

GOVERNMENT OF ASSAM
ASSAM INLAND WATER TRANSPORT DEVELOPMENT SOCIETY
3rd FLOOR, IWT DIRECTORATE OFFICE BUILDING, ULUBARI::GUWAHATI-7
(ASSAM IWT PROJECT FUNDED BY WORLD BANK)

Website: www.aiwtdsociety.in, www.iwtdirectorate.assam.gov.in, **email :** dir.iwtds-as@gov.in **Phone:** 0361-2462677

Country : INDIA

ASSAM INLAND WATER TRANSPORT PROJECT (AIWTP)

Loan No./Credit No./ Grant No.: 9026 –IN

PROJECT–Assam Inland Water Transport Project

National Open Competitive Procurement

(Engineering, Procurement, Construction (“EPC”) following two envelope Bidding Process with e-Procurement)

REQUEST FOR BIDS No. : IN-IWT-244480-CW-RFB

NAME OF WORK: Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat, Assam

Estimated Cost : INR 115.99 Crores

Completion Period : 18 (eighteen) months

PERIOD OF SALE OF BIDDING DOCUMENT :FROM 12 /08/2021
TO 21 /09/2021 [TIME 14:00 hours]

TIME AND DATE OF PRE-BID CONFERENCE :Date 24/08/2021 at 11.30 am

LAST DATE AND TIME FOR RECEIPT OF BIDS :Date 21/09/2021 [Time 14:00 hours]

TIME AND DATE OF OPENING OF BIDS :Date 21 /09/2021 [TIME16:00 hours]

PLACE OF OPENING OF BIDS :Assam Inland Water Transport Development Society, (AIWTDS), Near Ulubari Flyover, GUWAHATI – 781007, Assam

OFFICER INVITING BIDS : State Project Director, Assam Inland Water Transport Development Society, AIWTDS

REQUEST FORBIDS (RFB)

**Government of Assam
Assam Inland Water Transport Development Society, (AIWTDS)**

REQUEST FOR BIDS (RFB)

E-Procurement Notice

(Engineering, Procurement, Construction (“EPC”) Contract following Two-Envelope Bidding Process with e-Procurement)

NATIONAL OPEN COMPETITIVE PROCUREMENT

Name of Project: Assam Inland Water Transport Project

Contract Title: EPC Contract for Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat, Assam

Loan No.:IBRD- 9026 IN

RFB Reference No.: IN-IWT-244480-CW-RFB

Date: 11 /08/2021

The Government of India has received financing from the World Bank toward the cost of the Assam Inland Water Transport Project and intends to apply a part of the proceeds to cover eligible payments under the contract for construction of works as detailed below.

1. Bidding will be conducted through national open competitive procurement using a Request for Bids (RFB) as specified in the World Bank’s “Procurement Regulations for IPF Borrowers, July 2016 Revised November 2017, July 2018 and November 2020” (“Procurement Regulations”) and is open to all Bidders as defined in the Procurement Regulations.
2. The AIWTDS now invites online bids from eligible Bidders for the construction of works detailed below:

Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat, Assam in 18 months of Construction Phase and 12 months of Defect Liability Period of time consisting of

- Construction of Pontoon Barges along with Installation of Link Span
- Construction of Bank seat; Steel Piles & RCC Piles
- Construction & Positioning of Guiding Dolphins
- Development of River Front works for Terminal Buildings consists of Passenger Terminal Building, along with Mechanical & Electrical works; Approach & Internal Roads; Horticulture works; Fire Fighting works and other service items

Interested Bidders may obtain further information at the address given below during office hours. Bidders are advised to note the clauses on eligibility (Section I Clause 4) and minimum qualification criteria (Section III – Evaluation and Qualification Criteria), to qualify for the award of the Contract.

In addition, please refer to paragraphs 3.14 and 3.15 of the “Procurement Regulations” setting

forth the World Bank's policy on conflict of interest.

3. The bidding document is available online on www.assamtenders.gov.in, www.aiwtdsociety.in and www.iwtdirectorate.assam.gov.in from 12/08/2021 to 21/09/2021 [14:00Hrs]. Bidders will be required to register on the website www.assamtenders.gov.in. The Bidders would be responsible for ensuring that any addenda available on the website is also downloaded and incorporated.
4. For submission of the Bid, the Bidder is required to have Digital Signature Certificate (DSC) of Class 3 Digital Signature and shall have at least Signing type Digital Signatures from one of the Certifying Authorities (CA) authorised by Government of India for issuing DSC. Bidders can see the list of licensed CA's from the link (www.cca.gov.in). Aspiring bidders who have not obtained the user ID and password for participating in e-procurement in this Project, may obtain the same from the website: www.assamtenders.gov.in.
5. Bids comprise two Parts, namely the Technical Part and the Financial Part, and both parts must be submitted simultaneously online on www.assamtenders.gov.in on or before 21/09/2021 – 14:00 hours and the 'Technical Part' of the Bids will be publicly opened online on the same day at 16:00 hours, in the presence of the Bidders' designated representatives and anyone who choose to attend. The "Financial Part" shall remain unopened in the e-procurement system until the second public Bid opening for the financial part. Any Bid or modifications to Bid (including discount) received outside e-procurement system will not be considered. If the office happens to be closed on the date of opening of the Bids as specified, the Bids will be opened on the next working day at the same time and venue. The electronic bidding system would not allow any late submission of Bids.
6. All Bids must be accompanied by a bid securing declaration as per form provided in Annexure to Technical Forms- Bid Securing Declaration in the RFP.
7. The Bidders are required to submit (a) original affidavit regarding correctness of information furnished with the Bid Document (b) Original Power of Attorney to Sign the Bid (c) Original Bid Securing Declaration as per the format to the Office of the Assam Inland Water Transport Development Society, (AIWTDS), Near Ulubari Flyover, GUWAHATI – 781007, Assam(hereinafter referred as "the Employer")before the bid submission deadline, either by registered post/speed post/courier or by hand, failing which the Bids will be declared non-responsive and will not be opened.
8. A virtual pre-bid meeting will be held on 24/08/2021 at 11:30 Hour at the office of Assam Inland Water Transport Development Society, (AIWTDS), Near Ulubari Flyover, GUWAHATI – 781007, Assam to clarify the issues and to answer questions on any matter that may be raised at that stage as stated in ITB Clause 7.4 of 'Instructions to Bidders' of the Bidding Document. Bidders are advised to download the Bidding Document prior to the pre-bid meeting in order for the Bidders to have a good understanding of the scope of works under this contract for discussion and clarification at the pre-bid meeting. Bid Documents shall be available on <https://assamtenders.gov>, AIWTDS website <https://www.aiwtdsociety.in/> and Directorate of Inland Water Transport Development website <https://iwtdirectorate.assam.gov.in/>. The interested bidders who wish to participate in the pre-bid may send the name & email ids of authorised representatives to this office **email id: dir.iwtds-as@gov.in** on or before 21/08/2021 by 1600 Hrs. The participants who wish to attend the virtual pre-bid meeting shall submit their queries (if any) before 21/08/2021.
9. Other details can be seen in the Bidding Document. The Employer shall not be held liable for any delays due to system failure beyond its control. Even though the system will attempt to notify the Bidders of any Bid updates, the Employer shall not be liable for any information not received by the Bidder. It is the Bidders' responsibility to verify the website for the latest information related to this Bid.
10. The address for communication is as under:
 - (a) Name & Designation of Officer : Adil Khan , IAS , State Project Director

AIWTDS

- (b) Official Address :Assam Inland Water Transport Development Society, Assam, Ulubari, Guwahati 781 007
- (c) Email :dir.iwtds-as@gov.in
- (d) Telephone:+91 361 2462677

Sd-

Mr. Adil Khan, IAS

State Project Director

Assam Inland Water Transport Development Society

DIWT Office, Ulubari, Guwahati

Email: dir.iwtds-as@gov.in

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PART 1- BIDDING PROCEDURE

Section-I: Instructions to Bidders

A. General

1. **Scope of Bid**
 - 1.1 In connection with the Specific Procurement Notice - Request for Bids (RFB), **specified in the Bid Data Sheet (BDS)**, the Employer, as **specified in the BDS**, issues this bidding document for the provision of Works as specified in Section VII, Works' Requirements. The name, identification and number of lots (contracts) of this RFB are **specified in the BDS**.
 - 1.2 Throughout this bidding document:
 - (a) the term "in writing" means communicated in written form (e.g. by mail, e-mail, and fax, including if **specified in the BDS**, distributed or received through the electronic-procurement system used by the Employer) with proof of receipt;
 - (b) if the context so requires, "singular" means "plural" and vice versa;
 - (c) "Day" means calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day of the Borrower. It excludes the Borrower's official public holidays; and
 - (d) "ESHS" means environmental, social (including sexual exploitation and abuse (SEA) and gender-based violence (GBV)), health and safety.
2. **Source of Funds**
 - 2.1 The Borrower or Recipient (hereinafter called "Borrower") **specified in the BDS** has received or has applied for financing (hereinafter called "funds") from the International Bank for Reconstruction and Development or the International Development Association (hereinafter called "the Bank") in an amount **specified in the BDS**, toward the project **named in the BDS**. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which this bidding document is issued.
 - 2.2 Payment by the Bank will be made only at the request of the Borrower and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the Loan (or other financing) Agreement. The Loan (or other financing) Agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of goods, equipment, plant, or materials, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Borrower shall derive any rights from the Loan (or other financing) Agreement or have any claim to the proceeds of the Loan (or other financing).
3. **Fraud and Corruption**
 - 3.1 The Bank requires compliance with the Bank's Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework, as set forth in Section VI.

3.2 In further pursuance of this policy, bidders shall permit and shall cause their agents (whether declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Bank to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, bid submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Bank.

4. Eligible Bidders

4.1 A Bidder may be a firm that is a private entity, or a state-owned enterprise or institution subject to ITB 4.6, or any combination of them in the form of a joint venture (JV), under an existing agreement, or with the intent to enter into such an agreement supported by a letter of intent, unless otherwise **specified in the BDS**. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Bidding process and, in the event the JV is awarded the Contract, during contract execution. This authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all members. Unless **specified in the BDS**, there is no limit on the number of members in a JV. The joint venture agreement shall be registered in the place **specified in BDS** so as to be legally valid and binding on members.

4.2 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this Bidding process, if the Bidder:

- (a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
- (b) receives or has received any direct or indirect subsidy from another Bidder; or
- (c) has the same legal representative as another Bidder; or
- (d) has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the Bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or
- (e) any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the Bid; or
- (f) any of its affiliates has been hired (or is proposed to be hired) by the Employer or Borrower as Engineer for the Contract implementation;
- (g) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm;

- (h) has a close business or family relationship with a professional staff of the Borrower (or of the project implementing agency, or of a recipient of a part of the loan) who: (i) are directly or indirectly involved in the preparation of the bidding document or specifications of the contract, and/or the Bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Bank throughout the procurement process and execution of the contract.
- 4.3 A firm that is a Bidder (either individually or as a JV member) shall not participate in more than one Bid, except for permitted alternative Bids. This includes participation as a Subcontractor in other Bids. Such participation shall result in the disqualification of all Bids in which the firm is involved. A firm that is not a Bidder or a JV member may participate as a subcontractor in more than one Bid.
- 4.4 A Bidder may have the nationality of any country, subject to the restrictions pursuant to ITB 4.8. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.
- 4.5 A Bidder that has been sanctioned by the Bank, pursuant to the Bank's Anti-Corruption Guidelines, in accordance with its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework as described in Section VI paragraph 2.2 d., shall be ineligible to be prequalified for, initially selected for, bid for, propose for, or be awarded a Bank-financed contract or benefit from a Bank-financed contract, financially or otherwise, during such period of time as the Bank shall have determined. The list of debarred firms and individuals is available at the electronic address **specified in the BDS**.
- 4.6 Bidders that are state-owned enterprises or institutions in the Employer's Country may be eligible to compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to the Bank, that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of the Employer.
- 4.7 A Bidder shall not be under suspension from Bidding by the Employer as the result of the operation of a Bid-Securing or Proposal-Securing Declaration.
- 4.8 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, the Borrower's country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods or the contracting of works or services required; or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods or contracting of works or

services from that country, or any payments to any country, person, or entity in that country. When the Works are implemented across jurisdictional boundaries (and more than one country is a Borrower, and is involved in the procurement), then exclusion of a firm or individual on the basis of ITB 4.8 (a) above by any country may be applied to that procurement across other countries involved, if the Bank and the Borrowers involved in the procurement agree.

4.9 A Bidder shall provide such documentary evidence of eligibility satisfactory to the Employer, as the Employer shall reasonably request.

5. Eligible Materials, Equipment and Services

5.1 The materials, equipment and services to be supplied under the Contract and financed by the Bank may have their origin in any country subject to the restrictions specified in Section V, Eligible Countries, and all expenditures under the Contract will not contravene such restrictions. At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment and services.

B. Contents of Bidding Document

6. Sections of Bidding Document

6.1 The bidding document consists of Parts 1, 2, and 3, which include all the sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITB 8.

PART 1 Bidding Procedures

- Section I - Instructions to Bidders (ITB)
- Section II - Bid Data Sheet (BDS)
- Section III - Evaluation and Qualification Criteria
- Section IV - Bidding Forms
- Section V - Eligible Countries
- Section VI - Fraud and Corruption

PART 2 Works' Requirements

- Section VII - Works' Requirements: Conditions of Contract together with Schedules.

PART 3 Drawings

6.2 The Specific Procurement Notice - Request for Bids (RFB) issued by the Employer is not part of this bidding document.

6.3 Unless obtained directly from the Employer or downloaded from the official website specified in the 'E-Procurement Notice', the Employer is not responsible for the completeness of the bidding document, responses to requests for clarification, the minutes of the pre-Bid meeting (if any), or Addenda to the bidding document in accordance with ITB 8. In case of any contradiction, documents obtained directly from the Employer or downloaded from the official website specified in the 'E-Procurement Notice' shall prevail.

6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the bidding document and to furnish with its

Bid all information and documentation as is required by the bidding document.

7. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting

- 7.1 The electronic bidding system **specified in the BDS** provides for online clarifications. A Bidder requiring any clarification on the bidding document may notify the *Employer* online or raise its inquiries during the pre-Bid meeting if provided for in accordance with ITB 7.4. Clarifications requested through any other mode shall not be considered by the Employer. The *Employer* will respond to any request for clarification, provided that such request is received prior to the deadline for submission of Bids within a period **specified in the BDS**. Description of clarification sought and the response of the *Employer* shall be uploaded for information of all Bidders without identifying the source of request for clarification. Should the clarification result in changes to the essential elements of the bidding document, the Employer shall amend the bidding document following the procedure under ITB 8 and ITB 22.2. It is the bidder's responsibility to check on the e-procurement system, for any addendum/ amendment/ corrigendum to the bidding document.
- 7.2 The Bidder is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.
- 7.3 The Bidder and any of its personnel or agents will be granted permission by the *Employer* to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the *Employer* and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
- 7.4 If so **specified in the BDS**, the Bidder's designated representative is invited to attend a pre-Bid meeting and/or a Site of Works visit. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.5 The Bidder is requested, to submit any questions only through the e-procurement portal, not later than one week before the meeting. Clarifications requested through any other mode shall not be considered by the Employer.
- 7.6 Minutes of the pre-Bid meeting, if applicable, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be uploaded online on e-procurement system. Any modification to the bidding document that may become necessary as a result of the pre-Bid meeting shall be made by the *Employer* exclusively through the issue of an addendum pursuant to ITB 8 and not through the minutes of the pre-Bid meeting. It is the bidder's responsibility to check on the e-procurement system, for any addendum/ amendment/ corrigendum to the bidding document. Nonattendance at the pre-Bid meeting will not be a cause for disqualification of a Bidder.

- 8. Amendment of Bidding Document**
- 8.1 At any time prior to the deadline for submission of bids, the *Employer* may amend the bidding document by issuing addenda.
- 8.2 Any addendum issued shall be part of the bidding document and shall be deemed to have been communicated to all the bidders. The addenda will appear on the e-procurement system under "Latest Corrigendum", and Email notification is also automatically sent to those bidders who have started working on the tender, unless otherwise **specified in the BDS**. The Employer shall not be liable for any information not received by the bidder. It is the bidders' responsibility to verify the website for the latest information related to this bid.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the *Employer* may, at its discretion, extend the deadline for the submission of Bids, pursuant to ITB 22.2.

C. Preparation of Bids

- 9. Cost of Bidding**
- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the *Employer* shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process.
- 10. Language of Bid**
- 10.1 The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the *Employer*, shall be written in English. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 11. Documents Comprising the Bid**
- 11.1 The Bid shall comprise two Parts, namely the Technical Part and the Financial Part. These two Parts shall be submitted simultaneously.
- 11.2 The Technical Part shall contain the following:
- (a) **Letter of Bid – Technical Part** prepared in accordance with ITB 12 and ITB 14;
 - (b) **Bid Security** in accordance with ITB 19.1;
 - (c) **Alternative Bid – Technical Part**, if permissible, in accordance with ITB 13, the Technical Part of any Alternative Bid;
 - (d) **Authorization:** written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.3, and in accordance with ITB 20.4 in case of a JV;
 - (e) **Bidder's Eligibility:** documentary evidence in accordance with ITB 17 establishing the Bidder's eligibility to Bid;
 - (f) **Qualifications:** documentary evidence in accordance with ITB 17 establishing the Bidder's qualifications to perform the contract if its Bid is accepted;

- (g) **Conformity:** a technical proposal in accordance with ITB 16;
- (h) **Construction methodology** as detailed in Para 1.1 of Section III Evaluation Criteria;
- (i) Contractor Registration certificate (as per RFB), if applicable; and
- (j) any other document and schedules **required in the BDS.**

11.3 The **Financial Part** shall contain the following:

- (a) **Letter of Bid – Financial Part:** prepared in accordance with ITB 12 and ITB 14;
- (b) **Alternative Bid - Financial Part:** if permissible in accordance with ITB 13; and
- (c) any other document required **in the BDS.**

11.4 The Technical Part shall not include any information related to the Bid price. Where material financial information related to the Bid price is contained in the Technical Part the Bid shall be declared non-responsive.

11.5 In addition to the requirements under ITB 11.2, Bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Bid shall be signed by all members and submitted with the Bid, together with a copy of the proposed Agreement.

11.6 The Bidder shall furnish in the Letter of Bid – Financial Part information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid, and to contract execution if the Bidder is awarded the contract.

12. Letters of Bid and Schedules

12.112.1 The Letter of Bid – Technical Part, Letter of Bid – Financial Part, Schedules, and all documents listed under Clause 11, shall be prepared using the relevant forms furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.3. All blank spaces shall be filled in with the information requested.

13. Alternative Bids

13.1 Unless otherwise specified **in the BDS**, alternative Bids shall not be considered.

13.2 When alternative times for completion are explicitly invited, a statement to that effect will be included **in the BDS** and the method of evaluating different alternative times for completion will be described in Section III, Evaluation and Qualification Criteria.

13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the bidding document must first price the *Employer's* design as described in the bidding document and shall further provide all information necessary for a complete evaluation of the alternative by the *Employer*, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the

Bidder with the Most Advantageous Bid conforming to the basic technical requirements shall be considered by the *Employer*.

13.4 When specified **in the BDS**, Bidders are permitted to submit alternative technical solutions for specified parts of the Works. Such parts will be identified **in the BDS** and described in Section *VII, Works' Requirements*. The method for their evaluation will be stipulated in Section *III, Evaluation and Qualification Criteria*.

14. Bid Prices and Discounts

14.1 The prices and discounts quoted by the Bidder in the Letter of Bid – Financial Part shall conform to the requirements specified below.

14.2 Deleted.

14.3 The price to be quoted in the Letter of Bid – Financial Part, in accordance with ITB 12.1, shall be the total price of the Bid, including any discounts offered.

14.4 Deleted.

14.5 Unless otherwise **specified in the BDS** and the Contract, the prices quoted by the Bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract.

14.6 Deleted.

14.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Bids, shall be included in the prices and the total Bid price submitted by the Bidder.

14.8 Bidders may like to ascertain availability of tax/duty exemption benefits available in India. They are solely responsible for obtaining such benefits which they have considered in their bid and in case of failure to receive such benefits for reasons whatsoever, the Employer will not compensate the bidder (Contractor). The bidder shall furnish along with his bid a declaration to this effect in the Declaration Format provided in Section IV of the bidding document.

14.9 Where the bidder has quoted taking into account such benefits, it must give all information required for issue of certificates in terms of the Government of India's relevant Notifications as per the declaration format. In case the bidder has not provided the required information or has indicated to be furnished later on in the Declaration Format, the same shall be construed that the goods/construction equipment for which certificate is required is Nil.

14.10 To the extent the Employer determines the quantities indicated therein are reasonable keeping in view the approved design, work requirements, construction program and methodology, the certificates will be issued within 60 days of signing of the contract and no subsequent changes will be permitted. In case of materials pertaining to Variation items and quantities, the certificate shall be issued only on request from the Contractor when in need and duly certified by the Engineer.

