Seller(s)} and at _____ on _____ (Buyer)

BUYER

Signature:

Executive Director/General Manager
Hindustan Aeronautics Ltd.,

Date:

Stamp:

Witness

1. _____

BIDDER / SELLER

Signature:

Authorized Signatory (*) (B)
.....Division

Date:

Stamp:

Witness

1. _____

2. _____

2. _____

(*) – Authorized signatory of the company / authorized person who has signed the offer.

(β) – In case the Bidder(s)/Seller(s) is a Joint Venture, all the Partners of Joint Venture should sign this Integrity Pact (Indicating Name, Designation of the respective persons)

(This is to be executed on Rs.200/- non judicial stamp paper and to be uploaded along with the other documents. Please note original to be sent along with the EMD and tender cost to HAL.)

ANNEXURE – H2

STANDALONE INTEGRITY PACT

Tender Ref. No. & Date:.....

Integrity Pact (Standalone)

Whereas Hindustan Aeronautics Ltd. (“HAL”) having its registered office at 15/1, Cubbon Road, Bangalore – 560 001, India, acting through its Division, represented by General Manager / Executive Director hereinafter referred to as the Buyer and the first party, proposes to procure (indicate name or category of the Equipment, like Aircraft Parts/ Avionic Items/ Accessories etc), hereinafter referred to as Goods and / or Services and / or Works.

And

M/s....., represented by....., Chief Executive Officer (which term, unless expressly indicated by the contract, shall be deemed to include its successors and its assignee), hereinafter referred to as the Bidder(s)/ Seller(s) and the second party, is willing to offer/ has offered the Goods and / or Services and / or Works.

2. Whereas the Bidder(s) / Seller(s) is a private company/public company /partnership/ registered export agency, constituted in accordance with the relevant law in the matter and the Buyer is a Public Sector Undertaking and registered under Companies Act 1956. Buyer and Bidder(s)/Seller(s) shall hereinafter be individually referred to as “Party” or collectively as the “parties”, as the context may require.

3. Preamble

3.1 Buyer has called for tenders under laid down organizational procedures intending to enter into contract/s for supply of Goods / Services / Works etc of and the Bidder / Seller is one amongst several bidders/Proprietary Vendor/Customer Nominated Source/Licenser who has indicated a desire to bid/supply in such tendering process.

3.2 The Buyer values and takes primary responsibility for full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness / transparency in its relations with its Bidder(s) and / or Seller(s).

3.3 In order to achieve these goals, the Buyer has appointed Independent External Monitor(s) (IEMs) in consultation with Central Vigilance Commission, who will monitor the tender

process and the execution of the contract for compliance with the principles mentioned above.

4. Commitments of the Buyer.

4.1 The Buyer commits itself to take all measures necessary to prevent corruption and fraudulent practices and to observe the following principles:-

- i) No employee of the Buyer, personally or through family members, will in connection with the tender, or the execution of a contract demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
- ii) The Buyer will during the tender process treat all Bidder(s)/Seller(s) with equity and reason. The Buyer will in particular, before and during the tender process, provide to all Bidder(s)/Seller(s) the same information and will not provide to any Bidder(s)/Seller(s) confidential / additional information through which the Bidder(s)/Seller(s) could obtain an advantage in relation to the process or the contract execution.
- iii) The Buyer will exclude from the process all known prejudiced persons.

4.2 If the Buyer obtains information on the conduct of any of its employees which is a criminal offence under the Indian legislation Prevention of Corruption Act 1988 as amended from time to time or if there be a substantive suspicion in this regard, the Buyer will inform to its Chief Vigilance Officer and in addition can initiate disciplinary action.

5. Commitments of the Bidder(s)/Seller(s).

5.1 The Bidder(s)/Seller(s) commit himself to take necessary measures to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

- i) The Bidder(s)/Seller(s) will not, directly or through any other persons or firm, offer promise or give to any of the Buyer's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage during the tendering or qualification process or during the execution of the contract.
- ii) The Bidder(s)/Seller(s) will not enter with other Bidder(s) / Seller(s) into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- iii) The Bidder(s)/Seller(s) will not commit any offence under the Indian legislation, Prevention of Corruption Act 1988 as amended from time to time. Further, the

Bidder(s)/Seller(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Buyer as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