- 14.11 No certificate will be issued for items where no quantity/capacity of equipment is indicated in the statement.
- 14.12 If the bidder has considered the tax/duty exemption for materials/construction equipment to be bought for the work, the bidder shall confirm and certify that the Employer will not be required to undertake any responsibilities of the Government of India Scheme or the said exemptions being available during the contract execution, except issuing the required certificate. The bids which do not conform to the above provisions or any condition by the bidder which makes the bid subject to availability of tax/duty exemption for materials/construction equipment or compensation on withdrawal of any variations to the said exemptions will be treated as non-responsive and rejected.
- 14.13 Any delay in procurement of the construction equipment/machinery/goods as a result of the above shall not be a cause for granting any extension of time.
- 15. Currencies of Bid and Payment**
- 15.1 The currency of the bid and the currency of payments shall entirely be Indian Rupees only.
- 16. Documents Comprising the Technical Proposal**
- 16.1 The Bidder shall furnish a technical proposal in the Technical Part of the Bid, including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, Bidding Forms, in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work's requirements and the completion time.
- 17. Documents Establishing the Eligibility and Qualifications of the Bidder**
- 17.1 To establish Bidder's eligibility in accordance with ITB 4, Bidders shall complete the Letter of Bid – Technical Part, included in Section IV, Bidding Forms.
- 17.2 In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract, the Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Bidding Forms.
- 18. Period of Validity of Bids**
- 18.1 Bids shall remain valid for the period **specified in the BDS**. The Bid Validity period starts from the date fixed for the Bid submission deadline (as prescribed by the Employer in accordance with ITB 22.1). A Bid valid for a shorter period shall be rejected by the *Employer* as nonresponsive.
- 18.2 In exceptional circumstances, prior to the expiration of the Bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB 19, it shall also be extended for forty five (45) days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid, except as provided in ITB 18.3.
- 18.3 If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial Bid validity period, the Contract price shall be determined as follows:

- (a) in the case of **fixed price** contracts, the Contract price shall be the Bid price adjusted by the factor **specified in the BDS**;
- (b) in the case of **adjustable** price contracts, no adjustment shall be made; or
- (c) in any case, Bid evaluation shall be based on the Bid price without taking into consideration the applicable correction from those indicated above.

19. Bid Security

19.1 The Bidder shall furnish as part of the Technical Part of its Bid, a Bid Security or Bid Securing Declaration as **specified in the BDS**, in original form, and for the amount **specified in the BDS**.

19.2 Not used.

19.3 If a Bid Security is specified pursuant to ITB 19.1, the Bid Security shall be a demand guarantee in any of the following forms at the Bidder's option:

- (a) an unconditional bank guarantee issued by a Nationalized or Scheduled bank located in India;
- (b) an irrevocable letter of credit issued by a Nationalized or Scheduled bank located in India;
- (c) a cashier's or certified check or demand draft issued by a Nationalized or Scheduled bank located in India;
- (d) another security **specified in the BDS**,

19.4 In the case of a bank guarantee, the Bid Security shall be submitted using the Bid Security Form included in Section IV, Bidding Forms. The form must include the complete name of the Bidder. The Bid Security shall be valid for forty-five (45) days beyond the original validity period of the Bid, or beyond any period of extension if requested under ITB 18.2.

19.5 If a Bid Security is specified pursuant to ITB 19.1, any Bid not accompanied by a substantially *responsive* Bid Security in accordance with ITB 19.3 shall be rejected by the Employer as non-responsive.

19.6 If a Bid Security is specified pursuant to ITB 19.1, the Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the Contract and furnishing the Performance Security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security pursuant to ITB 50.

19.7 The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required Performance Security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security pursuant to ITB 50.

19.8 The Bid Security may be forfeited:

- (a) if a Bidder withdraws/modifies/substitutes its Bid during the period of Bid validity specified by the Bidder on the Letter of

Bid - Technical Part and repeated in Letter of Bid - Financial Part, or any extension thereto provided by the Bidder; or

(b) if the Bidder does not accept the correction of its Bid Price pursuant to ITB 36; or

(c) if the successful Bidder fails to:

(i) *sign the Contract in accordance with ITB 49; or*

(ii) *furnish a Performance Security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with ITB 50.*

19.9 The Bid Security of a JV shall be in the name of the JV that submits the Bid. If the JV has not been constituted into a legally enforceable JV, at the time of Bidding, the Bid Security shall be in the names of all future members as named in the letter of intent mentioned in ITB 4.1 and ITB 11.2.

20. Format and Signing of Bid

20.1 The Bidder shall prepare the Bid, in accordance with this Instruction, ITB 11 and ITB 21.

20.2 Bidders shall mark as "CONFIDENTIAL" information in their Bids which is confidential to their business.

20.3 The Bid shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as **specified in the BDS** and shall be uploaded along with the Bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Bid where entries or amendments have been made shall be signed or initialed by the person signing the Bid.

20.4 In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives. Documents establishing authority to sign the bid on behalf of the JV shall be uploaded along with the bid.

20.5 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

D. Online Submission of Bids

21. Sealing and Marking of Bids

21.1 Bids, both Technical and Financial Parts, shall be submitted online on the e-procurement system specified in BDS 7.1. Detailed guidelines for viewing bids and submission of online bids are given on the website. The Request for Bids under this Project is published on this website. Any citizen or prospective bidder can logon to this website and view the Request for Bids and can view the details of works for which bids are invited. A prospective bidder can submit its bid online; however, the bidder is required to have enrolment/registration in the website, and should have valid Digital Signature Certificate (DSC) in the form of smart card/e-token obtained from any certifying agency authorised by the Government of India (for class of DSC **specified in BDS**). The bidder should register in the website using the relevant option available. Then the Digital Signature registration has to be done with the e-token, after logging into the website. The bidder can

then login the website through the secured login by entering the password of the e-token & the user id/ password chosen during registration. After getting the bid schedules, the Bidder should go through them carefully and submit the specified documents, along with the bid, otherwise the bid will be rejected. The bidders shall fill up online, the forms that are available for online filling on the e-portal. The rest of the forms shall be download by the bidders and filled up. The filled up pages shall then be scanned and uploaded on the e-procurement portal along with the scanned copies of the supporting documents.

21.2 The e-Procurement system will scan the uploaded documents for virus and if a document uploaded by bidder is found to have virus, the system will reject the uploaded file. Bidders shall take due care to ensure that the documents uploaded by them in e-Procurement system are virus free. The e-Procurement system restricts bidders from uploading file attachments larger than the file size **specified in BDS**. Hence, the bidders are informed to restrict the size of file attachments uploaded as part of their bid response to less than this size per file.

21.3 The original (a) Bid Security in approved form, (b) Power of Attorney (s), (c) payment documents towards the cost of bid document; and registration on e-procurement website (if applicable), and (d) affidavit regarding correctness of information furnished with bid document, shall be delivered by the Bidder to the office **specified in the BDS** before the bid submission deadline. Hard copy of rest of the bid or any other document are not to be submitted.

21.4 In case of non-receipt of these original documents, the bid will be declared non-responsive and will not be opened.

21.5 The completed bid comprising of documents indicated in ITB 12, should be uploaded on the e-procurement portal along with scanned copies of requisite certificates as are mentioned in different sections in the bidding document and scanned copy of the bid security.

21.6 All the documents are required to be signed digitally by the bidder. After electronic online bid submission, the system generates a unique bid identification number which is time stamped as per server time. This shall be treated as acknowledgement of bid submission.

21.7 Physical, e-mail, Telex, Cable or Facsimile bids will be rejected as non-responsive.

22. Deadline for Submission of Bids

22.1 Bids, both Technical and Financial Parts, must be uploaded online no later than the date and time **specified in the BDS**.

22.2 The *Employer* may, at its discretion, extend the deadline for the submission of Bids by amending the bidding document in accordance with ITB 8, in which case all rights and obligations of the *Employer* and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

23. Late Bids

23.1 The electronic bidding system would not allow any late submission of bids after due date & time as per server time.

24. Withdrawal, Substitution, and Modification of Bids

24.1 Bidders may modify their bids by using the appropriate option for bid modification on e-procurement portal, before the deadline for submission of bids. For this the bidder need not make any additional payment towards the cost of bid document. For bid modification and consequential re-submission, the bidder is not required to withdraw his bid submitted earlier. The last modified bid submitted by the bidder within the bid submission time shall be considered as the bid. For this purpose, modification/withdrawal by other means will not be accepted. In online system of bid submission, the modification and consequential re-submission of bids is allowed any number of times. A bidder may withdraw his bid by using the appropriate option for bid withdrawal, before the deadline for submission of bids, however, if the bid is withdrawn, re-submission of the bid is not allowed (or allowed if specified in BDS).

24.2 Bids requested to be withdrawn in accordance with ITB 24.1 shall not be available in the system, and shall therefore not be opened.

24.3 No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified by the Bidder on the Letter of Bid or any extension thereof. This will result in the forfeiture of the Bid Security pursuant to ITB 19.7.

E. Public Opening of Technical Parts of Bids

25. Public Opening of Technical Parts of Bids

25.1 The Employer shall publicly open Technical Parts of all Bids received by the deadline, at the date, time and place **specified in the BDS**, in the presence of Bidders' designated representatives and anyone who chooses to attend, and this could also be viewed by the bidders online. The Financial Parts of the bids shall remain unopened in the e-procurement system, until the subsequent public opening, following the evaluation of the Technical Parts of the Bids. In all cases, original documents submitted as specified in ITB 21 shall be first scrutinized, and Bids that do not comply with the provisions of ITB 21 will be declared non-responsive and will not be opened. Thereafter, bidders' names, the presence or absence of a Bid Security, if one was required, alternative bids – technical parts, if any, and such other details as the Employer may consider appropriate will be notified, online by the Employer at the time of bid opening.

In the event of the specified date of bid opening being declared a holiday for the Employer, the bids will be opened at the appointed time and location on the next working day.

25.2 The electronic summary of the bid opening will be generated and uploaded online. The Employer will also prepare minutes of the Bid opening, including the information disclosed and upload the same for viewing online. Only Technical Parts of Bids, and technical parts of Alternative Bids if any, that are opened at technical Bid opening shall be considered further for evaluation.

F. Evaluation of Bids – General Provisions

26. Confidentiality

26.1 Information relating to the evaluation of Bids and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with the Bidding process until

information on Intention to Award the Contract is transmitted to all Bidders in accordance with ITB 45. In cases where ITB 45 is not applicable, such information shall not be disclosed until Notification of Award is transmitted in accordance with ITB 47.

26.2 Any effort by a Bidder to influence the Employer in the evaluation of the Bids or Contract award decisions may result in the rejection of its Bid.

26.3 Notwithstanding ITB 26.2, from the time of Bid opening to the time of Contract award, if a Bidder wishes to contact the *Employer* on any matter related to the Bidding process, it shall do so in writing.

27. Clarification of Bids

27.1 To assist in the examination, evaluation, and comparison of the Bids, and qualification of the Bidders, the *Employer* may, at its discretion, ask any Bidder for a clarification of its Bid giving a reasonable time for a response. Any clarification submitted by a Bidder that is not in response to a request by the *Employer* shall not be considered. The *Employer's* request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the *Employer* in the evaluation of the Bids, in accordance with ITB 36.

27.2 If a Bidder does not provide clarifications of its Bid by the date and time set in the *Employer's* request for clarification, its Bid may be rejected.

28. Deviations, Reservations, and Omissions

28.1 During the evaluation of Bids, the following definitions apply:

- (a) "Deviation" is a departure from the requirements specified in the bidding document;
- (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the bidding document; and
- (c) "Omission" is the failure to submit part or all of the information or documentation required in the bidding document.

29. Nonmaterial Nonconformities

29.1 Provided that a Bid is substantially responsive, the *Employer* may waive any nonconformities in the Bid which do not constitute a material deviation, reservation or omission.

29.2 Provided that a Bid is substantially responsive, the *Employer* may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

G. Evaluation of Technical Parts of Bids

30. Evaluation of Technical Parts

30.1 In evaluating the Technical Parts of each Bid, the Employer shall use the criteria and methodologies listed in this ITB and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted.

31. Determination of Responsiveness

- 31.1 The *Employer's* determination of a Bid's responsiveness is to be based on the contents of the Bid itself, as defined in ITB 11.
- 31.2 A substantially responsive Bid is one that meets the requirements of the bidding document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- (a) if accepted, would:
 - (i) *affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or*
 - (ii) *limit in any substantial way, inconsistent with the bidding document, the Employer's rights or the Bidder's obligations under the proposed Contract; or*
 - (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.
- 31.3 The Employer shall examine the technical aspects of the Bid submitted in accordance with ITB 16, in particular, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.
- 31.4 If a Bid is not substantially responsive to the requirements of the bidding document, it shall be rejected by the *Employer* and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

32. Qualification of the Bidder

- 32.1 The *Employer* shall determine to its satisfaction whether the eligible Bidders that have submitted substantially responsive Bid - Technical Parts meet the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.
- 32.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17. The determination shall not take into consideration the qualifications of other firms such as the Bidder's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the bidding document), or any other firm different from the Bidder.
- 32.3 If a Bidder does not meet the qualifying criteria specified in Section III, Evaluation and Qualification Criteria, its Bid shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- 32.4 Only Bids that are both substantially responsive to the bidding document, and meet all Qualification Criteria shall have the Financial Parts of their Bids opened at the second public opening.

33. Subcontractors

- 33.1 Unless otherwise stated **in the BDS**, the Employer does not intend to execute any specific elements of the Works by subcontractors selected in advance by the Employer.
- 33.2 The subcontractor's qualifications shall not be used by the Bidder to qualify for the Works unless their specialized parts of the Works were previously designated by the Employer **in the BDS** as can be met by subcontractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications of the

Specialized Subcontractors proposed by the Bidder may be added to the qualifications.

33.3 Bidders may propose subcontracting up to the percentage of total value of contracts or the volume of works as **specified in the BDS**. Subcontractors proposed by the Bidder shall be fully qualified for their parts of the Works.

H. Public Opening of Financial Parts of Bids

34. Public Opening of Financial Parts

34.1 Following the completion of the evaluation of the Technical Parts of the Bids, and the Bank has issued its no objection (if applicable), the Employer shall notify in writing those Bidders whose Bids were considered non-responsive to the bidding document or failed to meet the Qualification Criteria, advising them of the following information:

- (a) the grounds on which their Technical Part of Bid failed to meet the requirements of the bidding document;
- (b) their Financial Part of Bid shall not be opened; and
- (c) notify them of the date, time, and location for public opening of Financial Parts of the Bids.

34.2 The Employer shall, simultaneously, notify in writing those Bidders whose Technical Part have been evaluated as substantially responsive to the bidding document and met all Qualifying Criteria, advising them of the following information:

- (a) their Bid has been evaluated as substantially responsive to the bidding document and met the Qualification Criteria;
- (b) their Financial Part of Bid will be opened at the public opening of the Financial Parts; and
- (c) notify them of the date, time and location for public opening of the Financial Parts of the Bids, **as specified in the BDS**.

34.3 The opening date should allow Bidders sufficient time to make arrangements for attending the opening. The Financial Part of the Bids shall be opened publicly in the presence of Bidders' designated representatives and anyone who chooses to attend, and this could also be viewed by the bidders online. The bidder's names, the Bid prices, per lot (contract) if applicable, including any discounts and Alternative Bid - Financial Part if any, and such other details as the Employer may consider appropriate, will be notified online by the Employer at the time of bid opening.

In the event of the specified date of bid opening being declared a holiday for the Employer, the bids will be opened at the appointed time and location on the next working day.

34.4 The electronic summary of the bid opening will be generated and uploaded online. The Employer will also prepare minutes of the Bid opening, including the information disclosed and upload the same for viewing online. Only Financial Parts of Bids, Financial Parts of Alternative Bids, and discounts that are opened at Bid opening shall be considered further for evaluation.

I. Evaluation of Financial Parts of Bids

35. Evaluation of Financial Parts	<p>35.1 To evaluate the Financial Part, the Employer shall consider the following:</p> <ul style="list-style-type: none"> (a) the Bid price, excluding Provisional Sums, if any; (b) price adjustment for correction of arithmetic errors in accordance with ITB 36.1; (c) price adjustment due to discounts offered in accordance with ITB 14.3; (d) deleted; (e) deleted; and (f) the additional evaluation factors as specified in Section III, Evaluation and Qualification Criteria. <p>35.2 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Bid evaluation.</p> <p>35.3 Deleted.</p>
36. Correction of Arithmetical Errors	<p>36.1 In evaluating the Financial Part of each Bid, the Employer shall correct arithmetical errors on the following basis:</p> <p>36.2(a) if in the Letter of Bid – Financial Part, there are errors between the sub-totals and total of the amounts, the former shall prevail and the latter will be corrected accordingly; and</p> <p>36.3(b) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) above.</p> <p>36.4 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 36.1, shall result in the rejection of the Bid and the Bid Security may be forfeited in accordance with ITB Sub-Clause 19.7.</p>
37. Conversion to Single Currency	37.1 Not used.
38. Margin of Preference	38.1 Not applicable.
39. Comparison of Financial Parts	39.1 The <i>Employer</i> shall compare the evaluated costs of all responsive and qualified Bids to determine the Bid that has the lowest evaluated cost.
40. Abnormally Low Bids	<p>40.1 An Abnormally Low Bid is one where the Bid price, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the Bid price raises material concerns as to the capability of the Bidder to perform the Contract for the offered Bid price.</p> <p>40.2 In the event of identification of a potentially Abnormally Low Bid, the Employer, unless otherwise specified in the BDS, shall seek written clarifications from the Bidder, including detailed price analyses of its Bid price in relation to the subject matter of the contract, scope, proposed</p>

methodology, schedule, allocation of risks and responsibilities and any other requirements of the bidding document.

40.3 After evaluation of the price analyses, in the event that the Employer determines that the Bidder has failed to demonstrate its capability to perform the Contract for the offered Bid Price, the Employer shall reject the Bid.

41. Unbalanced or Front-Loaded Bids

41.1 If the Bid, which results in the lowest Evaluated Bid Price, is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Employer may require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract.

41.2 Deleted.

42. Most Advantageous Bid

42.1 Having compared the evaluated costs of Bids, the Employer shall determine the Most Advantageous Bid. The Most Advantageous Bid is the Bid of the Bidder that meets the Qualification Criteria and whose Bid has been determined to be:

- (a) substantially responsive to the bidding document; and
- (b) the lowest evaluated cost.

43. Employer's Right to Accept Any Bid, and to Reject Any or All Bids

43.1 The Employer reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to Contract Award, without thereby incurring any liability to Bidders. In case of annulment, all documents submitted and specifically, Bid securities, shall be promptly returned to the Bidders.

44. Standstill Period

44.1 Standstill Period shall not apply.

44.2 [Note 1: where it is proposed to permit Standstill Period, incorporate all changes as indicated in **Attachment 1** at the end of this document.

44.3 Note 2: Standstill period shall not apply where only one bid is submitted or where the bidding process is in response to an emergency situation recognized by the Bank].

45. Notice of Intention to Award

45.1 Not used.

J. Award of Contract

46. Award Criteria

46.1 Subject to ITB 43, the Employer shall award the Contract to the successful Bidder. This is the Bidder whose Bid has been determined to be the Most Advantageous Bid as specified in ITB 42.

47. Notification of Award

47.1 Prior to the expiration of the Bid Validity Period, the Employer shall transmit the Letter of Acceptance to the successful Bidder. The Letter of Acceptance shall specify the sum that the Employer will pay the Contractor in consideration of the execution of the contract (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”).

47.2 Within ten (10) Business Days after the date of transmission of the Letter of Acceptance, the Employer shall publish the Contract Award Notice which shall contain, at a minimum, the following information:

- (a) name and address of the Employer;
- (b) name and reference number of the contract being awarded, and the selection method used;
- (c) names of all Bidders that submitted Bids, and their Bid prices as read out at Bid opening, and as evaluated;
- (d) names of all Bidders whose Bids were rejected either as nonresponsive or as not meeting qualification criteria, or were not evaluated, with the reasons therefor; and
- (e) the name of the successful Bidder, the final total contract price, the contract duration and a summary of its scope.

47.3 The Contract Award Notice shall be published on a National website (Gol website <http://tenders.gov.in> or Gol Central Public Procurement Portal <https://eprocure.gov.in/cppp/>) or on the Employer’s website, and on the e-procurement system.

47.4 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

48. Debriefing by the Employer

48.1 Deleted

48.2 Deleted

48.3 Deleted

48.4 Debriefings of unsuccessful Bidders may be done in writing or verbally. The debriefing will cover only the bid of particular bidder requesting the debriefing, and not the bids of the competitors. The Bidder shall bear its own costs of attending such a debriefing meeting.

49. Signing of Contract

49.1 The Employer shall send to the successful Bidder the Letter of Acceptance including the Contract Agreement. The Contract Agreement shall incorporate all agreements between the Employer and the successful Bidder.

49.2 Within twenty-eight (28) days of receipt of the Letter of Acceptance, the successful Bidder shall (a) furnish the performance security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with ITB Clause 50; (b) if the successful bidder is a JV, it shall also furnish the JV agreement duly signed by all the members, if it had submitted only a letter of intent to execute the JV agreement along with the bid; and (c) shall sign, date and return the Agreement to the Employer along with the documents stated at (a) and (b) above.

50. Performance Security

50.1 Within twenty-eight (28) days of the receipt of the Letter of Acceptance from the *Employer*, the successful Bidder shall furnish the Performance Security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with the General Conditions of Contract, subject to ITB 41.2 (b), using for that purpose the Performance Security and ESHS Performance Security Forms included in Schedule-G. The performance security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security of a Joint Venture shall be in the name of the Joint Venture specifying the names of all members.

50.2 Failure of the successful Bidder to submit the above-mentioned Performance Security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security or to sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Employer may award the Contract to the Bidder offering the next Most Advantageous Bid.

50.3 Upon the successful Bidder's signing the Agreement and furnishing of the Performance Security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security pursuant to ITB Clause 50.1, the Employer shall promptly notify the name of the winning bidder to each unsuccessful bidder and shall discharge the Bid Securities of the bidders pursuant to ITB Clause 19.5 and 19.6.

51. Procurement Related Complaint

51.1 The procedures for making a Procurement-related Complaint are as specified in the BDS.

Section II - Bid Data Sheet (BDS)

The following specific data for the Works to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

ITB Reference	A. General
ITB 1.1	<p>The number of the Request for Bids is: IN-IWT-244480-CW-RFB</p> <p>The Employer is: Assam Inland Water Transport Development Society</p> <p>The reference number of the Request for Bids (RFB) is: One</p> <p>The name of the RFB is: Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat, Assam</p> <p>The number and identification of lots (contracts) comprising this RFB is: Work is not divided into lots.</p>
ITB 1.2	The Employer shall use the e-procurement system specified in ITB 7.1.
ITB 2.1	<p>The Borrower is: Assam Inland Water Transport Development Society through Government of India.</p> <p>Loan or Financing Agreement amount: \$85 Million</p> <p>The name of the Project is: Assam Inland Water Transport Project.</p>
ITB 4.1	Bids from Joint ventures are not acceptable.
ITB 4.5	A list of debarred firms and individuals is available on the Bank's external website: http://www.worldbank.org/debarr .
B. Contents of Bidding Document	
ITB 7.1	<p>Electronic – Procurement System</p> <p>The Employer shall use the following electronic-procurement system to manage this Bidding process:</p> <p>www.assamtenders.gov.in. The electronic-procurement system shall be used to manage the following aspects of the Bidding process:</p> <p>The prospective Bidder can seek clarifications only through the e-procurement portal mentioned above. Clarifications sought through any other mode shall not be entertained. The Employer will upload its response on the e-procurement portal mentioned above without identifying the source. However, all such queries seeking clarification must reach to the Employer atleast 3 days prior to the schedule pre-bid conference date.</p>
ITB 7.4	<p>A Pre-Bid meeting shall take place on 24/08/2021 at 11:30 Hrs in Virtual mode.</p> <p>In the Office of the Assam Inland Water Transport Development Society (AIWTDS), Near Ulubari Flyover, GUWAHATI – 781007, Assam.</p> <p>The interested bidders who wish to participate in the pre-bid may send the name & email ids of authorised representatives to this office email id: dir.iwtlds-as@gov.in on or before 21/08/2021 by 1600 Hrs</p> <p>Site visit shall not be organized by the Employer. However, Bidders are encouraged to make site visit and get acquainted with the ground condition for</p>

	which Mr. Dipnakar Das- Project Manager (Technical) can be contacted on Mobile No. 8974009349.
C.Preparation of Bids	
ITB 11.2 (j)	<p>The Bidder shall submit the following additional documents in its Bid Code of Conduct (ESHS)</p> <p>The Bidder shall submit its Code of Conduct that will apply to its employees, subcontractors, suppliers and any other personnel assisting the contractor to ensure compliance with its Environmental, Social, Health and Safety (ESHS) obligations under the contract as per approved Project ESMP & SMP. [Note: Complete and include the risks to be addressed by the Code in accordance with Section VII-Works' Requirements: Conditions of Contract together with Schedules, e.g. risks associated with: labor influx, community health and safety, spread of communicable diseases, , sexual exploitation and abuse, sexual harassment human trafficking, illicit behavior and crime, and maintaining a safe environment etc.]</p> <p>In addition, the Bidder shall detail how this Code of Conduct will be implemented. This will include: how it will be introduced into conditions of employment/engagement, what training will be provided, how it will be monitored and how the Contractor proposes to deal with any breaches.</p> <p>The Contractor shall be required to implement the agreed Code of Conduct upon contract award. Bidders must use the Bank's general code of conduct template when preparing their project specific code of conduct.</p> <p>Environmental & Social Management Strategies and Implementation Plans (E&S MSIP) to manage the (ESHS) risks</p> <p>The Bidder shall submit E&S Management Strategies and Implementation Plans (MSIP) to manage the following key Environmental, Social, Health and Safety (ESHS) risks.</p> <p>Road Safety and Traffic Management Plan to ensure safety of local communities from construction traffic;</p> <p>Pollution Prevention Plan to prevent and control air, noise , water and land pollution</p> <p>Waste Management Plan including general/hazardous wastes from construction sites, labour camps etc</p> <p>Plan for accidental spillage of oil/construction wastes/chemicals into waterways</p> <p>Plan for monitoring impacts on biodiversity and their management, if adverse ones are realized.</p> <p>Boundary Marking and Protection Strategy for mobilization and construction to prevent offsite adverse impacts;</p> <p>Strategy for obtaining Consents/Permits prior to the start of relevant works such as opening a quarry or borrow pit;</p> <ul style="list-style-type: none"> • Strategy for the management of impacts of in-water construction on aquatic life, including aquatic fauna such as dolphins • Sexual exploitation and abuse, sexual harassment, human trafficking (SEA, SH, HT), action plan

	<ul style="list-style-type: none"> • Labour Camp Management Plan to ensure compliance with National and International policy and legal frame works • Health and safety plans for workers and community • Emergency Response Plan/preparedness plan to deal with the emergency situations like fire, flood, earthquake etc, and measures to address COVID-19 in the project. • Grievance Redress Mechanism for workers and community • Training plan demonstrates the time and resources the bidder is willing to commit to personnel's E&S knowledge, understanding and behaviors • Code of conduct (CoC) that will apply to contractor's personnel <p>The Contractor shall be required to submit for approval, and subsequently implement, the Contractor's Environment and Social Management Plan (C-ESMP), in accordance with the Particular Conditions of Contract Sub-Clause 16.2, that includes the agreed Management Strategies and Implementation Plans described here.</p> <p>[Note: The extent and scope of these requirements should reflect the significant ESHS risks or requirements set out in Section VII as advised by Environmental/Social specialist/s. The key risks to be addressed by the Bidder should be identified by Environmental/Social specialist/s, for example, from the Environmental and Social Impact Assessment (ESIA), Environmental and Social Management Plan (ESMP), and/or Consent Conditions (regulatory authority conditions attached to any permits or approvals for the project). The risks may arise during mobilization or construction phases, and may include construction traffic impacts on the community, pollution of drinking water, depositing on private land and impacts on rare species etc. The management strategies and/or implementation plans to address these could include, as appropriate: mobilization strategy, strategy for obtaining consents/permits, traffic management plan, water resource protection plan, bio-diversity protection plan and a strategy for marking and respecting work site boundaries etc.]</p>
ITB 11.3 (c)	The Bidder shall submit the following additional documents in its Bid: The Bidders are required to submit (a) original affidavit regarding correctness of information furnished with the Bid Document (b) Original Power of Attorney to Sign the Bid (c) Original Bid Securing Declaration as per the format
ITB 13.1	Alternative Bids shall not be permitted as an option.
ITB 13.2	Alternative times for completion shall not be permitted.
ITB 13.3	Not Applicable
ITB 13.4	Alternative technical solutions shall be permitted as an option provided that the basic concept is retained and meets the Employer's Requirements.
ITB 14.5	The prices quoted by the Bidder shall Not be subject to adjustment during the performance of the Contract.
ITB 18.1	The Bid validity period shall be 120 days
ITB 18.3	Not Applicable

ITB 19.1	The Bidder shall furnish a Bid Securing Declaration as per the format enclosed in Appendix to Technical Form of Bid-Securing Declaration
ITB 19.3	Bid securing declaration submit scanned Bid Securing Declaration through E-procurement System and original to the as mentioned in BDS/ITB 11.3 (c).
ITB 20.3	<p>The written confirmation of authorization to sign on behalf of the Bidder shall consist of:</p> <p>(a) Legally valid Power of Attorney is required to demonstrate the authority of the signatory to sign the Bid; and</p>
D. Online Submission of Bids	
ITB 21.1	Class of DSC required is: Class III
ITB 21.2	<p>The e-Procurement system restricts bidders from uploading file attachments larger than 30 MB per file, but subject to maximum of 30 MB for all uploaded files in a particular folder. For the ease of uploading documents, multiple folders have been created under the Technical Bid Folder. Bidders are advised to upload documents in PDF format under the appropriate folder. However, all the documents uploaded in all the folders will be considered for evaluation.</p> <p>Bidder shall upload the financial forms of the RFP in the Price folders only. Bidders shall refer to Vol-III while uploading financial forms. Following Financial forms will be available in MS excel format under the Price Folder :</p> <ol style="list-style-type: none"> 1. Letter of Bid - Financial Part- Vol I 2. Bill no 1 to Bill no 10 (Vol III) 3. Summary (Vol III) <p>Bidder needs to download these files from the price folder and needs to upload these forms in the Price Folder again after filling up the formats.</p> <p>Bidder shall duly fill, scan and upload the following forms in the PDF format in the Price Folder</p> <ol style="list-style-type: none"> 1. Appendix to Financial Part: Schedules Form SC-Sub-contracting- Vol I 2. Schedule A as PDF (vol III) <p>Bidder shall duly signed & scan and upload the following blank forms in the PDF format in the Price Folder as a confirmation of acceptance</p> <ol style="list-style-type: none"> 1. SCHEDULE OF PRICES 2. Schedule B- Vol III 3. Schedule C- Vol III <p><u>Any bid unaccompanied with Schedule A- Vol-III shall be rejected summarily and treated as non-responsive.</u></p> <p><u>The technical bid folder shall not contain any Price information. If any Price information is uploaded along with the technical bid, the bid shall be rejected summarily and treated as non-responsive.</u></p>
ITB 21.3	<p>For submission of original documents, the Employer's address is:</p> <p>Attention: Adil Khan , IAS</p>

	<p>Street Address: Assam Inland Water Transport Development Society, G.S. Road, Ulubari Floor/ Room number: 3rd Floor, Directorate of Inland Water Transport City: Guwahati, Assam</p> <p>PIN/Postal Code: 781 007</p> <p>Country: INDIA</p>
ITB 22.1	<p>The deadline for uploading the Bids is :</p> <p>Date: 21/09/2021, 2021</p> <p>Time: 14:00 Hrs</p>
ITB 24.1	<p>Re-submission of the bid is “allowed”, if withdrawn as per the e-portal provisions</p>
E. Public Opening of Technical Parts of Bids	
ITB 25.1	<p>The online Bid opening of Technical Parts of Bids shall take place at:</p> <p>Assam Inland Water Transport Development Society</p> <p>Street Address: Assam Inland Water Transport Development Society, G.S. Road, Ulubari Floor/ Room number: 3rd Floor, Directorate of Inland Water Transport City: Guwahati, Assam</p> <p>PIN/Postal Code: 781 007</p> <p>Country: INDIA</p> <p>Date: 21/09/2021, 2021</p> <p>Time: 16:00 Hrs</p>
F. Evaluation of Bids – General Provisions	
ITB 27.2	<p>ITB 27.2 is modified as under:</p> <p>‘If a Bidder does not provide clarifications of its Bid by the date and time set in the Employer’s request for clarification, its Bid will be evaluated based on the available information and interpretation of the Employer.’</p>
G. Evaluation of Bids - Technical Parts	
ITB 33.1	<p>At this time the Employer does not intend to execute certain specific parts of the Works by subcontractors selected in advance.</p>
ITB 33.2	Not Applicable
ITB 33.3	<p>(a) Contractor’s proposed subcontracting: Maximum percentage of subcontracting permitted is: <i>10% of the total contract amount or of the volume of work.</i></p> <p>(b) Bidders planning to subcontract more than 5% of total volume of work shall specify, in the Letter of Bid, the activity (ies) or parts of the Works to be subcontracted along with complete details of the subcontractors and their qualification and experience. The qualification and experience of the subcontractors must meet the minimum criteria for the relevant work to be subcontracted failing which such sub-contractors will not be permitted to participate.</p> <p>(c) Subcontractors’ qualification and experience will not be considered for evaluation of the Bidder. The Bidder on its own (without taking into account the</p>

	qualification and experience of the sub-contractor) should meet the qualification criteria.
H. Public Opening of Financial Parts	
ITB 34.2 (c)	<p>Following the completion of the evaluation of the Technical Parts of the Bids, the Employer will notify all Bidders of the date, time, and location of the public opening of Financial Parts.</p> <p>The online bid opening of Financial Parts of Bids shall take place at: Assam Inland Water Transport Development Society</p> <p>Street Address: Assam Inland Water Transport Development Society, G.S. Road, Ulubari Floor/ Room number: 3rd Floor, Directorate of Inland Water Transport City: Guwahati, Assam</p> <p>PIN/Postal Code: 781 007</p> <p>Country: INDIA</p> <p>Date: <i>Shall be informed later</i></p> <p>Time: <i>Shall be informed later</i></p> <p>In addition to the above the Employer shall publish a notice of the public opening of the Financial Parts of the Bid on its website www.assamtenders.gov.in</p>
I. Evaluation of Bids - Financial Parts	
ITB 40.2	Provisions related to Abnormally Low Bids do not apply
ITB 43.1	In case of annulment of Bids, original affidavit regarding correctness of information furnished with Bid Document and Original Power of Attorney(s) only shall be returned to the Bidders.
J. Award of Contract	
ITB 50.1 and 50.2	<p>The successful Bidder shall also be required to submit an Environmental, Social, Health and Safety (ESHS) Performance Security that can be called in for E&S breach/s.</p> <p>Throughout this Bidding Document the term 'Performance Security', unless the context clearly indicates otherwise, means and includes both 'the Performance Security and the ESHS performance security' to be submitted by the successful Bidder in the amounts specified in Section VIII Conditions of Contract Article 7, Clause 7.1.</p>
ITB 51.1	<p>The procedures for making a Procurement-related Complaint are detailed in the "Procurement Regulations for IPF Borrowers (Annex III)." If a Bidder wishes to make a Procurement-related Complaint, the Bidder should submit its complaint following these procedures, in writing (by the quickest means available, that is either by email or fax), to:</p> <p>For the attention: Adil Khan , IAS ,</p> <p>Title/position: State Project Director</p> <p>Employer: Assam Inland Water Transport Development Society, G.S. Road, Ulubari Floor/ Room number: 3rd Floor, Directorate of Inland Water Transport City: Guwahati, Assam</p> <p>PIN/Postal Code: 781 007</p>

	<p>Email address: dir.iwtds-as@gov.in</p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <ol style="list-style-type: none">1.the terms of the Bidding Documents;2.the Employer's decision to exclude a Bidder from the procurement process prior to the award of contract; and3.the Employer's decision to award the contract.
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Section III - Evaluation and Qualification Criteria

This section contains all the criteria that the Employer shall use to evaluate Bids and qualify Bidders through post-qualification. No other factors, methods or criteria shall be used other than specified in this bidding document. The Bidder shall provide all the information requested in the forms included in Section IV, Bidding Forms.

Table of Criteria

- (i) **Technical Part**
- (ii) **Financial Part**

1. **Technical Part**

1.1 **Adequacy of Technical Proposal**

Evaluation of the Bidder's Technical Proposal will include

- (i) An assessment of the Bidder's technical capacity to mobilize key equipment and personnel for the Contract consistent with its proposal regarding work methods, scheduling, material sourcing, and quality control/ assurance in sufficient detail and fully in accordance with the requirements stipulated in Section VII, Works' Requirements.

For this purpose the Bidder should also submit:

A detailed note outlining its proposed methodology and program of construction including Environmental, Social, Health and Safety Management Strategies and Implementation Plans (ESHS-MSIP), backed with equipment, materials and manpower planning and deployment, duly supported with broad calculations and quality control system/assurance procedures proposed to be adopted, justifying their capability of execution and completion of the work requirements within the stipulated period of completion as per milestones.

- (ii) An assessment of the details of subcontracting elements of works amounting to more than 5% of the bid price; for each element proposed to be subcontracted furnish details whether the identified Sub-contractor possesses the required qualifications and experiences to execute that element satisfactorily. [Work should not be split into small parts and sub-contracted].
- (iii) Bidders shall submit an undertaking from each proposed subcontractor to confirm that they have read, understand and will comply with the ESHS obligations and code of conduct.

1.2 **Alternative Technical Solutions for specified parts of Works (ITB 13.4) – In evaluating the Technical Parts of Alternative Technical Solutions, the Employer shall use the same criteria and methodologies listed in this ITB and Section III, Evaluation and Qualification Criteria used for the Main Bid.**

1.3 **Specialized Subcontractors – Not Applicable**

2. Qualification Criteria

Pursuant to ITB 32.1, the Employer shall assess each Bid against the following Qualification Criteria. Requirements not included in the text below shall not be used in the evaluation of the Bidder's qualifications.

Eligibility and Qualification Criteria			Documentation	
No.	Subject	Requirement	Single Entity	Submission Requirements
1. Eligibility				
1.1	Nationality	Nationality in accordance with ITB4.4	Must meet requirement	Forms ELI – 1.1 and 1.2, with attachments
1.2	Conflict of Interest	No conflicts of interest in accordance with ITB4.2	Must meet requirement	Letter of Bid
1.3	Bank Eligibility	Not having been declared ineligible by the Bank, as described in ITB 4.5	Must meet requirement	Letter of Bid
1.4	State-owned enterprise or institution of the Borrower country	Meets conditions of ITB 4.6	Must meet requirement	Forms ELI – 1.1 and 1.2, with attachments
1.5	United Nations resolution or Borrower's country law	Not having been excluded as a result of prohibition in the Borrower's country laws or official regulations against commercial relations with the Bidder's country, or by an act of compliance with UN Security Council resolution, both in accordance with ITB 4.8 and Section V.	Must meet requirement	Forms ELI – 1.1 and 1.2, with attachments
2. Historical Contract Non-Performance				
2.1	History of Non-Performing Contracts	Non-performance of a contract ¹ did not occur as a result of contractor default since 1 st January, 2016.	Must meet requirement ^{7 & 8}	Form CON-2
2.2	Suspension Based on Execution of Bid/ Proposal Securing Declaration by the Employer or withdrawal of the Bid within Bid validity period	Not under suspension based on execution of a Bid/ Proposal Securing Declaration pursuant to ITB 4.7 or withdrawal of the Bid pursuant ITB 19.7	Must meet requirement	Letter of Bid

¹ Non-performance, as decided by the Employer, shall include all contracts where (a) non-performance was not challenged by the contractor, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the contractor. Non-performance shall not include contracts where Employers decision was overruled by the dispute resolution mechanism. Non-performance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Bidder have been exhausted.

Eligibility and Qualification Criteria			Documentation	
No.	Subject	Requirement	Single Entity	Submission Requirements
2.3	Pending Litigation	Bidder's financial position and prospective long-term profitability sound according to criteria established in 3.1 below and assuming that all pending litigation will be resolved against the Bidder	Must meet requirement	Form CON – 2
2.4	Litigation History	No consistent history of court/arbitral award decisions against the Bidder ² since 1 st January 2016	Must meet requirement	Form CON – 2
2.5	Declaration: Environmental, Social, Health, and Safety (ESHS) past performance	Declare any civil work contracts that have been suspended or terminated and/or performance security called by an employer for reasons related to the non-compliance of any environmental, or social, (including sexual exploitation and abuse (SEA) and Sexual harassment (SH), human trafficking (HT), or health or safety requirements or safeguard in the past five years ³ .	Must make the declaration. Where there are Specialized Sub-contractor/s, they must also make the declaration.	Form CON-3 ESHS Performance Declaration
3. Financial Situation and Performance				
3.1	Financial Capabilities	(i) The Bidder shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as INR 40 Crs for the subject contract(s) net of the Bidder's other commitments	Must meet requirement	Form FIN – 3.1, with attachments Form Fin 3.3
		(ii) The Bidders shall also demonstrate, to the satisfaction of the Employer, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract	Must meet requirement	

²The Bidder shall provide accurate information on the Letter of Bid about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last five years. A consistent history of court/arbitral awards against the Bidder or any member of a joint venture may result in disqualifying the Bidder.

³The Employer may use this information to seek further information or clarifications in carrying out its due diligence.

Eligibility and Qualification Criteria			Documentation	
No.	Subject	Requirement	Single Entity	Submission Requirements
		commitments.		
		(iii) The audited balance sheets or, if not required by the laws of the Bidder's country, other financial statements acceptable to the Employer, for the last five years shall be submitted and must demonstrate the current soundness of the Bidder's financial position and indicate its prospective long-term profitability.	Must meet requirement	
3.2	Average Annual Construction Turnover	Minimum average annual construction turnover of INR 155 Crs calculated as total certified payments received for contracts in progress and/or completed within the last five financial years (1 st April 2015 to 31 st March 2020), divided by five years.	Must meet requirement	Form FIN – 3.2
4. Experience				
4.1 (a)	General Construction Experience	Experience in construction contracts (port, waterway and bridge projects) in the role of prime contractor, JV member, for the last five years, starting 1 st January, 2016	Must meet requirement	Form EXP – 4.1
4.2 (a)	Specific Construction & Contract Management Experience	(i) A minimum number of ⁴ similar contracts specified below that have been satisfactorily and substantially ⁵ completed as a prime contractor, joint venture member ⁶ , management contractor or sub-contractor ⁷ between 1 st January 2011 and bid submission deadline:	Must meet requirement	Form EXP 4.2(a)

⁴ Bidder should have completed at least one contract for similar work of value not less than 80% of the estimated contract value of the work for which bids are invited, during the last five years. Cost of completed works of previous years shall be given weightage @5% per year based on rupees value to bring them to the price level of the financial year in which bids are received.

⁵ Substantial completion shall be based on 80% or more works completed under the contract.

⁶ For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder's share, by value, shall be considered to meet this requirement

⁷ For contracts under which the Bidder participated as a joint venture member or sub-contractor, only the Bidder's share, by value, shall be considered to meet this requirement

Eligibility and Qualification Criteria			Documentation	
No.	Subject	Requirement	Single Entity	Submission Requirements
		<p>1 (ONE) contract within the last 10 years with a value of at least INR 95 Crs</p> <p>(OR)</p> <p>Two (2) contracts, each of minimum value 70 crore but with total value of both contracts equal or more than 140 crore.</p> <p>The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Part 2, Employer's requirements. Jetty or Harbour with RCC and Steel pile foundation in river /sea or construction of bridge in river executed under Item rate contracts shall also be considered as similar works.</p> <p>*Cost of works of previous years shall be increased by 5.24% per year based on Rupee value to bring them to 2020-21 price level.</p>		
4.2 (b)	Specific Construction Experience	<p>For the above and any other contracts [substantially completed and under implementation] as prime contractor/ joint venture member, between 1st January 2011 and Application submission deadline, a minimum construction experience in the following key activities successfully completed⁸:</p> <p>Construction of Jetty of minimum</p>	Must meet requirements	Form EXP – 4.2 (b)

⁸ Volume, number or rate of production of any key activity can be demonstrated in one or more contracts combined if executed during same time period.