5.2 Adoption of IP by Joint Ventures/Sub-Contractors:

- i) In case the Bidder(s)/ Seller(s) is a Joint Venture, then all the Partners of the Joint Venture should sign this Integrity Pact. The Bidder(s) / Seller(s) shall ensure the compliance of the provisions of this Integrity Pact by all its Joint Venture Partners. Further, the Bidder(s)/Seller(s) shall be held responsible for any violation/breach of the provisions of IP by any one or more of its Partners.
- ii) The Bidder(s)/Seller(s) shall ensure compliance of the provisions of this Integrity Pact by sub-contractor(s), if any. In this regard Bidder(s)/Seller(s) shall ensure for entering into a similar Integrity pact arrangement with their respective sub-contractor(s) before entering into any specific sub contractual arrangement, in connection with execution of main contract with HAL. The Integrity Pact shall be generally executed in all such cases where the value of sub contract works is Rs.2 Crores (equivalent to MUSD 0.25) and above, the content of IP can be decided by Bidder(s)/Seller(s), which shall be in similar lines of this main Integrity Pact. The signed Integrity Pact needs to be retained by the Bidder(s)/Seller(s) and shall be submitted to HAL, upon seeking such information. Further, the Bidder(s)/Seller(s) shall be held responsible for any violation/breach of the provisions by its sub-contractor(s). In case of sub-contractor(s), the Integrity Pact will be a tri-partite arrangement to be signed by the Buyer, Bidder(s)/Seller(s) & Sub-contractor(s).

5.3 The Bidder(s)/ Seller(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

5.4 Agents / Agency Commission:

The Seller(s)/Bidder(s) confirms and declares to the buyer that the Seller(s)/Bidder(s) is the original manufacturer or authorized distributor / stockiest of original manufacturer or Govt. Sponsored / Designated Export Agencies (applicable in case of countries where domestic laws do not permit direct export by OEMs) of the Goods and / or Services and / or Works referred to in this tender / offer / contract / Purchase order and has not engaged any individual or firm, whether Indian or Foreign whatsoever, to intercede, facilitate or in any way to recommend to Buyer or any of its functionaries, whether officially or unofficially, to the award of the tender / contract / purchase order to the Seller(s)/Bidder(s); nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The Seller(s)/Bidder(s)

agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller(s)/Bidder(s) has engaged any such individual / firm, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract / purchase order, the Seller(s)/Bidder(s) will be liable to refund that amount to the Buyer. The Seller will also be debarred from participating in any RFQ / Tender for new projects / program with Buyer for a minimum period of five years. The Buyer will also have a right to consider cancellation of the Contract / Purchase order either wholly or in part, without any entitlement or compensation to the Seller(s)/Bidder(s) who shall in such event be liable to refund to the buyer, all agency commission payments made by the Seller(s)/Bidder(s) along with interest at the rate of 2% per annum above LIBOR (London Inter Bank Offer Rate) (for foreign vendors) and Base Rate of SBI (State Bank of India) plus 2% (for Indian vendors). The Buyer will also have the right to recover any such amount from any contracts / Purchase order concluded earlier or later with Buyer.

6. Previous Transgression

- 6.1 The Bidder(s)/Seller(s) declares that no previous transgressions have occurred in the last three years and no pending transgressions for conclusions even before the last three years from the date of signing of this Integrity Pact with any other company in any country conforming to the anti corruption approach or with any other Public Sector Enterprise in India that could justify Bidder's/ Sellers' exclusion from the tender process.
- 6.2 If the Bidder(s)/Seller(s) makes incorrect statement on this subject, Bidder(s)/Seller(s) can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason without any liability whatsoever on the Buyer.

7. Company Code of Conduct

Bidder(s)/Seller(s) are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behavior) and a compliance program for the implementation of the code of conduct throughout the company.

8. Sanctions for Violation

- 8.1 If the Bidder(s)/ Seller(s), before award or during execution has committed a transgression through a violation of Clause 5 & Clause 6, above or in any other form such as to put his reliability or credibility in question, the Buyer is entitled to disqualify the Bidder(s)/ Seller(s) from the tender process or take action as per the procedure mentioned herein below:
- i) To disqualify the Bidder(s)/ Seller(s) with the tender process & exclusion from future contracts.
 - ii) To debar the Bidder(s)/ Seller(s) from entering into any bid from Buyer for a period of two years.