Eligibility and Qualification Criteria			Documentation	
No.	Subject	Requirement	Single Entity	Submission Requirements
		<p>size 60m in length in River / Sea or a Bridge of span more than 50m in Perennial River</p> <p>(and)</p> <p>Marine / Civil Works involving 1200 to 1500 mm dia steel tubular piles and minimum 1000 dia RCC piles of depth more than 40m</p>		
4.2 (c)	Specific Construction Experience	<p>c) For the above or other contracts executed during the period stipulated in 4.2(a) above, a minimum design⁹ experience in at least <i>ONE</i> contracts for the following key activities: Jetty or Harbour in river /sea and floating structures either Steel floating barges or Concrete floating barges</p>	Must meet requirements	Form EXP-4.2(c)
4.2 (d)	Bid Capacity	<p>Available Bid Capacity should be more than value of the Contract applied for</p> <p>Bid Capacity: The available bid capacity will be calculated as under: Assessed Available bid capacity = $(A*N*1.5-B)$ Where, A = Maximum value of civil engineering works executed in any one year during the last five years (updated to the price level of the financial year 2020 at the rate of 5.24% per year), taking into account the completed as well as works in progress). N = Number of years prescribed for construction (excluding any maintenance/ operations period) of the works for which bids are invited (period up to 6 months to</p>	Must meet requirement	Form FIN 2.4 & EXP 1

⁹The design experience requirement should be specified if it is of unique nature or involves technical complexities.

Eligibility and Qualification Criteria			Documentation	
No.	Subject	Requirement	Single Entity	Submission Requirements
		<p>be taken as half-year and more than 6 months as one year).</p> <p>B = Value, at the current price level, of existing commitments and on-going works to be completed during the period of completion of the works for which bids are invited.</p> <p>Note: the statements in Section IV showing the value of existing commitments of on-going works as well as the stipulated period of completion remaining for each of the works listed should be countersigned by the Engineer in charge, not below the rank of an Executive Engineer or equivalent</p>		

3. Key Personnel

The Bidder must demonstrate that it will have suitably qualified (and in adequate numbers) minimum Key Personnel, as described in the Table below, that are required to perform the Contract.

The Bidder shall provide details of the Key Personnel and such other Key Personnel that the Bidder considers appropriate, together with their academic qualifications and work experience. The Bidder shall complete the relevant Forms in Section IV, Bidding Forms.

The Contractor shall require the Employer's consent to substitute or replace the Key Personnel (reference the Particular Conditions of Contract 9.1).

The Bidder must demonstrate that it has the personnel for the key positions that meet the following requirements:

No.	Position	Qualifications	Total Work Similar Experience (years)	Works Experience (years)
1	Design Team Leader- Design Director	M.Tech/ M.E. (Civil/Structural Engineering)	15	20
2	Geotechnical Engineer	M.Tech/M.E. (Geotechnical.)	5	10
3	Structural Engineer	B.E./B. Tech (CivilEngg.)	5	10
Project Management and Construction Team				
4	Project Manager &Team Leader	B.E./B. Tech (CivilEngg.)	10	15
5	Environmental Specialist.	M. Tech/M.Sc (Environmental Engg.)	6	10
6	Planning Engineer	B.E./B. Tech (CivilEngg.)	5	10

The Project Manager proposed must have experience in construction of jetty/berths in river /marine conditions or construction of bridges and culverts in river/marine conditions in at least one project with steel tubular piles. The Bidder shall provide details of the proposed personnel and their experience records using Form PER-1and PER-2 included in Section IV, Bidding Forms.

The Bidder must not have in his employment:

- [i] the near relations (defined as first blood relations, and their spouses, of the bidder or the bidder's spouse) of persons of the following Central/ State Government Departments.

Transport Department, Government of Assam
Public Works Department, Government of Assam

- [ii] without permission of Central/ State Government, any person who retired as gazetted officer in India within the last two years.

4. Equipment

The Bidder must demonstrate that it has the key equipment (minimum) listed hereafter.

Sl.No.	Equipment Type and Characteristics		Minimum Number required
	Equipment	Minimum Capacity	
1*	Crane(Tyre mounted/ Crawler)	100T	1 No.
2*	Crane(Tyre mounted/ Crawler)	50T	2 Nos.
3a*	Mobile Piling gantry capable to mount Hydraulic Rotary piling Rig of Minimum 15 Tonne-meter torque capacity.	-	1Nos.
3b*	Hydraulic Rotary Piling Rig of minimum 15 tonne-metre torque capacity.	15Tm	2 Nos.
3c	Piling Hammer and Crane with required capacity		1 no
4*	Hydra	10 to 12T	4 Nos.
5*	Trailer	-	2 Nos.
6*	Winches	7.5T	2 Nos.
7	Concrete Batching Plant	30cum/hour	As considered necessary by the Engineer
8	Transit Mixer	5cum	As considered necessary by the Engineer
9.	Concrete pump with adequate pipelines and Truck mounted Boom Placer	30cum/hour	As considered necessary by the Engineer
10	Jack-up Barge	-	1 Nos
11	Pontoon Barge/Crane Barge/Material Barge	-	2 Nos
12	Survey Boat/Inspection Boat	suitable for 6 persons	1 Nos
13	Drilling rig for Geotechnical Work	-	1 Nos
14	Welding cum Lighting DG	15 KVA	1 Nos

15	Total Station	-	1 Nos
*-These equipment must be owned /hired by the Bidder			

Notes:

- *Bidders are requested to verify latest position in respect of “Duties on Contractor’s Equipment” from Department of Revenue, Ministry of Finance, Government of India.*
- *The equipment listed above should not be older than 5 years of age.*
- *The Bidder shall furnish the details of proposed equipment using Form EQU included in Section IV.*

5. Multiple Contracts – Not Applicable

2. Financial Part

2.1 Margin of Preference - Not Applicable

2.2 Multiple Contracts (ITB 35) – Not Applicable

2.3 Sustainable procurement(Section VII –Works’ Requirements) – Not Applicable

2.4 Alternative Completion Times (ITB 13.2) - Not Applicable

2.5 Alternative Technical Solutions for specified parts of the Works(ITB 13.4)– shall be accepted only if it’s cost is less than the original proposal and does not impact the construction period.

2.6 Other criteria(if permitted under ITB 35.1(f)):

.....

2.7 Special Additional Criteria - the relevant evaluation method, if any, shall be as follows:.....Nil

Section IV - Bidding Forms

Letter of Bid – Technical Part

INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT

The Bidder must prepare this Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and business address.

Note: All italicized text is to help Bidders in preparing these forms.

Date of this Bid submission: *[insert date (as day, month and year) of Bid submission]*

RFB No.: *[insert number of RFB process]*

Alternative No¹⁰: *[insert identification No. if this is a Bid for an alternative]*

To: *[insert complete name of Employer]*

We, the undersigned, hereby submit our Bid, in two parts, namely:

- (a) the Technical Part, and
- (b) the Financial Part

In submitting our Bid, we make the following declarations:

- (a) **No reservations:** We have examined and have no reservations to the Bidding Document, including Addenda issued in accordance with ITB 8;
- (b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITB 4;
- (c) We have not been suspended nor declared ineligible by the Employer based on execution of a Bid Securing Declaration in the Employer's country in accordance with ITB 4.7;
- (d) **Conformity:** We offer to execute in conformity with the Bidding Document the following Works: *[insert a brief description of the Works;]*
- (e) **Bid Validity Period:** Our Bid shall be valid for a period specified in BDS ITB 18.1 (or as amended if applicable) from the date fixed for the Bid submission deadline specified in BDS 22.1 (or as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) **Performance Security:** If our Bid is accepted, we commit to obtain a performance security *[and an Environmental, Social, Health and Safety (ESHS) Performance Security,* in accordance with the bidding document;
- (g) **One Bid Per Bidder:** We are not submitting any other Bid(s) as an individual Bidder or as a subcontractor, and we are not participating in any other Bid(s) as a Joint Venture member, and meet the requirements of ITB 4.3, other than alternative Bids submitted in accordance with ITB 13;
- (h) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the Contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the World Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of

¹⁰ Delete if not applicable

Debarment Decisions between the World Bank and other development banks. Further, we are not ineligible under the Employer's Country laws or official regulations or pursuant to a decision of the United Nations Security Council;

- (i) **State-owned enterprise or institution:** We are not a state-owned enterprise or institution/ We are a state-owned enterprise or institution but meet the requirements of ITB 4.6¹¹;
- (j) **Binding Contract:** We understand that this Bid, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- (k) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Bid, the Most Advantageous Bid or any other Bid that you may receive; and
- (l) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

Name of the Bidder: **[insert complete name of person signing the Bid]*

Name of the person duly authorized to sign the Bid on behalf of the Bidder:***[insert complete name of person duly authorized to sign the Bid]*

Title of the person signing the Bid: *[insert complete title of the person signing the Bid]*

Signature of the person named above: *[insert signature of person whose name and capacity are shown above]*

Date signed *[insert date of signing]* **day of** *[insert month]*, *[insert year]*

*: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder.

** : Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid.

¹¹Use one of the two options as appropriate

Technical Proposal

Technical Proposal Forms

- **Key Personnel Schedule**
- **Equipment**
- **Site Organization**
- **Method Statement**
- **Mobilization Schedule**
- **Construction Schedule**
- **Environmental, Social, Health, and Safety Management (ESHS) Strategies and Implementation Plans**
- **Code of Conduct (ESHS)**
- **Sub-contracting elements or works which in aggregate adds to more than 5% of Bid price (for each the qualifications and experiences on the identified subcontractor in the relevant field should be given)**
Note: Work should not be split into small parts and sub-contracted; but sub-contracting specialized elements of works is acceptable.
- **Others**
- **Bidder's Qualification**
- **Form of Bid Securing Declaration**

Appendix to Technical Part: Personnel

Forms for Personnel

Form PER – 1: Key Personnel Schedule

Bidders should provide the names and details of the suitably qualified Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Key Personnel

1.	Title of position:	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>
2.	Title of position: <i>[Environmental Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>
3.	Title of position: <i>[Health and Safety Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	

	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>
4.	Title of position: <i>[Social Specialist]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>
5.	Title of position: <i>[insert title]</i>	
	Name of candidate	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart]</i>

Appendix to Technical Part

Form PER-2:

Resume and Declaration

Key Personnel

Name of Bidder

Position [#1]: [title of position from Form PER-1]											
Personnel information	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 45%; padding: 5px;">Name:</td> <td style="width: 55%; padding: 5px;">Date of birth:</td> </tr> <tr> <td style="padding: 5px;">Address:</td> <td style="padding: 5px;">E-mail:</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Professional qualifications:</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Academic qualifications:</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i></td> </tr> </table>	Name:	Date of birth:	Address:	E-mail:	Professional qualifications:		Academic qualifications:		Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>	
Name:	Date of birth:										
Address:	E-mail:										
Professional qualifications:											
Academic qualifications:											
Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>											
Details	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 5px;">Name of employer:</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Address of employer:</td> </tr> <tr> <td style="width: 55%; padding: 5px;">Telephone:</td> <td style="width: 45%; padding: 5px;">Contact (manager / personnel officer):</td> </tr> <tr> <td style="padding: 5px;">Fax:</td> <td style="padding: 5px;"></td> </tr> <tr> <td style="padding: 5px;">Job title:</td> <td style="padding: 5px;">Years with present employer:</td> </tr> </table>	Name of employer:		Address of employer:		Telephone:	Contact (manager / personnel officer):	Fax:		Job title:	Years with present employer:
Name of employer:											
Address of employer:											
Telephone:	Contact (manager / personnel officer):										
Fax:											
Job title:	Years with present employer:										

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	Role	Duration of involvement [From - To]	Relevant experience
<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role]</i>	<i>[describe the experience relevant to this position]</i>

Declaration

I, the undersigned Key Personnel, certify that to the best of my knowledge and belief, the information contained in this Form PER-2 correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Bid:

Commitment	Details
Commitment to duration of contract:	<i>[insert period (start and end dates) for which this Key Personnel is available to work on this contract]</i>
Time commitment:	<i>[insert the number of days/week/months/ that this Key Personnel will be engaged]</i>

I understand that any misrepresentation or omission in this Form may:

- (a) be taken into consideration during Bid evaluation;
- (b) my disqualification from participating in the Bid;
- (c) my dismissal from the contract.

Name of Key Personnel: *[insert name]*

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Bidder:

Signature: _____

Date: (day month year): _____

Appendix to Technical Part: Equipment

Form EQU: Forms for Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III (Evaluation and Qualification Criteria). A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

Type of Equipment*							
Equipment Information	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; padding: 5px;">Name of manufacturer,</td> <td style="padding: 5px;">Model and power rating</td> </tr> <tr> <td style="padding: 5px;">Capacity*</td> <td style="padding: 5px;">Year of manufacture*</td> </tr> <tr> <td colspan="2" style="padding: 5px;">Registration number or any other unique identification number</td> </tr> </table>	Name of manufacturer,	Model and power rating	Capacity*	Year of manufacture*	Registration number or any other unique identification number	
	Name of manufacturer,	Model and power rating					
	Capacity*	Year of manufacture*					
Registration number or any other unique identification number							
Current Status	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Current location</td> </tr> <tr> <td style="padding: 5px;">Details of current commitments</td> </tr> </table>	Current location	Details of current commitments				
Current location							
Details of current commitments							
Source	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;"> Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured </td> </tr> </table>	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured					
Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured							

The following information shall be provided only for equipment not owned by the Bidder.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project	

Appendix to Technical Part

Site Organization

[insert Site Organization information]

Appendix to Technical Part

Method Statement

[insert method Statement – A detailed note should be submitted outlining bidders proposed methodology and program of construction including Environmental, Social, Health and Safety Management Strategies and Implementation Plans (ESHS-MSIP), backed with equipment, specifications of equipment and other exclusion/avoidance devices for reducing potential harm to aquatic fauna including dolphins, materials and manpower planning and deployment, duly supported with broad calculations and quality control system/assurance procedures proposed to be adopted, justifying their capability of execution and completion of the work requirements within the stipulated period of completion as per milestones]

Appendix to Technical Part
Mobilization Schedule
[insert Mobilization Schedule]

Appendix to Technical Part Construction Schedule

[insert Construction Schedule]

Please consider “No Construction Period” provided below while preparing the Construction Schedule

NO CONSTRUCTION PERIOD

The breeding season of the Gangetic dolphin extends from January to June. However, newly born calves are seen even in other months. While mating usually takes place between March and June, it has been observed even in July. Only a single baby is born after a gestation period of about 9 months. During the dry time survey in March, neonates were sighted in the Brahmaputra River. The breeding time of Gangetic dolphin was found to be February to May.

Further, the reduced river flow and depth in lean season cause severe problem for Gangetic river dolphins. The above-mentioned problem will be more critical for dolphins as the habitat of the species shrink naturally in dry period. The shrinkage of habitat due to reduced water flow and the breeding period coincide in the months of February to June.

It is recommended to stop the construction activities in water part (for example piling or dredging) in between mid of March to Mid of June especially in the ghats located at Guwahati Gateway Ghat.

Appendix to Technical Part

ESHS Management Strategies and Implementation Plans (ESHS-MSIP)

The Bidder shall submit comprehensive and concise Environmental, Social, Health and Safety Management Strategies and Implementation Plans (ESHS-MSIP) as required by ITB 11.2 (j) of the Bid Data Sheet. These strategies and plans shall describe in detail the actions, materials, equipment, management processes etc. that will be implemented by the Contractor, and its subcontractors.

In developing these strategies and plans, the Bidder shall have regard to the ESHS provisions of the contract including those as may be more fully described in the Works Requirements in Section VII.

Appendix to Technical Part

Code of Conduct: Environmental, Social, Health and Safety (ESHS)

The Bidder shall submit the Code of Conduct that will apply to the Contractor's employees and subcontractors and suppliers as required by ITB 11.2 (j) of the Bid Data Sheet. The Code of Conduct shall ensure compliance with the ESHS provisions of the contract, including those as may be more fully described in the Works Requirements in Section VII.

In addition, the Bidder shall submit an outline of how this Code of Conduct will be implemented. This will include: how it will be introduced into conditions of employment/engagement, what training will be provided, how it will be monitored and how the Contractor proposes to deal with any breaches.

Appendix to Technical Part

Form SC-Sub-Contracting

SCHEDULE OF SUBCONTRACTORS

Item	Element of work	% of bid price	Name and address of sub-contractor	Qualification and experience of sub-contractor on similar works of the elements executed

The Bidder shall enter in this schedule a list of the major sections and appropriate value of the work for which he proposed to use subcontractors [*for those costing more than 5% of the bid price for each element*], together with the names, addresses and experiences of the proposed subcontractors.

The capability of the sub-contractor will also be assessed (on the same lines as for the main Contractor) before according approval to him.

(Work should not be split into small parts and sub-contracted; but sub-contracting specialized elements of works is acceptable).

Appendix to Technical Part Others

Appendix to Technical Part

Bidder's Qualification

To establish its qualifications to perform the contract in accordance with Section III (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder

Appendix to Technical Part

Form ELI -1.1: Bidder Information Form

Date: _____
 RFB No. and title: _____
 Page _____ of _____ pages

Bidder's legal name
In case of Joint Venture (JV), legal name of each member:
Bidder's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Bidder's actual or intended year of incorporation:
Bidder's legal address [in country of registration]:
Bidder's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <ul style="list-style-type: none"> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 4.4. <input type="checkbox"/> Authorization to represent the firm or JV named in above, in accordance with ITB 20. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1. <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITB 4.6 documents establishing: <ul style="list-style-type: none"> • Legal and financial autonomy • Operation under commercial law • Establishing that the Bidder is not under the supervision of the Employer
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Appendix to Technical Part Form ELI -1.2 A

Specialized Subcontractor's Information form (to be completed for each Specialized Subcontractor)

Date: _____

RFB No. and title: _____

Page _____ of _____ pages

Bidder's legal name:

Specialized Subcontractor's legal name:

Specialized Subcontractor's country of registration:

Specialized Subcontractor's year of constitution:

Specialized Subcontractor's legal address in country of constitution:

Specialized Subcontractor's authorized representative information

Name: _____

Address: _____

Telephone/Fax numbers: _____

E-mail address: _____

Attached are copies of original documents of

- Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 4.4.
- Authorization to represent the Specialized Subcontractor.

Appendix to Technical Part

Form CON – 2: Historical Contract Non-Performance, Pending Litigation and Litigation History

[to be completed for the Bidder and for each member of a Joint Venture]

Bidder's Name: _____

Date: _____

Joint Venture Member's Name _____

RFB No. and title: _____

Page _____ of _____ pages

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> Contract non-performance did not occur since 1 st January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.			
<input type="checkbox"/> Contract(s) not performed since 1 st January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, requirement 2.1			
Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (Rs.)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for non-performance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.			
<input type="checkbox"/> Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			

Year of dispute	Amount in dispute (Rs.)	Contract Identification	Total Contract Amount (Rs.)
<i>[insert year]</i>	<i>[insert amount]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i> Status of dispute: <i>[Indicate if it is being treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary]</i>	<i>[insert amount]</i>
<i>[insert year]</i>	<i>[insert amount]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i> Status of dispute: <i>[Indicate if it is being treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary]</i>	<i>[insert amount]</i>
Litigation History in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4.			

<input type="checkbox"/> Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.			
Year of award	Outcome as percentage of Net Worth	Contract Identification	Total Contract Amount (Rs.)
<i>[insert year]</i>	<i>[insert percentage]</i>	Contract Identification: <i>[indicate complete contract name, number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Employer" or "Contractor"]</i> Reason(s) for Litigation and award decision <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

Appendix to Technical Part

Form CON – 3: Environmental, Social, Health, and Safety Performance Declaration

[The following table shall be filled in for the Bidder, each member of a Joint Venture and each Specialized Subcontractor]

Bidder's Name: _____ *[insert full name]*
 Date: _____ *[insert day, month, year]*
 Joint Venture Member's or Specialized Subcontractor's Name: _____ *[insert full name]*
 RFB No. and title: _____ *[insert RFB number and title]*
 Page _____ *[insert page number]* of _____ *[insert page number]* pages

Environmental, Social, Health, and Safety Performance Declaration in accordance with Section III, Qualification Criteria, and Requirements			
<input type="checkbox"/> No suspension or termination of contract: An employer has not suspended or terminated a contract and/or called the performance security for a contract for reasons related to Environmental, Social, Health, or Safety (ESHS) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5.			
<input type="checkbox"/> Declaration of suspension or termination of contract: The following contract(s) has/have been suspended or terminated and/or Performance Security called by an employer(s) for reasons related to Environmental, Social, Health, or Safety (ESHS) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5. Details are described below:			
Year	Suspended or terminated portion of contract	Contract Identification	Total Contract Amount (Rs.)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s) e.g. for GBV/ SEA breaches]</i>	<i>[insert amount]</i>
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for suspension or termination: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
...	...	<i>[list all applicable contracts]</i>	...
Performance Security called by an employer(s) for reasons related to ESHS performance			

Year	Contract Identification	Total Contract Amount (Rs.)
<i>[insert year]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for calling of performance security: <i>[indicate main reason(s) e.g. for GBV/ SEA breaches].</i>	<i>[insert amount]</i>

Appendix to Technical Part

Form FIN – 3.1: Financial Situation and Performance

[To be completed by the Bidder and by each member of a Joint Venture]

Bidder's Legal Name: _____

Date: _____

Joint Venture Member's Legal Name _____

RFB No. and title: _____

Page _____ of _____ pages

1) Financial data

Type of Financial information in (Rs.)	Historic information for previous _____ years, _____				
	(amount in Rs.)				
	Year 1	Year 2	Year 3	Year 4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Shareholder's Funds (Net Worth) = (Paid up equity + Reserves) - (revaluation reserves + Miscellaneous expenditure not written off)					
Depreciation					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					

Cash Flow Information					
Cash Flow from Operating Activities					
Net cash accruals= Profit after Tax + depreciation					
This information should be extracted from the Annual Financial Statements/ Balance sheets, which should be enclosed. Year 1 will be the latest year for which audited financial statements are available. Year 2 shall be the year immediately preceding year 1 and year 3 shall be the year immediately preceding Year 2.					

2) Sources of Finance

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

No.	Source of finance	Amount (Rs.)
1		
2		
3		
4		

3) Financial documents

The Bidder and its parties shall provide copies of financial statements for _____ years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.2. The financial statements shall:

- a) reflect the financial situation of the Bidder or in case of JV member, and not an affiliated entity (such as parent company or group member).
 - b) be independently audited or certified in accordance with local legislation. In case of Indian bidders, the financial statements shall be audited by a certified chartered accountant.
 - c) be complete, including all notes to the financial statements.
 - d) correspond to accounting periods already completed and audited.
- Attached are copies of financial statements¹²(balance sheets, including all related notes, and income statements) for the _____ years required above; and complying with the requirements. (If the most recent set of financial statements is for a period earlier than 12 months from the date of bid, the reason for this should be justified).
- Attached is a copy of certificate given from the commercial bank assuring cash flow (working capital for the subject contract) in the format attached.

¹² If the most recent set of financial statements is for a period earlier than 12 months from the date of bid, the reason for this should be justified.

Appendix to Technical Part

Form FIN - 3.2: Average Annual Construction Turnover

Bidder's Legal Name: _____

Date: _____

Joint Venture Member's Legal Name _____

RFB No. and title: _____

Page _____ of _____ pages

Annual turnover data (construction only)	
Year	Amount in Rs.
<i>[indicate year]</i>	<i>[insert amount]</i>
Average Annual Construction Turnover *	

* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2. Annual construction turnover calculated as total certified payments received for work in progress or completed, for 5 years. This should be certified by a Chartered Accountant.

Appendix to Technical Part

Form FIN - 3.3: Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III, Evaluation and Qualification Criteria.

Source of financing	Amount (Rs.)
1.	
2.	
3.	
4.	

FORMAT FOR EVIDENCE OF ACCESS TO OR AVAILABILITY OF CASH FLOW

[To be given from a Nationalized or Scheduled Bank in India]

Clause 3.1(ii) of Section III – Qualification Criteria

(1) AVAILABILITY OF CASH FLOW (WORKING CAPITAL)

This is to certify that M/s. _____ is a reputed company with a good financial standing.

If the contract for the works, namely _____ [funded by the World Bank] is awarded to the above firm, we shall be able to provide overdraft/credit facilities to the extent of Rs. _____ to meet their capital requirements for executing the above contract.

-- Sd. --

Name of Bank Manager

Senior Bank Manager

Address of the Bank

*** Change the text as follows for Joint venture:**

This is to certify that M/s. who has formed a JV with M/s. and M/s. for participating in this bid, is a reputed company with a good financial standing.

If the contract for the work, namely [funded by the World Bank] is awarded to the above Joint Venture, we shall be able to provide overdraft/credit facilities to the extent of Rs. to meet the working capital requirements for executing the above contract.

[This should be given by the JV members in proportion to their financial participation.]

Appendix to Technical Part

Form FIN – 3.4: Current Contract Commitments / Works in Progress

Bidders and each member of a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

(A) Existing commitments and on-going works:

Description of Work	Place & State	Contract No. & Date	Name and Address of Employer	Value of Contract (Rs. equivalent in million)	Stipulated period of completion	Value of works ¹³ remaining to be completed (Rs. equivalent in million)	Anticipated date of completion	Average Monthly Invoicing Over Last Six Months (Rs./month)Equivalent in millions)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

¹³Attach certificate(s) from the Engineer(s)-in-Charge.

(B) Works for which bids already submitted and likely to be awarded – expected additional commitment.

Description of Work	Place & State	Name and Address of Employer	Estimated value of Works (Rs. equivalent in million)	Stipulated period of completion	Date when decision is expected	Remarks, if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Appendix to Technical Part

Form EXP - 4.1: General Construction Experience

[The following table shall be filled in for the Bidder and for each member of a Joint Venture]

Bidder's Legal Name: _____
 Date: _____
 Joint Venture Member's Legal Name _____
 RFB No. and title: _____
 Page _____ of _____ pages

[Identify contracts that demonstrate continuous construction work over the past [5] years pursuant to Section III, Qualification Criteria and Requirements, Sub-Factor 4.1. List contracts chronologically, according to their commencement (starting) dates.]

Starting Month/ Year	Ending Month/ Year	Contract Identification	Role of Bidder ["Contractor" or "JV Member" or "Subcontractor" or "Contract Manager"]
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Bidder: _____ Amount of contract: _____ Name of Employer: _____ Address: _____	

Appendix to Technical Part

Form EXP - 4.2(a): Specific Construction and Contract Management Experience

[The following table shall be filled in for contracts performed by the Bidder, each member of a Joint Venture, and specialist sub-contractors]

Bidder's Legal Name: _____

Date: _____

Joint Venture Member's Legal Name _____

RFB No. and title: _____

Page _____ of _____ pages

(A) Work performed as prime Contractor or JV Member or Sub-Contractor or Management Contractor (in the same name and style) on construction works of a similar nature and volume over the last five years¹⁴. [Attach certificate from the Engineer-in-charge.]

Similar Contract No.	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub- contractor <input type="checkbox"/>
Total Contract Amount				Rs. *
If member in a JV or subcontractor, specify participation in total Contract amount (% of Total)			*	
Employer's Name:				
Address:				
Telephone/fax number				
E-mail:				

¹⁴Immediately preceding the financial year in which bids are received.

Appendix to Technical Part

Form EXP - 4.2(a) (cont.)

Specific Construction and Contract Management Experience (cont.)

Similar Contract No.	Information
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:	
1. Amount	
2. Physical size of required works items	
3. Complexity	
4. Methods/Technology	
5. Construction rate for key activities	
6. Other Characteristics	

Appendix to Technical Part

Form EXP - 4.2(b): Construction Experience in Key Activities

[The following table shall be filled in for contracts performed by the Bidder, each member of a Joint Venture, and specialist sub-contractors]

Bidder's Legal Name: _____

Date: _____

Joint Venture Member's Legal Name _____

Subcontractor's Legal Name¹⁵ (as per ITB 33.2 and 33.3): _____

RFB No. and title: _____

Page _____ of _____ pages

Subcontractor's Name (as per ITB 33.2 and 33.3): _____

All subcontractors for key activities must complete the information in this form as per ITB 33.2 and 33.3 and Section III, Qualification Criteria and Requirements, Sub-Factor 4.2.

(B) Quantities of work executed as prime contractor or Sub-Contractor (in the same name and style) in the last five years:¹⁶*[Attach certificate from the Engineer-in-charge.]*

1. Key Activity No One: _____

	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount			Rs.	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)		Actual Quantity Performed (i) x (ii)
Year 1				
Year 2				
Year 3				
Year 4				

¹⁵ If applicable.

¹⁶ Immediately preceding the financial year in which bids are received.

Employer's Name:	
Address:	
Telephone/fax number-mail:	

2. Activity No. Two

3.

	Information
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:	

Appendix to Bid Technical Part

Form EXP – 4.2(c): Specific Design Experience

[The following table shall be filled in for the Bidder, each member of Joint Venture, and Specialized Subcontractors]

Bidder's Name: _____

Date: _____

Joint Venture Member's Name _____

RFB No. and title: _____

Page _____ of _____ pages

Sub-contractor's Name (as per ITB 33.2 and 33.3): _____

All Sub-contractors for key activities must complete the information in this form as per ITB 33.2 and 33.3 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2.

(C) Quantities of work executed as prime contractor or Sub-Contractor (in the same name and style) in the last five years:¹⁷*[Attach certificate from the Engineer-in-charge.]*

1. ¹⁸Key Activity No One: _____ *[repeat if applicable, for each activity specified in Section III: Qualification Criteria]*

Information				
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount	Rs.			
Quantity (Value) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)	Actual Quantity Performed (i) x (ii)	
Year 1				
Year 2				
Year 3				
Year 4				
Employer's Name:				
Address: Telephone/fax number E-mail:				

¹⁷ Immediately preceding the financial year in which bids are received.

¹⁸ Activities for which data is requested should tally with those specified in Section III: Qualification Criteria

Appendix to Technical Part

Form.....

(Name of the Project)

(Declaration regarding tax/duty exemption for materials/construction equipment bought for the work)

(Bidder's Name and Address)

To:

(Name of the Employer & address)

Dear Sir:

Re: [Name of Work].....

Certificate for Import/Procurement of Goods/Construction Equipment

Government Order/Circular Number under which tax/duty Exemption is being sought: ...

1. We confirm that we are solely responsible for obtaining tax/duty waivers which we have considered in our bid and in case of failure to receive such waivers for reasons whatsoever, the employer will not compensate us.
2. We are furnishing below the information required by the Employer for issue of the necessary certificates in terms of the Government of India's relevant Notifications.
3. The goods/construction equipment for which certificates are required are as under:

Items <i>(modify the list suitably for each specific work)*</i>	Make/ Brand Name	Capacity <i>[where applicable]</i>	Quantity	Value	State whether it will be procured locally or imported <i>[if so from which country]</i>	Remarks regarding justification for the quantity and their usage in works.
Goods						
[a] Bitumen						
[b] Cement						
[c] Steel						
Construction Equipment						

4. We agree that no modification to the above list is permitted after bids are opened.
5. We agree that the certificate will be issued only to the extent considered reasonable by the Employer for the work, based on the approved design, work requirements and the construction program and methodology as furnished by us along with the bid.

6. We confirm that the above goods and construction equipment will be exclusively used for the construction of the above work and the construction equipment will not be sold or otherwise disposed of in any manner for a period of five years from the date of acquisition.

Date: _____

(Signature) _____

Place: _____

(Printed Name) _____

(Designation) _____

(Common Seal) _____

[This certificate will be issued within 60 days of signing of contract and no subsequent changes will be permitted.]

*** Modify the above to suit the requirements given in Government of India's Notifications as current of date of bidding.**

Appendix to Technical Part

Form of Bid-Securing Declaration

Date: _____

RFB No.: _____

Alternative No.: _____

To:

We, the undersigned, declare that:

We understand that, according to your conditions, Bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for Bidding in any contract with the entity that invited Bids for the period of time of 1.5 years starting on 21.09.2021, if we are in breach of our obligation(s) under the Bid conditions, because we:

- (a) have withdrawn our Bid during the period of Bid validity specified in the Letter of Bid; or
- (b) having been notified of the acceptance of our Bid by the Employer during the period of Bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB 48.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Name of the Bidder*

Name of the person duly authorized to sign the Bid on behalf of the Bidder** _____

Title of the person signing the Bid _____

Signature of the person named above _____

Date signed _____ day of _____, _____

** : Person signing the Bid shall have the power of attorney given by the Bidder attached to the Bid

Letter of Bid - Financial Part

INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT

The Bidder must prepare this Letter of Bid on stationery with its letterhead clearly showing the Bidder's complete name and business address.

Note: All italicized text in black font is to help Bidders in preparing this form.

Date of this Bid submission: *[insert date (as day, month and year) of Bid submission]*

Request for Bid No.: *[insert identification]*

Alternative No.¹⁹: *[insert identification No if this is a Bid for an alternative]*

To: *[insert complete name of Employer]*

We, the undersigned, hereby submit the second part of our Bid, the Bid Price. This accompanies the Letter of Bid - Technical Part.

In submitting our Bid, we make the following additional declarations:

- (a) **Bid Validity Period:** Our Bid shall be valid for a period specified in BDS 18.1 (or as amended if applicable) from the date fixed for the Bid submission deadline specified in BDS 22.1 (or as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (b) **Bid Price:** The total price of our Bid, including any discounts offered is:
Total price is: *[insert the total price of the Bid in Rs. in words and figures]*;
- (c) **Commissions, gratuities and fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*.

Name of Recipient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate "none.")

¹⁹Delete if not applicable

Name of the Bidder: **[insert complete name of person signing the Bid]*

Name of the person duly authorized to sign the Bid on behalf of the Bidder: ** *[insert complete name of person duly authorized to sign the Bid]*

Title of the person signing the Bid: *[insert complete title of the person signing the Bid]*

Signature of the person named above: *[insert signature of person whose name and capacity are shown above]*

Date signed *[insert date of signing]* **day of** *[insert month]*, *[insert year]*

*: In the case of the Bid submitted by a Joint Venture specify the name of the Joint Venture as Bidder.

**: Person signing the Bid shall have the power of attorney given by the Bidder. The power of attorney shall be attached with the Bid Schedules

Appendix to Financial Part: Schedules

Form SC-Sub-contracting

SCHEDULE OF SUBCONTRACTORS

[Note: Entries in this Schedule shall be the same as included in the same Schedule in the technical part of the bid, except for the column on 'Approximate value of subcontract' added in the table below]

Item	Element of work	Approximate value of subcontract	% of bid price	Name and address of sub-contractor	Qualification and experience of sub-contractor on similar works of the elements executed

The Bidder shall enter in this schedule a list of the major sections and appropriate value of the work for which he proposed to use subcontractors *[for those costing more than 5% of the bid price for each element]*, together with the names, addresses and experiences of the proposed subcontractors.

The capability of the subcontractor will also be assessed (on the same lines as for the main Contractor) before according approval to him.

(Work should not be split into small parts and subcontracted; but subcontracting specialized elements of works is acceptable).

Section V - Eligible Countries

Eligibility for the Provision of Goods, Works and Non-consulting Services in Bank-Financed Procurement

In reference to ITB 4.8, and 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this Bidding process:

Under ITB 4.8 (a) and 5.1 : *None.*

Under ITB 4.8 (b) and 5.1 : *None.*

[Note: as and when some country/ countries become ineligible insert the list of such countries following approval by the Bank to apply the restriction].

Section VI - Fraud and Corruption

(Section VI shall not be modified)

1. Purpose

1.1 The Bank's Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); Bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.

2.2 To this end, the Bank:

- a. Defines, for the purposes of this provision, the terms set forth below as follows:
 - i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v. "obstructive practice" is:
 - deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.
- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the Contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address

such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;

- d. Pursuant to the Bank's Anti- Corruption Guidelines and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;²⁰ (ii) to be a nominated²¹ sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
- e. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect²² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

²⁰ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

²¹ A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

²² Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

Part 2-Works Requirements and Conditions of Contract together with Schedules

Section VII - Works Requirements and Conditions of Contract together with Schedules

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**Technical Specifications
(Please Refer Volume II)**

Environmental, social, health and safety requirements

1.0 Introduction

Environmental Impact Assessment (EIA) and Social Impact Assessment (SIA) studies for the project with site specific details of Guwahati Gateway Terminal were carried out in accordance with applicable World Bank, Assam State Government requirements on environment, health and safety management. The contractor will follow all processes as obligated by the EIA/SIA in letter and spirit. As part of the ESMP, a Model **Code of Conduct (CoC)** for Contractor's Personnel on general issues, a CoC on Sexual Exploitation and Abuse and Sexual Harassment and also a supplementary Code of Conduct (ESHS) that will apply to the Contractor's employees and subcontractors have also been included in the Bidding Documents in **Annexure-ESHS-I** to ensure compliance with the Environmental, Social, Health and Safety (ESHS) obligations including compliance with the applicable Laws/Rules/Regulations for protection of environment, public health and safety.

Environmental Code of Practice (ECoP) outlines basic construction management practices, impact assessment and mitigation measures that broadly provides the guidelines to be followed during the Construction phase. The contractor shall consider these provisions and recommendations during all stages of development of Guwahati Gateway Terminal . A copy of the EMP, SMP and ECoP is are enclosed at Annexure ESHS XII, ESHS XIV and ESHS XVIII.

The Contractor, within 14 days of issue of Letter of Acceptance, shall submit supplementary ESHS Code of Conduct, the Model CoC together with CoC on SEA, SH and human trafficking(HT) and SH for Contractor's Personnel as stated above and an outline on implementation and monitoring of the ESHS Code of Conduct as a whole, including proposed measures to be adopted by the Contractor in case of any breaches to the Code of Conduct. The Contractor is required to prepare and submit its **own ESHS- MSIP in a comprehensive Contractor's Environmental and Social management plan (C-ESMP)**, within 14 days of Letter of Acceptance, including waste management plan, management plan for construction related issues, traffic management plan, SEA/SH/HT action plan, and construction workers camp management plan, site restoration plan, environmental quality parameters monitoring plan, emergency preparedness plan, COVID-19 control management plan etc. for which general guidelines are attached in **Annexure-ESHS- IV to XI**. In case of any additional impact not covered under the the ESMP, site-specific mitigation measures shall be suggested separately in the Contractor's ESHS-MSIP. Further to above, in case of any unforeseen impact arising during implementation stage suitable mitigation measures shall be taken by Contractor within the scope of the approved Environmental and Social Management Framework (ESMF). The Contractor also needs to consult ESIA Report for this purpose. Contractor to review and update ESHS-MSIP every six months. Failure to do this is a breach of Contract.

2.0 Monitoring and Reporting Requirement

The Contractors are responsible for compliance to **CoC (ESHS)** and implementation of the Contractor's ESHS-MSIP. The Employer's Engineer will be responsible for supervising the adherence to the CoC and the Contractor's ESHS-MSIP. Performance indicators as identified in the EIA/SIA for evaluating the performances of environment and social management and monitoring plan. Construction supervisor will be responsible for compiling this information and report it to AIWTDS.

The Contractor will prepare monthly progress report on adherence to CoC (ESHS) and the Contractor's ESHS-MSIP which should be submitted to the Employer's Engineer. The Contractor's E&S cell should submit the EMP/SMP compliance and applicable regulatory AIWTDS E&S systems compliance on monthly basis.

3.0 Non-permissible Activities

Certain activities triggering adverse impacts of critical nature are not permitted under this

Project. Detailed list of such non-permissible activities has been shown in **Annexure ESHS-II**

4.0 Applicable Acts/ Rules/ Notifications

The Contractor shall take all precautions for safeguarding the environment during the course of the construction of works. He shall abide by all rules, regulations and laws in force governing pollution and environmental protection including labour welfare, health and safety that are applicable to the area where the works are situated as per Contractor's ESHS-MSIP.

4.1 Regulatory Clearance Requirement

Prior permission from various Regulatory/ Other Authorities are to be taken for different activities to be carried out during project implementation. List of activities for which permission need to be obtained from different entities are given in **Annexure ESHS-III**.

5.0 Contractor's ESHS-MSIP Implementation Arrangements

Implementing Contractor, or a nominated agent or Sub-Contractors, has the responsibility of establishing and maintaining contact with the Employer's Engineer and keeping him informed of construction activities likely to affect local environmental and social conditions. This may include regular and frequent reporting and attendance at meetings at the request of the Employer's Engineer. The Contractor and any agents or Sub-Contractors will be contractually required to comply with the requirements as specified in CoC and Contractor's ESHS-MSIP.

The Contractor will be responsible for adherence to the following during the construction period:

- Environmental Management Plan for proposed Terminal Project (Construction Phase) – Refer Annexure ESHS-XII
- Environmental and Social Trainings to be conducted by the Contractors - Refer Annexure ESHS-XIII
- Environmental Codes of Practice (ECoPs) & other Plans to be followed by the Contractor - Refer Annexure ESHS-XIV
- Environmental and Social Monitoring Plan during Construction Phase - Refer Annexure ESHS-XV
- Social Management Plan for proposed Terminal Project - Refer Annexure ESHS-XVI
- Contractor shall prepare Aquatic Management Plan as per the TOR mentioned in the Annexure ESHS- XVII and execute it during the construction stage.

The Contractor will be responsible for adherence to CoC and implementation of the Contractor's ESHS-MSIP, including workplace safety, and will ensure adequate resources throughout the project implementation period. Contractor's responsibility to review and revise the MSIP every 6 months.

Each implementing Contractor will appoint an Environment, Social, Health and Safety (ESHS) officer who will primary be responsible for compliance of workers' ESHS aspects at Camp as well as work site. He will also be responsible for implementation of ESHS measures for different kind of allied project activities like material transportation, vehicular movement and etc. Summary of ESHS compliance and monitoring report shall also be included in "Monthly compliance and monitoring report on ESMP implementation" submitted by the Contractors to the Employer's Engineer.

The Contractor will also engage a Social Development Specialist, subject to the condition stipulated in the requirement of "Key Personnel" to ensure compliance with the CoC, relevant provisions of ESMP & adherence to the Contractor's ESHS-MSIP, and handle/address the issues related to sexual exploitation and abuse & sexual harassment and human trafficking caused /suffered by Contractor's personnel including workforce and related grievances of the

workforce as well as the community.

6.0 Payment for ESHS Requirement

The Contractor has to ensure adherence to CoC and successful implementation of the Contractor's ESHS-MSIP including Sexual Exploitation and Abuse (SEA) / sexual harassment (SH), human trafficking (HT) requirements, and the fund provisioning will generally be either from the "Provisional Sum" or other relevant BOQ items. For implementation of the activities not covered under the above, the Contractor shall make the necessary provisions within his quoted rates and no additional payment will be made on this account.

Annexure ESHS-I

Model Code of Conduct (ESHS) for Contractor's Employees and Sub-contractors

1.0 Introduction

This Code of Conduct will oblige all Contractor's Personnel (including sub-contractors, suppliers and day workers) to abide by following practices, as a minimum. Additional obligations may be imposed during project implementation to respond to particular concerns of the region, the location and the project sector or to specific project requirements. The Contractor may also impose any additional or strengthen code of conduct on his workers/ staff.