- iii) To immediately cancel the contract, if already signed / awarded without any liability on the Buyer to compensate the Bidder(s)/Seller(s) for damages, if any. Subject to Clause 5.4 any lawful payment due to the Bidder(s)/Seller(s) for supplies effected till date of termination would be made in normal course.
 - iv) To encash EMD / Advance Bank Guarantees / Performance Bonds/Warranty Bonds, etc. which may have been furnished by the Bidder(s)/Seller(s) to the extent of the undelivered Goods and / or Services and / or Works.
- 8.2 If the Buyer obtains knowledge of conduct of a Bidder(s)/Seller(s) or of an employee or a representative or an associate of a Bidder(s)/Seller(s) which constitutes corruption, or if the Buyer has substantive suspicion in this regard, the Buyer will inform to its Chief Vigilance Officer.
- 9.0 Compensation for Damages
- 9.1 If the Buyer has disqualified the Bidder(s) / Seller(s) from the tender process prior to the award according to Clause 8, the Buyer is entitled to demand and recover the damages equivalent to Earnest Money Deposit in case of open tendering.
- 9.2 If the Buyer has terminated the contract according to Clause 8, or if the Buyer is entitled to terminate the contract according to Clause 8, the Buyer shall be entitled to encash the advance bank guarantee and performance bond/ warranty bond, if furnished by the Bidder(s)/Seller(s), in order to recover the payments, already made by the Buyer for undelivered Goods and / or Services and / or Works.
- 9.3 The Bidder(s)/Seller(s) shall also be liable to refund to the Buyer, the Agency Commission / payments made by the Seller(s) / Bidder(s) along with interest at the rate of 2% per annum above LIBOR (London Inter Bank Offer Rate) (for foreign vendors) and Base Rate of SBI (State Bank of India) plus 2% (for Indian vendors).
- 10.0 Independent External Monitor(s)
- 10.1 The Buyer has appointed Independent External Monitor(s) for this Integrity Pact in consultation with the Central Vigilance Commission.
- 10.2 As soon as the Integrity Pact is signed, the Buyer shall furnish a brief background of the case to the Independent External Monitor(s).
- 10.3 The Bidder(s)/Seller(s), if they deem it necessary, may furnish any information as relevant to their bid to the Independent External Monitor(s). Further, after the award of work, as also, during execution of the contract, any issue specifically raised before the IEMs shall be looked into by the panel of IEMs.
- 10.4 If any complaint with regard to violation of the IP is received by the buyer in a procurement case, the buyer shall refer the complaint to the Independent External Monitor(s) for their comments / enquiry.

- 10.5 If the Independent External Monitor(s) need to peruse the records of the buyer in connection with the complaint sent to them by the buyer, the buyer shall make arrangement for such perusal of records by the Independent External Monitor(s), in accordance with the CVC guidelines.
- 10.6 The report of enquiry, if any, made by the Independent External Monitor(s) shall be submitted to CMD, HAL as far as possible within 2 weeks, but not more than 30 days, for a final and appropriate decision in the matter keeping in view the provision of this Integrity Pact.
11. Law and Place of Jurisdiction
- This Integrity pact is subject to Indian Laws, and exclusive Jurisdiction of Courts at Bangalore, India.
12. Other Legal Actions
- The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.
13. Integrity Pact Duration
- 13.1 This Integrity Pact begins when both parties have legally signed it. It expires for the successful Bidder(s)/Seller(s) 12 months after the last payment under the contract, and for all other unsuccessful Bidder(s)/Seller(s) within 6 months from date of placement of order / finalization of contract against this tender.
- 13.2 If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this Integrity Pact as specified above, unless it is discharged / determined by CMD, HAL.
- 13.3 Should one or several provisions of this Integrity Pact turn out to be invalid, the remainder of this Integrity Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
14. Other Provisions
- 14.1 Changes and supplements need to be made in writing. Side agreements have not been made.
- 14.2 The Bidder(s)/Seller(s) signing this IP shall not initiate any Legal action or approach any court of law during the examination of any allegations/complaint by IEM and until the IEM delivers the report.
- 14.3 In view of the nature of this Integrity Pact, this Integrity Pact shall not be terminated by any party and will subsist throughout its stated period.
- 14.4 Nothing contained in this Integrity Pact shall be deemed to assure the Bidder(s)/ Seller(s) of any success or otherwise in the tendering process.

15. This Integrity Pact is signed with HAL exclusively and hence shall not be treated as precedence for signing of IP with MoD or any other Organization.
16. The Parties hereby sign this Integrity Pact at _____ on _____ {Bidder(s)/ Seller(s)} and at _____ on _____ (Buyer)

BUYER

BIDDER / SELLER

Signature:

Signature:

Executive Director/General Manager

Authorized Signatory (*) (β)

Hindustan Aeronautics Ltd.,

.....Division

Date:

Date:

Stamp:

Stamp:

Witness

Witness:

1. _____

1. _____

2. _____

2. _____

(*) – Authorized signatory of the company / authorized person who has signed the offer.

(β) – In case the Bidder(s)/Seller(s) is a Joint Venture, all the Partners of Joint Venture should sign this Integrity Pact (Indicating Name, Designation of the respective persons)

(α) In case of sub-contractor(s), the Integrity Pact will be a tri-partite arrangement, Bidder(s) / Seller(s) along with their sub-contractor should sign this Integrity Pact (Indicating Name, Designation of the respective person).



HINDUSTAN AERONAUTICS LIMITED
Bengaluru, India