The Code of Conduct should be written /translated in a language comprehensible by each worker signing it to indicate that they have:

- received a copy of the code;
- had the code explained to them;
- acknowledged that adherence to this Code of Conduct is a condition of employment; and understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.

A copy of the code of conduct will be displayed at prominent locations easily accessible to the community and project affected people. Name and contact number of the authorised representative of the Contractor competent to attend the grievances of the local community or project affected persons should also be provided on the display board, in languages comprehensible to the local community, Employer's Engineer's Personnel, and Employer's Personnel.

2.0 Model Code of Conduct (ESHS)

2.1 None of Employees of the Contractor and the Subcontractor shall be involved in the following activities:

- Burning of vegetation waste in open space.
- Unauthorized storage of inflammable substances or harmful non-desired chemical/ pesticide in labour camp or work site.
- Harm or disturbance (including hunting/ poaching) to any endangered or threatened species like Fishing Cat, Mongoose, Asian Small Clawed Otter, Fresh Water Turtles/Terrapins, Jungle Cat, Jackal, Monitor Lizard, King Cobra, White-eyed Pochard, etc., or plant species *Ficus religiosa* (a culturally significant tree).
- Harm or disturbance to any culturally significant site.
- Unauthorized removal of timber.
- Disposal of solid or liquid wastes in river/canal, water bodies, streams, etc
- Illicit or criminal activities including sexual harassment of women or children (prohibit use of language or behavior, in particular towards women and/or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate).
- Violence including sexual and/or gender-based violence (for example acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion, and deprivation of liberty)
- Exploitation including Sexual Harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature with

other Contractor's or Employer's Personnel. Sexual Harassment, means unwelcome sexual advances, requests for sexual favors, and other verbal.

- Sexual Exploitation as detailed in Attachment-1, which means any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;
- Sexual Abuse, which means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
- Any form of sexual activity with individuals under the age of 18.
- Use of illegal substances and consumption of intoxicating materials
- Discrimination in dealing with the local community (including vulnerable and disadvantaged groups), Employer Engineer's Personnel, Employer's Personnel and also among themselves on the basis of family status, ethnicity, race, gender, religion, language, marital status, age, disability (physical and mental), sexual orientation, gender identity, political conviction or social, civic, or health status
- Open defecation
- Retaliation against workers who report violations of the Code, if that report is made in good faith.
- Fishing practice at the worksite on riverbed, and also in local or community ponds.
- Not be involved in any way with the process of human trafficking; including not withholding of information regarding or non-reporting of any incident of human trafficking in relation to any process or activity carried out by the project personnel.

2.2 Corona Virus (COVID-19)

- Physical distancing at least 1 meter.
- Wash hands often with soap and water for at least 20 seconds. Use an alcohol-based hand sanitizer that contains at least 60 percent alcohol if soap and water are not available.
- Wear face masks/ coverings.
- Avoid touching eyes, nose and mouth with unwashed hands.
- Avoid close contact with people who are sick.
- Stay home when sick.
- Cover cough or sneeze with a tissue, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces.
- If someone sick, should stay in isolation and avoid contact with other people as much as possible to keep from spreading your illness to others.

Further details on COVID-19 protocol are given in **Annexure-ESHS-XI**

2.3 The Code of Conduct (ESHS) shall ensure:

- Compliance with applicable laws, rules, regulations, consent conditions and the measures specified in the Contractor's ESHS-MSIP
- Compliance with applicable health and safety requirements to protect the Contractor's own employees or subcontractors (e.g. by wearing prescribed personal protective equipment at worksites or during undertaking any activity in relation to execution of

work), local community (including vulnerable and disadvantaged groups), Employer Engineer's Personnel and the Employer's Personnel (e.g. taking all precautions to prevent avoidable accidents and promptly reporting to the Engineer/Employer on any accident that might have occurred at worksite)

- To reduce the impact of COVID-19 outbreak conditions on construction and civil projects, Contractors should develop a plan for COVID-19 pandemic and any infectious disease epidemics that may arise in the future. i.e. Preparedness, prevention, mention essential project operations in case of an outbreak at construction sites; and communications like develop standardized messages, procedures and tools for stakeholders under the management of the Contractors (e.g. subcontractors, suppliers, community workers).
- Compliance with any waste produced during the care of COVID-19 suspected or confirmed infected workers in the medical clinic should be treated as biohazard waste. Treatment of biohazard waste is typically by autoclaving or incineration. Where autoclaving and/or incineration equipment not available within the project, the Contractors should engage with external service provider, local hospital, or health clinic to ensure biohazard waste is properly disposed.
- Compliance with training of workers and staff on site on the signs and symptoms of COVID-19, how it is spread, how to protect themselves (including regular hand washing and Physical distancing) and what to do if they or other people have symptoms.
- Ensure hand washing facilities supplied with soap, disposable paper towels and closed waste bins exist at key places throughout site, including at entrances/exits to work areas; where there is a toilet, canteen or food distribution, or provision of drinking water; in worker accommodation; at waste stations; at stores; and in common spaces. Where hand washing facilities do not exist or are not adequate, arrangements should be made to set them up. Alcohol based sanitizer (if available, 60-95% alcohol) can also be used.
- Each worker shall be given a mask and gloves and they carry personal water bottles. Body temperature of each worker is measured daily and a chart of the same is maintained at the camp. A qualified doctor visits the site periodically for health check-ups. Each worker has been given a space of approximately 5 sq. m. Not more than three workers are allowed in one room. So far, there have been no cases of infection in any of the camps.
- Inform local community, members of the local community before initiation of work as well as during project implementation period. Conduct Public consultation to maintain community integrity and social links.
- Regular interaction with the local community, members of the local community before initiation of work as well as during project implementation period. Public consultation to maintain community integrity and social links.
- Convey attitude of respect to affected person as well as regional culture and traditions
- Protection of children (persons less than 18 years of age) (including prohibitions against sexual activity or abuse, or otherwise unacceptable behaviour towards children, limiting interactions with children, and ensuring their safety in project areas)
- Use specified sanitary facilities provided by their employer and not open areas
- Avoidance of conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favours, are not provided to any person with whom there is a financial, family, or personal connection)
- Respecting reasonable work instructions (including regarding environmental and social norms)

- Protection and proper use of property (for example, to prohibit theft, carelessness or waste)
- Duty to report violations of this Code
- Store chemicals appropriately with proper labelling and promptly inform to relevant agencies on accidental spill or incident

2.4 Required Conduct

Contractor's Personnel shall:

1. carry out his/her duties competently and diligently;
2. comply with the Model Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor's Personnel and any other person;
3. maintain a safe working environment including by:
 - a. ensuring that workplaces, machinery, equipment and processes under each person's control are safe and without risk to health;
 - b. wearing required personal protective equipment;
 - c. using appropriate measures relating to chemical, physical and biological substances and agents; and
 - d. following applicable emergency operating procedures.
4. report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;
5. treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;
6. complete relevant training courses that will be provided related to the environmental and social aspects of the Contract, including on health and safety matters, and Sexual Exploitation, and Abuse (SEA) and Sexual Harassment (SH);
7. report violations of this Code of Conduct; and
8. not retaliate against any person who reports violations of this Code of Conduct, whether to us or the Employer, or who makes use of the grievance mechanism for Contractor's Personnel or the project's Grievance Redress Mechanism.

2.5 Raising Concerns

If any person observes behavior that he/she believes may represent a violation of this Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly. This can be done in either of the following ways:

The person's identity will be kept confidential, unless reporting of allegations is mandated by the country law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

There will be no retaliation against any person who raises a concern in good faith about any behavior prohibited by this Code of Conduct. Such retaliation would be a violation of this Code of Conduct.

2.6 Consequences of violating the Code of Conduct

Any violation of this Code of Conduct by Contractor's Personnel may result in serious consequences, up to and including termination and possible referral to legal authorities.

ATTACHMENT 1 TO THE CODE OF CONDUCT FORM
BEHAVIORS CONSTITUTING SEXUAL EXPLOITATION AND ABUSE (SEA) AND
BEHAVIORS CONSTITUTING SEXUAL HARASSMENT (SH)

The following non-exhaustive list is intended to illustrate types of prohibited behaviors:

(1) Examples of sexual exploitation and abuse include, but are not limited to:

- A Contractor's Personnel tells a member of the community that he/she can get them jobs related to the work site (e.g. cooking and cleaning) in exchange for sex, trafficking of women and children for sexual exploitation, forced labour and child labour.
- A Contractor's Personnel that is connecting electricity input to households says that he can connect women headed households to the grid in exchange for sex, trafficking of women and children for sexual exploitation, forced labour and child labour.
- A Contractor's Personnel rapes, or otherwise sexually assaults a member of the community.
- A Contractor's Personnel denies a person access to the Site unless he/she performs a sexual favor, trafficking of women and children for sexual exploitation, forced labour and child labour.
- A Contractor's Personnel tells a person applying for employment under the Contract that he/she will only hire him/her if he/she has sex with him/her.

(2) Examples of sexual harassment in a work context

- Contractor's Personnel comment on the appearance of another Contractor's Personnel (either positive or negative) and sexual desirability.
- When a Contractor's Personnel complains about comments made by another Contractor's Personnel on his/her appearance, the other Contractor's Personnel comment that he/she is "asking for it" because of how he/she dresses.
- Unwelcome touching of a Contractor's or Employer's Personnel by another Contractor's Personnel.
- A Contractor's Personnel tells another Contractor's Personnel that he/she will get him/her a salary raise, or promotion if he/she sends him/her naked photographs of himself/herself.

Annexure-ESHS-II

List of non-permissible activities under the Contract

1. Any activity located within a notified Eco Sensitive Zone (ESZ) is prohibited from being implemented;
2. Any activity that converts or leads to conversion and/or degradation of significant areas of critical natural habitats (areas officially protected) and/or other natural habitats (including wetlands of significance) and designated forest areas;
3. Any activity that promotes or supports pesticides that are banned by the Government of India;
4. Any activity that promote or support pesticides that are in Classes Ia, Ib and II of the WHO classified pesticides by hazard;
5. Any activity that involves construction within 100 meters from an archeological site/monument.
6. Any activity that involves use of Asbestos Containing Materials (e.g., AC pipes for irrigation, AC sheets for roof);
7. Any activity that violates the provisions of applicable National and Assam State laws;

Annexure- ESHS-III
List of Regulatory Clearance Requirements
Table ESHS-1: List of regulatory clearance requirements

Sl. No.	Clearance Required	Applicable Regulation	Issuing Authority	Requirement	Responsibility
1	Consent to Establish (CtE) and Consent to Operate (CtO)	Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981	ASPCB	Consent shall be obtained before commencement of construction work for the plant and machinery, i.e. (Batching Plant, Crusher, and Diesel Generator greater than 15 KVA) required for the project.	Contractor
2	Tree Cutting (if any)	Assam Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 and Rules, 2007	State Forest Department / DFO)	Permission shall be obtained before felling of tree exceeding GBH 50 cm.	Employer
3	Storing and dumping of C&D waste, Desilted material and Vegetation waste material		Local GP or authority	Temporary storing or dumping of waste material (C&D waste, Desilted material)	Contractor
4	Proper handling, storage and disposal of hazardous wastes	Hazardous & other Wastes (Mgt. and Transboundary Movement Rules, 2016	ASPCB	Handling used oil generated from vehicles, DG sets	Contractor
5	Extraction of boulders from quarry		State Government	For construction works	Contractor

6	Pollution Under Control Certificate	Motor Vehicles Act, 1988	State Transport Authority	Vehicles and machineries shall comply with the Motors Vehicle act and submit pollution under control (PUC) certificate	Contractor
7	Extraction of ground water for drinking and domestic usage		Central Groundwater Authority	For construction and domestic use	Contractor

Annexure- ESHS-IV

Waste Management Plan (C&D waste, vegetation waste, hazardous waste)

A. Construction and Demolition (C&D) Waste Management Plan:

- A.1 Construction and demolition activity lead to generation of solid wastes, which include sand, gravel, concrete (with or without reinforcement), stone, bricks, wood, metal, glass, plastic, paper etc. Temporary storage, identification of dumping sites, timely disposal of demolition's rubble, cost involvement for transportation and disposal and above all growing concern about pollution and environmental deterioration will be matters of concern during demolition work. Contractor shall prepare C&D waste management plan detailing location for temporary storage, reutilization plan and mitigation measures to minimize or eliminate any adverse impact.
- A.2 All generated construction and demolition waste material will be stored temporarily in storage areas till reutilization, which may generally be considered as the continuous strip of govt. land available on the countryside toe of embankment or canal bank (approximate width 5.0 m). Private lands may have to be arranged by the contractor on payment of required crop compensation or premium as the case may be, on very rare occasion.

B. Vegetation Waste Management Plan:

- B.1: Vegetation waste will be generated due to weed cleaning and cutting of shrub located in the project area. Many other bush, shrub, terrestrial weed also will be cleared during the process of cleaning of active work zone. Big as well as small size tree will be auctioned after felling, if required at a later stage. However, residual material like Leaves, Twigs & Bough, Branch, Shrub Stem, Stumps, Roots and Wood Chips will form vegetation waste due to weed cleaning operation.
- B.2: All generated vegetation waste including water hyacinth will be stored temporarily in storage areas. Contractor, as a component of his ESHS-MSIP shall prepare vegetation waste management plan and accordingly dispose it.

C. Hazardous Waste Management Plan:

- C.1: All hazardous waste material shall be stored in double lining container and disposed of in an authorised disposal facility (TSDF site) authorized by Assam State Pollution Control Board.
- C.2: However, contractor shall prepare quantify such waste and prepare hazardous waste management plan in accordance with the guidelines stated below

Guideline for developing Hazardous Waste Management Plan

Listing down plant and machineries to be deployed; listing down oil and lubricants to be used; source of oil/ lubricant purchase source
Plan for purchase and storing; frequency of purchase; quantity of purchase at a time;
Identification of activity involving use or generation of hazardous waste;
Identification of impact on environment and health; proposed mitigation measures to minimize or restrict any adverse effect; Safe handling mechanism of hazardous waste;
Disposal mechanism of hazardous waste

C.3 Mitigation measures to be followed for handling Hazardous Waste by contractor:

- Oil inception chamber shall be provided at vehicle parking and repairing site.
- Regular maintenance of plant, machineries, vehicle shall be done to eliminate oil leakage or dripping.

- Bulk purchase and storing of oil/ lubricants/ coal tar shall be avoided.
- Oil/ lubricant/ waste oil shall be stored separately in double layered container. Generated oil shall be stored in double layered container and sold to authorized recycler; at any circumstances, waste shall not be thrown to river/ canal/ waterbody or agricultural field.

Annexure- ESHS-V
Management Plan for Construction Related Issues
Table ESHS-2: Construction related issues management plan

Issues/ Expected Impact	Mitigation Measures	Implementing Entity
Worker's safety and hygienic conditions		
Occupational Health and Safety (OHS) issues	Regular OHS trainings (Monthly) to construction staff. Organize Health camps on half yearly basis.	Contractor
	Providing appropriate Personal Protective Equipment (PPE) such as safety boots, rain coats, hand gloves, earplugs and nose masks to the working personnel and enforcing the use of these PPEs.	Contractor
	Making provision of first aid facilities and emergency vehicle. However, major cases will be referred to the nearest hospital or health centre.	Contractor
	Obligatory insurance of contractor's staff and laborers against accidents.	Contractor
	Contingency measures in case of accidents;	Contractor
	Making provision of primary medical care in case of sickness (specifically snake bites) and accidents.	Contractor
	Periodic health-check-ups (quarterly) of all laborers employed at the project site;	Contractor
	Providing safe drinking water supply and sanitation at the working places.	Contractor
Parking / repair of machinery and equipment		
Soil and water contamination with oil / grease spills	Restriction on repair of vehicles and equipment on working sites without impermeable top soil cover at the repairing site.	Contractor
	Avoiding washing of vehicles near the canal or river.	
	Ensuring proper storage and disposal of used oil etc.	
	Adoption of good housekeeping practices at workshop areas.	
	Avoiding waste oil spill into soil and adjoining water source.	
	Appropriate arrangements such as usage of concrete base and drip pans to avoid spills during fuelling/oil change.	
	Collection of used oil, lubricants, cleaning materials, etc. from the maintenance of vehicles and machinery in holding tanks and removal from site by a specialized oil recycling company for disposal at an approved hazardous waste site.	Contractor
Procurement		
Construction material	Procurement of all construction material from authorized vendors having required permission.	Contractor

Issues/ Expected Impact	Mitigation Measures	Implementing Entity
Construction works		
Noise pollution	Use of PPEs such as earplugs and earmuffs by the workers; avoid night time activity.	Contractor
Land degradation; soil erosion; pooling of water and drainage problem	Temporary stacking in identified locations with preventive measures (covering, sprinkling water etc.)	Contractor
	Disposal of demolished / excavated materials, after reuse, as per the plan.	Contractor
Health impact during metal work (cutting and welding) and handling of metal scrap	Ensuring use of PPEs such as welding helmet, hand goggles, Respirators specially during cutting and welding operation	Contractor
	Enforcing wearing fire/ flame resistant cloth and aprons during cutting and welding operation	Contractor
	Ensuring use of hand and forearm protecting leather gloves; safety goggles; steel-toed safety shoes; and upper foot guards to protect the instep area from impact or compression.	Contractor
Soil & Water contamination	Using techniques as berming or diversion during construction to limit the exposure of disturbed sediments to moving water.	Contractor
	Avoiding discharge of waste effluents to the nearby canal/ river.	Contractor
	Collection of wastewaters in a conservancy tank and removal from site on regular basis.	Contractor
	Safe disposal/sealing of wastewater collection tanks and septic tanks on completion of works.	Contractor
construction material waste	Remove any left-over construction material/wastes from the construction sites.	Contractor
Accident risks	Provision of PPEs; Provision of first aid kits and emergency vehicle.	Contractor
Loss of top soil	Preservation of top soil and reuse in slope or bank stabilisation/turfing activities. Distributing excess (if any) to farmers for use in the agricultural lands.	Contractor/ Employer's Engineer
Use of water for construction and consumption		
Conflict with local water demand	Making own arrangements for meeting water required for construction ensuring that water availability and supply to nearby communities remain unaffected.	Contractor
Storage, handling and transport of chemical/ hazardous materials		
Work safety and human health risks	Provision of double containment for storage of hazardous material (if any).	Contractor
	Storing chemicals appropriately and with labeling	Contractor
	Promptly informing any accidental spill or incident to the concerned Authority.	Contractor

Issues/ Expected Impact	Mitigation Measures	Implementing Entity
	Providing a report explaining the reasons for the spill or incident, remedial action taken, consequences/damage from the spill, and proposed corrective actions.	Contractor
Work site sanitation		
Unhygienic construction site environment may have health impact on public and workers	Providing waste bins on site for collection and disposal of plastic waste, cans and food waste. These bins shall be frequently emptied at approved dump sites.	Contractor
	Regular removal and disposal of construction waste such as metal scrap, wood chippings, rubber seals, nails, etc. as per management plan.	
	Providing temporary toilet facilities at the construction sites for use by the construction workers. The workers will be educated against open defecation or “free range” defecation.	
	Providing potable water to workers at all time.	
	Appropriately and immediately covering trenches and/or excavations after they have served their purpose to prevent accidents and collection of stagnant water, which could serve as a breeding ground for disease causing vectors.	
Environmental damage during flood		
Environmental damage from accidental release	Finding alternative material handling sites that is located above flood plain, if possible.	Contractor
	Maintaining design features, such as drainage structures, during	
of toxic, infectious, or otherwise harmful material from construction site during flooding	construction and operation.	
	Avoiding constructing sanitation or other facilities that stores harmful materials at flood prone areas.	
	Choosing dry sanitation options or closed disposal systems, instead of wet ones such as septic tanks or detention ponds.	
Operation and movement of machinery and equipment including DG set		
Deterioration of air quality due to exhaust gases and dust emissions	Ensuring that excavators, tractors and other machinery hired for excavation and land levelling and development works are in good condition and are well serviced, and the operators are experienced and well trained. Good conditioned and well-maintained equipment will reduce frequent breakdowns, noise nuisance and smoke emissions which could affect the operators’ and other workers’ health and safety.	Contractor
	Proper engine tuning of machinery/equipment/ transport vehicle to avoid the exhaust emissions;	Contractor

Issues/ Expected Impact	Mitigation Measures	Implementing Entity
	Protection of the exposed soil and material stockpiles against wind erosion and selection of the location of stockpiles in consideration of the prevailing wind directions and locations of sensitive receptors.	Contractor
	Water sprinkling at dust prone areas particularly at work sites near the communities.	Contractor
	prohibiting burning of waste or construction materials or cleared vegetation on site.	Contractor
	Setting up of construction material handling unit at minimum 500 m away from residential areas.	Contractor
	Covering material loads during transportation to prevent the scattering of soil, sand, materials' dust.	Contractor
Noise from vehicles, compaction rollers, concrete mixers and construction equipment	Ensuring valid Pollution Under Control (PUC) certificate for all vehicles and machineries.	Contractor
	Use of noise reduction devices; regular inspection, maintenance and lubrication of the construction vehicle and equipment.	Contractor
	Use muffles (silencers) in vehicles to minimize noise;	Contractor
	Avoiding or minimizing transportation though or material processing near community areas.	Contractor
	Avoid night time traffic particularly near communities.	Contractor
Transportation of construction material		
Chance of accidents	Material transport in closed containers or covered with canvas (Tarpaulin) sheets.	Contractor
	Restricting vehicle speeds to 20km/h near habitations / settlements	
Accident risks	Public consultation to maintain community integrity and social links;	Contractor
	Public awareness campaigns through displaying sign board at site and haulage routes;	
	Using warning signs at vantage points to indicate ongoing works. The contractor will guard all construction site including canals and drains with caution tapes.	
	Restriction on movement of machinery on the designated haulage routes for transportation of materials;	
	Ensuring that all haulage trucks comply with the approved speed limit of 20km/hr within the communities along the haulage road;	
Adjusting haul times to ensure trucks do not move to the communities during mornings when school children may be crossing the road to school and during closing time.		

Issues/ Expected Impact	Mitigation Measures	Implementing Entity
	Enforcing proper security at the project site during works to limit entry of unauthorized persons, non- working persons, particularly children to the project site;	
	Adequate signage to manage traffic at sites, haulage and access roads;	
Road impacts and traffic issues, Obstruction of access ways to communities		
Mobility inconvenience to the local community	Providing safe alternative access routes for access ways that are obstructed during construction works.	Contractor
	Providing sirens in vehicles to avoid any collision with human/animals	Contractor
	Erecting Sign posts at vantage points to manage traffic, guide community members through safe alternative access ways during construction works.	Contractor
	Repairing and maintaining damaged sections of the road located at project site throughout the construction period.	Contractor
Mobility inconvenience to the local community	Ensuring good condition of all haulage trucks hired/contracted to prevent breakdowns on roads. Not allowing parking of the vehicle in areas which may create inconvenience in mobility such as blind turning point or meeting point of village road with the embankment.	Contractor
Workforce, Camps and Site Management	Identify location for establishment of camp site and obtain permission from local GP.	Contractor
	Setting up of Workers 'camps at least 200 m away from schools and health care centres with proper arrangement of suitable and comfortable accommodations and safe portable water in the camps. These are to be maintained in clean and sanitary conditions.	Contractor
	Not setting up Site offices, workers' camps, mixing stations, and workshops within 100m from any water courses, 300 meters of existing residential area.	Contractor
	Engaging Safety and Environmental officer for environmental and safety issues including training for workers.	Contractor
	Providing Septic tank toilets at all construction camp areas where there will be concentration of labour, with separate toilet block for male and female.	Contractor
	First aid boxes shall be provided in each construction camp site.	Contractor

Issues/ Expected Impact	Mitigation Measures	Implementing Entity
Chance of finding Archaeological property	While excavating or dismantling any structure, if any fossils, coins, articles of value / antiquity and remains of archaeological interest discovered on the site shall be the property of the Government and shall be dealt with as per the provisions of the relevant legislation.	Contractor/ Employer's Engineer
	The Contractor shall take reasonable precautions to prevent his workforce or any other persons from damaging or removing any such articles. If any articles found shall be brought to the notice of the concerned Project Manager official and shall seek the direction of ASI before contractor recommencing the work.	

Annexure-ESHS-VI

Guidelines for preparation of Traffic Management Plan

1. Before initiation of the construction work, proper traffic management plan shall be prepared by contractor and submitted to the Engineer as a part of the Contractor's ESHSMSIP, for approval. The plan should include haulage and work site routes, traffic control devices, temporary fencing, barriers and barricades, diversion plans & detours, traffic signs and speed limits, safe passage of pedestrians and provision of access to private properties. Contingency plan in case of major road accidents shall also be provided in plan.
2. Regarding temporary impacts to local roads and traffic, contractor should consider the following while preparing traffic management plan:
 - Safe alternative access routes shall be provided for access ways that are obstructed/destroyed during construction works.
 - Sign posts shall be erected at vantage points to manage traffic, guide community members through safe alternative access ways during construction works.
 - Prior to construction activities, the contractor will install all signs, barriers and control devices needed to ensure the safe use of the road by traffic and pedestrians, as required by the traffic control plan;
 - Signs, crossing guards and other appropriate safety features will be incorporated at road crossings and vantage points;
 - Close consultation with local authorities and communities in a working area to identify optimal solutions for diversions to maintain community integrity & social links; will be made before any detours for construction or diverted public traffic are established;
 - Haul routes for accessing worksites and temporary disposal sites to the extent required and feasible will be identified and coordinated with local officials; Movement of machinery on the designated haulage routes for transportation of materials will be restricted. All haulage trucks shall comply with the approved speed limit within the communities along the haulage road;
 - Adjustment in haul times to ensure trucks do not move to the communities during mornings when school children may be crossing the road to school and during closing time, shall be made to the extent feasible;
 - Construction vehicles will use temporary roads constructed for that purpose to minimize damage to agricultural land and local access roads. Wherever possible, rerouting of construction traffic to wider, less-restrictive road shall be preferred.
 - Damaged sections of the haul roads leading to project site shall be repaired throughout the construction period. Where local roads are used, they will also be maintained periodically.
 - Provision of signboards directing the drivers about the diversion and the road crossing, overpass/underpass, signage, road shoulders, relocation of school's entrance and other required action will be included in the traffic control plan by the contractor; Provision of proper safety signage at sensitive/accident-prone spots.
 - Providing and maintaining traffic management will require and include diversion warning, guiding and regulatory signage, channelizers and delineators, lightening etc;
 - Wherever required, positioning of agile flagman with an orange vest and a helmet and a red flag 600 x 600 mm securely fastened to a staff 1 m in length will be made for guiding/managing the traffic; Contractor staff could be trained and put on the duty to manage the traffic during the construction activities taking place along the road; Secure assistance from local civic police for traffic control during the construction;

- On possibility, the movement of heavy vehicles to be restricted to the night times particularly near communities;
 - Unnecessary parking and sound pollution to be strictly avoided especially when vehicles are passing through the settlements and sensitive receptor such as schools, hospital and cultural centre.
 - Parking of the vehicle in areas which may create inconvenience in mobility such as blind turning point or meeting point of village road with the embankment, shall not be allowed.
 - The contractor shall provide training to the drivers regarding the traffic rules and management provisions. Training records shall be maintained by the contractor.
 - Sirens will be provided in vehicles to avoid any collision with human/animals
 - Contractor will ensure that no construction materials and debris are lying on the road. It will be collected and disposed of properly.
 - The contractor will ensure that all haulage trucks hired/contracted are in good condition to prevent breakdowns on roads.
3. Accident Reporting on Occurrence of Accident
- (i) In case of traffic accidents involving project vehicles & equipment, relevant information including date, location, damage, cause, and follow-up action need to be provided; Immediate reporting of serious E&S incidents to be submitted
4. Monitoring by Project Authority
- (i) Traffic management plan is to be vetted by the Employer's Engineer.
- (ii) Necessary permissions for traffic diversion obtained from the concerned Authorities are to be submitted to the Engineer for verification
- (i) Traffic safety at worksites will be monitored and reviewed by the Engineer on regular basis.
- (ii) Report on the condition of the vehicles/equipment (to be given by the Environment, Health and Safety (EHS) officer engaged by Contractor on the basis of his subjective judgment) and non-routine repairs and maintenance needed to improve safety and/or environmental performance etc. will be reviewed by the Engineer on monthly basis.

Annexure- ESHS-VII

Labor Influx and Construction Workers Camp Management Plan

1. During implementation phase, worker population is likely to influx in the project area. Management of this labour influx and of issues related to the labour campsite are a critical part of environmental and social management of the project. To address the probable impact due to labour influx, and establishment of labour / workers camp, a detail camp management plan is prepared to minimize and mitigate the environment and social impact.
2. **Contractor's Responsibility to Manage Labour Influx**
 - 2.1 As a part of Contractor's ESHS-MSIP, the contractor, within 14 days from the delivery of the Letter of Acceptance, shall prepare and submit Labour Influx and Workers' Camp Management Plan to the Employer's Engineer that addresses specific activities that will be undertaken to minimize the impact on the local community, including elements such as workers' code of conduct, training programs on HIV/AIDS, etc. A Workers' Camp Management Plan addresses specific aspects of the establishment and operation of workers' camps
 - 2.2 This Labor Influx and Worker's Camp Management Plan will include:
 - (i) mandatory and repeated training and awareness raising for the workforce about refraining from unacceptable conduct toward local community members, specifically women;
 - (ii) informing workers about national laws that make sexual harassment and gender based violence a punishable offence which is prosecuted;
 - (iii) introducing a Worker Code of Conduct as part of the employment contract, and including sanctions for non-compliance (e.g., termination), manual scavenging, engagement with local residents, child labor, nondiscrimination, harassment of coworkers including women and those belonging to SC and STs and other minority social groups,
 - (iv) contractors adopting a policy to cooperate with law enforcement agencies in investigating complaints about gender-based violence.
 - (v) training programs on HIV/AIDS and other communicable diseases,
 - (vi) workers' Camp Management Plan addressing specific aspects of the establishment and operation of workers' camps provided the ULB/ Executing Agency is unable to cater to the demand for affordable housing for this additional workforce in terms of rentals, hostels, apartments etc.; and
 - (vii) complaint handling Mechanism at the project level
 - 2.3 Additional measures that aim to reduce incentives to engage with the local community by providing workers with the opportunity to spend their time off away from the host community, where feasible with a small transport allowance, ideally allowing workers to regularly return for brief visits to their families, spouses and friends, or to visit nearby urban centers that provide a variety of legal social opportunities. For workers who need to travel further it may be attractive to forego weekends off in exchange for longer breaks that would allow for such home leave travel.
3. Criteria as shown in Table ESHS-3 and ESHS-4 shall be considered for selection of camp site.

Table ESHS-3: Criteria for selecting camp site

Avoidance	Preference
<ol style="list-style-type: none"> 1. Lands within 300 m of residential area and 200 m of schools and health care centres; 2. Irrigated agricultural land; 3. Lands under village forests; 4. Lands within 100 m of community water bodies, water sources such as rivers and also other watercourses; 5. Low lying lands, marshy areas; 6. Lands supporting dense vegetation 7. Lands where there is no willingness of the landowner to permit its use. 	<ol style="list-style-type: none"> 1. Waste land other than Low lying lands, marshy areas; 2. Lands belonging to owners who look upon the temporary use as a source of income; 3. Community lands or government land not used for beneficial purposes; 4. Private non-irrigated lands where the owner is willing; and 5. Lands with an existing access road

4. Various management policies to be followed during site selection, facilities to be provided, Hygiene and Sanitation, Arrangements for Waste Disposal, health care management, Storage of cement & fuel, Other Safety and Security Measures have been shown in Table ESHS-4 below.

Table ESHS-4: Camp Site Management Plan**Pre-Construction Stage****Site Selection:**

1. Identify the site for construction camp in consultation with the individual owners in case of private lands and the Gram Panchayat / concerned Dept. in case of government lands. Preference should be given to uncultivated fallow land / government land during site selection;
2. In case, no government land / fallow and unutilised govt. land is available and where use of private land is the only alternative, necessary arrangements should be worked out with the private owner of the land for setting up of facilities during the construction. The arrangement should have both facility creation and site restoration (pre-construction stage) component.
3. The contractor shall produce No Objection Certificate from the concerned land owing/ managing authority/ person in case of setting up of Labour Camp outside the Govt. Land under possession of the Employer.
4. A detailed layout plan should be prepared for the development of construction camp, indicating the various structures to be constructed including the temporary structures to be put up, site roads, drainage, lighting and other facilities and arrangements to be made for restoration of the original characters of land after disbandment of the camp and that should be submitted to the Project Manager.
5. It should be ensured that there is no use of hazardous construction materials such as Asbestos Containing Materials (ACM) in the construction of the camp.
6. Provision of free of cost temporary living in the camp site for all the workers employed by contractor for the total work period.

Facilities to be Provided at the Camp Site:

1. The camp should have adequate space for accommodating the workers. In case of women workers and families, the accommodation units should provide adequate privacy.
2. The camp should have all common minimum required facilities like ventilation, bed / bed roll for the workers, electricity supply, water supply, kitchen, separate toilet and bathrooms for ladies and gents, etc.
3. Identification of potable drinking water source/s and seeking permission from local authority / GP for accessing the source. In case, potable drinking water source is not available in the vicinity, provision of water filter should be made in the camps to make water potable.
4. Storage of drinking water should be made in cleaned / hygienic containers and should be placed at a distance of not less than 15m from any wastewater / sewage drain, toilet or other source of pollution.

Hygiene and Sanitation:

1. Suitable washing facility for clothes and utensils at the camp level, with mechanism for proper draining and disposal of waste water.
2. Separate bathing facility for male and female workers in conveniently accessible locations and shall be kept in clean and hygienic conditions.
3. Sanitary arrangements, latrines and urinals in every work place. The type of latrine chosen must be culturally appropriate / acceptable. The latrines must be suitable for use in shallow groundwater / flood prone areas.
4. Separate toilet facility for male and female works with proper sign board in language that are understood by the workers along with picture.
5. For 15-20 female and male workers, separate toilet provision should be made.
6. The latrines and urinals shall be adequately lighted and hygienic condition shall be maintained (proper cleaning and sanitisation).
7. Water shall be provided in or near the latrines and urinals (piped water or by storing water in drums).

Arrangements for Waste Disposal:

1. Disposal of sanitary wastes and excreta shall be into septic tanks. Dry sanitation (toilet) facility shall be provided at flood prone area.
2. Kitchen wastes (excluding solid waste) shall be disposed into soak pits. Wastewater from campsites will be discharged and disposed in a kitchen soak pit located at least 15 meters away from any waterbody.
3. Capacity of the pit should be at least 1.3 times the maximum volume of wastewater discharged per day.
4. The bottom of the soak pit should be filled with coarse gravel and the sides shored up with board, etc. to prevent erosion and collapse of the soak pit.
5. Solid wastes generated in the construction site shall be reused if recyclable or disposed off in land fill sites approved by local authority.

Health Care Management:

1. Availability of first aid box / facilities with all recommended medicines / no consumables in each construction site.
2. An educated person in the camp site should be oriented on administering first aid treatment and the box should be placed under his/her command.
3. Arrangement should be made by which she/he would be available at the time of requirement.
4. In case of any eventuality which demand hospitalisation, transport facility should be provided using available project vehicle or immediate transportation through ambulance service to nearby health facility.
5. Periodic visit by a qualified medical doctor (PHC/CHC/SDH etc.) to the campsite for health check-up of workers, at least once in 15 days. A register of all health problems must be maintained by the doctor and available at the campsite.
6. Provision of health insurance of all workers for stipulated period of their engagement in construction sites.

Storage of Cement & Fuel:

1. Storage site within the camp should be at a minimum distance of 30 meter from the living area of the workers.
2. Liquids like oil / fuel / lubricants etc. should be stored at a height from the ground level for which a brick-based platform with sand flooring should be prepared to avoid soil and water contamination due to spillage.
3. Similarly, cement can be stored at a height from the ground level in a damp-proof area.

Other Safety and Security Measures

1. Provision of fire extinguishers / Fire-fighting arrangements at the camps. Each area shall be earmarked based on fire zone category (Fire zone- 1, 2 & 3). Arrangement shall be available at each facility like living area, material storage area, hazardous building. At least one fire lift and water storage tank shall also be provided at each camp site.
2. Display of fire station number in prominent place for easy visibility.
3. In case the campsite has a common kitchen facility, it must be ensured that the common kitchen (and any other kitchens in the campsite) is located at least 20 m away from the living area. Only LPG stoves are to be used. Use of fuelwood stoves shall not be permitted for use in camp site.
4. Provision of identity cards to labourers and residents of construction camps.

Construction Phase

1. Construction camps shall be maintained free from litter and in hygienic condition.
2. It should be kept free from spillage of oil, grease or bitumen.

3. Any spillage should be cleaned immediately to avoid pollution of soil, water stored or adjacent water bodies.
4. Precautions need to be taken in construction camps are like (1) no leaching of oil and grease into water bodies or water sources, including canals take place; (2) non-disposal of wastewater into water bodies; (3) collection and appropriate disposal of solid wastes on regular basis; (4) hygienic condition of the toilet, its regular maintenance and keeping it clean and (5) availability of first-aid care provision in the camp, (6) display of emergency numbers (fire, police, ambulance, medical hospital etc.) in a common place visible to others.

Annexure- ESHS-VIII Site Restoration Plan

1. At the completion of construction, all construction camp facilities shall be dismantled and removed from the site.
2. The site shall be restored to a condition in no way inferior to the condition prior to commencement of the works.

Various activities to be carried out for site restoration are like (1) cleaning / removal of oil and fuel contaminated soil and its disposal in waste disposal areas approved by the Engineer in consultation with the Client and local authorities; (2) construction campsite shall be grassed and planted with trees as per the restoration design; (3) Sealing / filling up of soak pits and septic tanks; (4) disconnection of electricity supply; (5) disposal of all garbage in the disposal site only (site approved by local authority).

Annexure-ESHS-IX
Testing of environmental Parameters for Air, Surface & Ground Water,
Soil quality Monitoring during Project Implementation, to be done by
the Contractor

Table ESHS-5: Testing details of environmental parameters

(Location to be finalized by the contractor in consultation with the Employer's Engineer)

Inland Surface Water (Class C)		Ground Water		Ambient Air Quality (AAQ)		Soil Quality Testing	
(IS: 2296-1982)		(BIS 10500 : 1991)		(NAAQS)- 2009			
Sl. No.	Parameters	Sl. No.	Parameters	Sl. No.	Parameters	Sl. No	Parameters
1	pH Value	1	Colour	1	PM ₁₀	1	pH
2	Dissolved Oxygen	2	Odour	2	PM _{2.5}	2	Electrical Conductivity
3	BOD (3 days at 27°C)	3	Turbidity	3	Sulphur Dioxide (SO ₂)	3	Organic Carbon
4	Total Coliforms (TC)	4	pH	4	Nitrogen Dioxide	4	Texture
5	Colour	5	Total Hardness	5	Ozone (O ₃)	5	Phosphorous as P
6	Fluoride (as F)	6	Iron (as Fe)	6	Lead (Pb)	6	Potassium as K
7	Cadmium (as Cd)	7	Chloride (as Cl)	7	Carbon Monoxide (CO)	7	Sulphur as S
8	Chloride (as Cl)	8	Residual Free Chlorine	8	Ammonia (NH ₃)	8	Calcium as Ca
9	Chromium (Cr 6+)	9	Dissolved Oxygen (DO)	9	Benzene (C ₆ H ₆)	9	Magnesium as Mg
10	Total Dissolved Solid (TDS)	10	Calcium (as Ca)	10	Benzo(a)Pyrene (BaP)	10	Chromium as Cr
11	Sulphates (SO ₄)	11	Copper (as Cu)	11	Arsenic (As)	11	Lead as Pb
12	Lead (as Pb)	12	Manganese (as Mn)	12	Nickel (Ni)	12	Zinc as Zn
13	Copper (Cu)	13	Sulphate (as SO ₄)			13	Cadmium as Cd
14	Arsenic (asAs)	14	Nitrate (as NO ₃)			14	Arsenic as As
15	Iron (as Fe)	15	Fluoride (as F)			15	Fluoride as F
16	Phenolic Compound (C ₆ H ₅ OH)	16	Cadmium (as Cd)			16	Nickel as Ni
17	Zinc (as Zn)	17	Arsenic (as As)			17	Mercury as Hg
18	Anionic detergent (MBAS)	18	Lead (as Pb)			18	Boron as B
19	Oil & Grease	19	Zinc (as Zn)			19	Copper as Cu
20	Nitrate (as NO ₃)	20	Chromium (Cr 6+)			20	Iron as Fe
		21	Boron (as B)			21	Manganese as Mn
						22	Molybdenum as Mo

Note:

- (a) Above environmental parameters must be tested in an appropriate NABL/ MoEF& CC approved environmental laboratory in consultation with the Employer's Engineer.
- (b) Base line Environmental Parameters must be assessed by the Contractor before the commencement of the Project in consultation with the Employer's Engineer.
- (c) Noise Level to be tested as per Assam Pollution Control Board (APCB)/ GoI norms and parameters.

Annexure-ESHS-X

Emergency Preparedness Plan

The emergency causes disruption to the human, social, economic and ecological life of the society. It causes disruption, death, damage, destruction, disability, epidemic, diversion of resources and immense burden to the exchequer. Some of the disasters like cyclone, floods and droughts can be fairly predicated whereas earthquakes, landslides, flash floods and tsunami often occur suddenly. Besides mankind has also exposed itself to certain man-made disasters such as riots, accidents, fires, industrial and technological disasters and ecological disasters.

1) General guidelines to be followed during the Earthquake:

- Stay calm
- Ground and Ground + 2 floors can remain indoors. There could be falling debris outside
- Above Ground + 2 floors should not panic and try for staircase in organized manner.
- Take shelter under an internal doorframe, study table, bench or bed
- Keep away from mirrors, windows, overhead fittings and tall furniture
- Do not use Lifts or rush for doors in crowded areas. Stay clear

2) Fire Emergency

Fire Safety is a concern in urban and densely populated residential complex where there could be various scenarios, which lead to a fire situation. During a fire, the occupants of the entire building are exposed to two types of dangers:

- ✓ Flames and hot products of combustion
- ✓ Smoke and toxic gases which are the causes of greater number of fire deaths even at considerable distance from the seat of fire.

Therefore, before considering fire safety in buildings the following structural requirements have to be looked at:

- ❖ Provision of adequate means of escape.
- ❖ Designing of walls and ceiling linings in buildings with regard to their flame spread and fire propagation characteristics.
- ❖ Clustering of buildings into discrete compartments separated by elements having adequate fire resistance.
- ❖ Extent of unprotected areas in external walls and the nature of roofing materials to limit to a reasonable extent the risk of fire spread from building to building.
- ❖ Provision of adequate means of access to and into the buildings for fire service appliances and personnel for the purpose of fire fighting.
- ❖ Provision of storage of adequate water for firefighting purposes and means of installing fire and life safety requirements befitting for the structure.

After reviewing all the aspects, a detailed fire safety management plan should include:

- Provision of adequate number of fire detection and alarm systems, fire hydrants, risers, hose reels, fire mains, sprinkler systems, portable fire extinguishers, escape lighting & emergency lighting systems, smoke control systems, fire fighting lift, evacuation lift for the disabled.
- Adequate fire safety provisions for hazardous chemical storage area duly approved by statutory authorities

- All flammable materials would be stacked and stored as per statutory and preventive guidelines.
- The exit requirement for fire safety would be in accordance with IS: 1644:1988

3) Flood

Flood risk may occur in case of unusually heavy rain or sudden flow of water in the canal or river. Such flooding is unlikely to have catastrophic effects due to the availability of sufficient containment capacity and runoff diversion drains to handle the runoff from the probable maximum precipitation. In case of floods, the personnel should respond in accordance with the Flood Response Plan.

4) Cyclone

In light of the occurrence of Amphan, in case of a severe thunderstorm watch or warning and/or a cyclone shall be communicated to the site and as a preventive measure the site should be shut down as per severity and guidelines issued by the local administration.

Objectives:

- To protect and minimize the loss of lives and property/infrastructure from cyclones.
- To minimize the suffering of people due to cyclones.
- To build the capacity of all stakeholders in the project area to cope with the cyclones and promote community-based disaster management.
- Develop efficient cyclone response/relief mechanism at site.
- To ensure co-ordination by promoting productive partnership with all other agencies related to cyclone management.

Ensure necessary safety measures along the project areas

- Review the safety measures taken by concerned dept. before the cyclone season.
- Establish continuous communication links with, Assam Disaster Management & Civil Defence Department and responsible department in the State or further verification of weather condition during the cyclone season. The said department has trained human resources to deal with complex situations where effective and speedy handling can reduce the impact of a disaster on human life and property
- Make prior arrangements with respective department so that the people can be rescued in case of cyclone event.
- Conduct awareness programs regarding the safety measures that need to be taken in case of cyclone and the meaning of the different hoisted signals.
- Take part in pre-cyclone season meetings and take all the safety measures recommended by Disaster Management & Civil Defence Department.
- Training/IEC campaign for general public of the vulnerable areas.
- Plan for re-establishment of disrupted system
- Identify available resources viz. Human, financial and equipment for cyclone.
- Identification of gaps of resources as per the need
- Process for procurement of lacking resources
- Identification of safe shelter for evacuation in cyclone prone villages/ project area and updation in the level specific plans
- Warning system in place for emergency communication in project area.

- Promote local level cyclone risk management planning through participatory approach

Site Response Team

Site emergency response drills should be regularly delivered to the personnel. Such drills create certain mindsets and help the personnel to develop practical skills on the usage of PPE, as well as behaviour models. Rescue operations shall be carried out by the emergency rescue teams and the personnel on whose shift the accident, emergency, catastrophe or terrorist act has occurred. The project manager and EHS team can take a lead on this.

Communication Systems

An important key to effective emergency response is a communications system that can relay accurate information quickly. To do this, reliable communications equipment must be used, procedures developed, and personnel trained.

Annexure- ESHS-XI

COVID-19 OHS Protocols for Project Construction Sites

To reduce the impact of COVID-19 outbreak conditions on construction and civil projects, it is important that Contractors develop a plan for COVID-19 pandemic and any infectious disease epidemics that may arise in the future. For Contractors who have already planned for disease pandemic outbreaks in their emergency preparedness plan, planning for COVID-19 may involve updating plans to address the specific exposure risks, sources of exposure, routes of transmission, and other unique characteristics of SARS-CoV-2. Contractors who have not prepared for pandemic events should prepare themselves and their workers as far in advance as possible of potentially worsening outbreak conditions. Lack of continuity planning can result in a cascade of failures as Contractors attempt to address challenges of COVID-19 with insufficient resources and workers who might not be adequately trained for jobs they may have to perform under pandemic conditions.

Contractors are required to comply with the Project Health and Safety Manual. A key component of the Health and Safety Manual is the Emergency Preparedness Plan, which addresses emergency events during the life of the project. COVID-19 is an emergency event due to the novel corona virus pandemic that falls under the EPP. The Contractors are obligated to implement the EPP during this emergency event to protect the health and safety of the workers.

The objectives are as follows:

- Preparedness - undertake readiness activities to reduce the impacts on the project operations and local community during COVID-19 pandemic;
- Prevention - prevent or minimize COVID-19 outbreaks within the construction sites and potential spread to local communities;
- Maintain essential project operations in the case of an outbreak at construction sites; and
- Communications- develop standardized messages, procedures and tools for stakeholders under the management of the Contractors (e.g. subcontractors, suppliers, community workers).

Role of Contractors:

Contractors are responsible to comply with the Project OHS Management Plan, including the Emergency Preparedness Plan in which COVID-19 pandemic is classified as an emergency. The responsibilities of the Contractors are to:

- Implement the COVID-19 OHS Protocols to protect the health and safety of project workers during this emergency crisis.
- Prepare site readiness in response to COVID-19 when restarting the project and returning to work.
- In consultation with PIU/PMU, assess the resources and capacity of site medical facilities and engage with external healthcare network to ensure adequate care for the project workers if there is an outbreak. Agree with the local or private health care service provider on the scope of services to be provided, the procedure for in-take of patients and (where relevant) any costs or payments that may be involved.
- Ensure workers, sub-contractors and suppliers are in compliant with COVID-19 OHS Protocols.

Role of Project Workers:

Project workers include contractors, subcontractors and their contracted workers; suppliers and

community workers who work in the project in any capacity. The responsibilities of Project Workers are to:

- Follow all the requirements of the COVID-19 OHS Protocols and actively participate in the activities related to pandemic preventive measures.
- Immediately notify their Supervisor, Project Manager or Project Medical Provider if feeling ill, sick or unwell.

Risk Assessment: The Contractors, with support from DPIU should conduct a COVID-19 risk assessment starting with the workforce. Assessing these different aspects of the workforce will help in identifying appropriate mitigation measures.

Transmission Risk between Project Workers and Community Members: The risk of COVID-19 transmission between project workers and community members is significantly high during the pandemic and management decisions will need to be made on preventive measures as they may affect the project timelines, costs and delays.

Return to Work Plan: Based on the risk assessment, the Contractors should be able to identify essential workers that are required on the construction sites and the non-essential workers who are able to work remotely or from home.

Communications & Training: Workers need to be provided with regular opportunities to understand their situation, and how they can best protect themselves, their families and the community. They should be made aware of the COVID-19 OHS Protocols that have been put in place in the workplace, and their own responsibilities in implementing them.

Preventive measures

Physical Distancing: It is an important prevention measure to minimize the spread of COVID-19, at least 1 meter physically apart will be challenging at some construction sites.

Work Schedules/ Rotations:

The Contractors should review current work processes and timings to determine if changes are needed to reduce or minimize contact between workers, recognizing that this may impact the project schedule. Contractors and PIU/PMU should work together to an agreement if this impacts the project schedule

Shift Change:

Where shift change requires the workers to clock-in, queuing in line or gathering to take place the Contractors should implement shift change procedures to ensure physical distancing.

Travel to Work/ Travel between Sites:

When travelling to work or between site locations, workers should travel alone if possible. If workers have no option but to share a vehicle, contractor bus or public transportation then they should:

- Journeys should be shared with the same individuals and with the minimum number of people at any one time.
- All workers should wear a face mask/ covering when travelling in a shared vehicle, contractor bus and public transportation.
- Wherever possible maintain a distance of 1 meter and avoid/ remove middle seat
- Good ventilation (i.e. keeping the windows open) and facing away from each other may help to reduce the risk of transmission.

- The vehicle should be cleaned regularly using proper PPE and standard cleaning/ disinfecting products, with particular emphasis on handles and other areas where passengers may touch surfaces.

Personal Hygiene

Hand washing is a simple yet one of the most effective ways to prevent the spread of COVID-19

Coughing and Sneezing: Coughing and sneezing releases droplets that contaminate air and surfaces and help to spread COVID-19. When an infected person uses their hands to block a cough or sneeze, those hands become contaminated. Need adequate measure to prevent contaminated.

Face Masks: A “face mask” is any well-secured fabric, cloth, fabric or paper mask that covers one's nose and mouth.

Cleaning and Disinfection of Surfaces: Current evidence suggests that COVID-19 virus can remain viable for hours to days on surfaces made from a variety of materials. Cleaning of surfaces followed by disinfection is a best practice measure for prevention of COVID-19 in the workplace, camps and community settings.

Personal Protective Equipment (PPE):

While engineering and administrative controls are considered more effective in minimizing exposure to COVID-19, PPE may also be needed to prevent certain exposures. While correctly using PPE can help prevent some exposures, it should not take the place of other prevention strategies (e.g. face masks/coverings, physical distancing, hand washing, coughing & sneezing etiquette).

Biohazard & Medical Waste Management:

Biohazard and medical wastes are contaminated with blood or other infectious materials. The infectious materials pose a risk of spreading disease in humans, animals and the environment. It should be noted that the SAR-CoV-2 virus that causes COVID-19 infection has been found in body fluids such as blood, respiratory (saliva, sputum, droplets, etc.), semen and faeces.

Contractors should aware that any waste produced during the care of COVID-19 suspected or confirmed infected workers in the medical clinic should be treated as biohazard waste, and collected in designated biohazard containers or bags, treated and disposed by following relevant requirements as per ASPCB based on CPCB requirements that can be accessed here: https://cpcb.nic.in/uploads/Projects/Bio-Medical-Waste/BMW-GUIDELINES-COVID_1.pdf.

Treatment of biohazard waste is typically by autoclaving or incineration. Where autoclaving and/or incineration equipment not available within the project, the Contractors should engage with external service provider, local hospital, or health clinic to ensure biohazard waste is properly disposed.

Management of COVID-19 Outbreak:

Contractor Medical Service Obligations: Given the limited scope of the project medical facilities and service capabilities, the Contractors should ensure that external healthcare network (public and private medical facilities) is available to test and to treat suspected/ infected workers if there is an outbreak or when illness escalates.

Testing for COVID-19, Daily Health Screening, Incident Management and Reporting, COVID-19 Outbreak EPP Drills, COVID-19 information and daily Toolbox talk will adopt by the Contractors.

Key Personnel

Contractor's Representative and Key Personnel

(Please Refer Volume I Section III Clause 3 for list of key Expert)

Beside the key expert mentioned in the Section-3, Clause 3, the bidder shall provide manpower including but not limited to following during contract period.

No.	Position	Qualifications	Total Work Similar Experience (years)	Works Experience (years)
1	Design Manager/Coordinator	M.Tech/M.E. (Civil/Structural Engineering)	7	12
2	Hydrologist	B.E./B.Tech	5	10
3	Naval Architect	B.E./B.Tech	5	10
Project Management and Construction Team				
4	Deputy Project Manager	B.E./B.Tech (Civil / Mechanical Engg.)	7	10
5	Mechanical Engineer	B.E./B.Tech (Mechanical Engg.)	7	10
6	Electrical Engineer	B.E./B.Tech (Electrical Engg.)	7	10
7	Health and Safety Engineer	BE/B.Tech with post-graduate qualification in construction safety	6	10
8	Billing Engineer	B.E./B. Tech/ Diploma	5	10
9	Social Development Specialist	Master Degree in Sociology / relevant fields	5	10
10	QC/QA Engineer-Civil	B.E./B.Tech (Civil Engg.)	6	10
11	QC&QA Engineer-Mechanical	B.E./B.Tech (Mechanical Engg.)	5	10
12	Surveyor (with Hydrographic and Bathymetric survey experience)	B.E./B. Tech/ Diploma	5	10

The Bidder must not have in his employment:

- [i] the near relations (defined as first blood relations, and their spouses, of the bidder or the bidder's spouse) of persons of the following Central/ State Government Departments.

**Transport Department, Government of Assam
Public Works Department, Government of Assam**

- [ii] without permission of Central/ State Government, any person who retired as gazetted officer in India within the last two years.

Part 3: Drawings
(Please Refer Annexure to Vol II & Schedule I)

Part 4: Contract Conditions

Section VII- Conditions of Contract together with Schedules

Part I– Preliminary

NOTIFICATION OF AWARD
Letter of Acceptance
[on letterhead paper of the Employer]

[The Letter of Acceptance shall be the basis for formation of the Contract as described in ITB Clause 47. This Standard Form of Letter of Acceptance shall be filled in and sent to the successful Bidder only after evaluation of bids has been completed, subject to any review by the World Bank required under the Loan Agreement.]

..... **[date]**

To: **[name and address of the Contractor]**

Subject: **[Notification of Award Contract No.]**

This is to notify you that your Bid dated **[insert date]** for execution of the
. **[insert name of the contract and identification number]** for the Accepted
Contract Amount of **[insert amount in numbers and words]**, as corrected and
modified²³ in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security and an Environmental, Social, Health and Safety Performance Security **[Delete ESHS Performance Security if it is not required under the contract]** in the form detailed in ITB Clause 48 for amounts²⁴ of Rs. , and Rs. specified therein and sign the contract within 28 days of the receipt of this letter of acceptance, failing which action as stated in ITB Clause 48.2 will be taken, in accordance with the Conditions of Contract. The securities shall be valid up to 28 days from the date of completion i.e. up to and shall be as per the Performance Security Form and the ESHS Performance Security Form **[Delete reference to the ESHS Performance Security Form if it is not required under the contract]**, included in Schedule-G: Form of Bank Guarantee.

We note that as per your bid, you do not intend to subcontract any component of work.

[OR]

We note that as per your bid, you propose to employ M/s. as sub-contractor for executing

[Delete whatever is inapplicable]

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

²³ Delete "corrected and" or "and modified" if not applicable. See Notes on Standard Form of Agreement, next page.

²⁴ Insert amounts for (i) Performance Security; and (ii) ESHS Performance Security respectively.

Attachment: Contract Agreement
ENGINEERING, PROCUREMENT AND CONSTRUCTION
AGREEMENT

THIS AGREEMENT is entered into on this the..... day of.....,20....

BETWEEN

Assam Inland Water Transport Development Society, Government of Assam (here in after referred to as the “**Employer**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of One Part;

AND

{-----,} means the selected bidder { *which is the selected bidder under the NCB No.....*} Having its registered office at, (here in after referred to as the “**Contractor**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of the Other Part.

WHERE AS:

- A) The Employer has intended to take up the “**Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat, Assam**”.
- B) The Employer had resolved to take up the work “**Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat, Assam**” on Engineering, Procurement, Construction (“**EPC**”) basis in accordance with the terms and conditions to be set forth in an agreement to be entered.
- C) The Employer had prescribed the technical and commercial terms and conditions, and invited bids RFB No. _____ from all Bidders having required eligibility and qualification criteria for undertaking the Project.
- D) After evaluation of the Bids received, the Employer had accepted the Bid of the selected Bidder and issued its Letter of Acceptance No..... dated..... (here in after called the “**LOA**”) to the selected Bidder for “**Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat, Assam**” at the Contract Price specified herein after, requiring the selected Bidder to inter alia:
 - i) Deliver to the Employer a legal opinion from the legal counsel of the selected Bidder with respect to the Employer of the selected Bidder to enter into this Agreement and the enforceability of the provisions thereof, within 10(ten)days of the date of issue of LOA;and
 - ii) Execute this Agreement within 28(twenty-eight)days of the date of issue of LOA.
- E) The Contractor has fulfilled the requirements specified in Recital(D) above;

NOW THEREFORE in consideration of the fore going and the respective covenants and agreements set forth in this Agreement, the sufficiency and adequacy of which is hereby acknowledged, the Employer hereby covenants to pay the Contractor, in consideration of the obligations specified herein, the Contract Price or such others may become payable under the provisions of the Agreement at the times and in the manner specified by the Agreement and in tending to be legally bound hereby, the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 28) shall, unless the context otherwise requires, have the meaning ascribed there to herein, and the words and expressions defined in the Schedules and used there in shall have the meaning ascribed there to in the Schedules.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

- a) References to any legislation or any provision there of shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into here under;
- b) References to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye -laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- c) References to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
- d) The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- e) The words “include” and “including” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;
- f) References to “construction” or “building” include, unless the context otherwise requires, survey and investigation, design, developing, engineering, procurement, supply of plant, materials, equipment, labour, delivery, transportation, installation, processing, fabrication and testing of the Terminal, including maintenance during the Construction Period, removing of defects, if any, and other activities incidental to the construction and “construct” or “build” shall be construed accordingly;
- g) References to “development” include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, up-gradation and other activities incidental there to during the Construction Period, and “develop” shall be construed accordingly;
- h) Any reference to any period of time shall mean a reference to that according to Indian standard time;
- i) Any reference today shall mean a reference to a calendar day;
- j) References to a “business day” shall be construed as a reference to a day (other than a Sunday) on which banks in [Assam] are generally open for business;
- k) Any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- l) References to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;

- m) Any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- n) The words importing singular shall include plural and vice versa;
- o) References to any gender shall include the other and the neutral gender;
- p) “Lakh” means a hundred thousand(100,000) and “crore” means ten million(10,000,000);
- q) “Indebtedness” shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- r) References to the “winding-up”, “dissolution”, “insolvency”, or “reorganisation” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;
- s) Save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Clause shall not operate so as to increase liabilities or obligations of the Employer hereunder or pursuant hereto in any manner whatsoever;
- t) Any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Employer’s Engineer shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party or the Employer’s Engineer, as the case may be, in this behalf and not otherwise;
- u) The Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- v) References to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;
- w) The damages payable by either Party to the other of them, as set forth in this Agreement, whether on a per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the “Damages”); and
- x) Time shall be of the essence in the performance of the Parties’ respective obligations. If any time period specified herein is extended for the reasons specified in the Agreement, such extended time shall also be of the essence.
- y) References to “WorldBank” shall mean the International Bank for Reconstruction and Development (The Bank). The Bank is the financing institution which has provided funds toward a part of the cost of the Project. Payments by the WorldBank will be made only at the request of the Recipient (AIWTDS) of the funds and upon approval by the WorldBank in accordance with the terms and conditions of the financing agreement (Loan Agreement) and will be subject in all respects to the terms and conditions of that Loan Agreement. No Party other than the Recipient shall derive any rights from the Loan Agreement or have claim to any funds.”

- 1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Contractor to the Employer shall be provided free of cost and in three copies, and if the Employer is required to return any such Documentation with its comments and/or approval, it shall be entitled to retain two copies thereof.
- 1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.
- 1.2.4 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act, 1897 shall not apply.

1.3 Measurements and Arithmetic Conventions

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

1.4 Priority of agreements and errors/discrepancies

- 1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:
- a) Corrigendum to Conditions of Contract together with Schedules (issued if any)
 - b) This Agreement including Conditions of Contract together with Schedules; and
 - c) All other agreements and documents forming part hereof or referred to herein; i.e. this Agreement at (b) above shall prevail over the agreements and documents at (c).
- 1.4.2 Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:
- a) Between a Clause of this Agreement and Corrigendum, the provisions of Corrigendum
 - b) Between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
 - c) Between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;
 - d) Between any two Schedules, the Schedule relevant to the issue shall prevail;
 - e) Between the written description on the Drawings and the Specifications & Standards, the latter shall prevail;
 - f) Between the dimensions called from the Drawing and its specific written dimension, the latter shall prevail; and between any value written in numerals and that in words, the latter shall prevail.

1.5 Joint and Several Liability- Not Applicable

- 1.5.1 If the Contractor has formed a Joint Venture (JV) of two persons for implementing the Project:
- a) These persons shall, without prejudice to the provisions of this Agreement, be deemed to be jointly and severally liable to the Employer for the performance of the Agreement; and
 - b) The Contractor shall ensure that no change in the composition of the Joint Venture (JV) is affected without the prior consent of the Employer.

- 1.5.2 Without prejudice to the joint and severalliability of all the members of the Joint Venture (JV),the Lead Member shall represent all the members of the JointVenture(JV) and shall at all times be liable and responsible for discharging the functions and obligations of the Contractor.The Contractor shall ensure that each member of the JointVenture(JV) shall be bound by any decision,communication,notice,action or inaction of the Lead Member on any matter related to this Agreement and the Employer shall be entitled to rely upon any such action,decision or communication of the Lead Member.The Employer shall release the payment only to the Member appointed by the usually Lead Member

Part II- Employer's Requirement

ARTICLE 2 EMPLOYER'S REQUIREMENT

2.1 Employer's Requirement

Under this Agreement, the Employers 'Requirement (the "Employers'Requirement") shall mean and include:

- a) Design & construction of the terminal on the Site set forth in Schedule-A and as specified in Schedule-B together with provision of Project Facilities as specified in Schedule-C, and in conformity with the Specifications and Standards set forth in Schedule-D;
- b) Performance and fulfilment of all other obligations of the Contractor in accordance with the provisions of this Agreement and matters incidental there to or necessary for the performance of any or all of the obligations of the Contractor under this Agreement.

ARTICLE 3 OBLIGATIONS OF THE CONTRACTOR

3.1 Obligations of the Contractor

- 3.1.1 Subject to and on the terms and conditions of this Agreement, the Contractor shall undertake the survey, investigation including topographic and hydrological surveys, sub-soil investigation, design, engineering, procurement, construction, and maintenance (during construction) and rectify defect during the defect liability period of the Project and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising here under.
- 3.1.2 The Contractor shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement. The Contractor shall comply with all environmental clearances required during construction and maintenance including implementation of Environmental Management Plan (EMP).
- 3.1.3 Subject to the provisions of Clauses 3.1.1 and 3.1.2, the Contractor shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.
- 3.1.4 The Contractor shall remedy any and all loss or damage to the Project from the Appointed Date until the end of the Construction Period at the Contractor's cost, save and except to the extent that any such loss or damage shall have arisen from any default or neglect of the Employer.
- 3.1.5 The Contractor shall remedy any and all loss or damage to the Project during the Defects Liability Period at the Contractor's cost to the extent that such loss or damage shall have arisen out of the reasons specified in Clause 17.3.
- 3.1.6 The Contractor shall remedy any and all loss or damage to the Project during the Defect Liability Period at the Contractor's cost, including those stated in Clause 14.1.2, save and except to the extent that any such loss or damage shall have arisen on account of any default or neglect of the Employer or on account of a Force Majeure Event.
- 3.1.7 The Contractor shall, at its own cost and expense, in addition to and not in derogation of its obligations else where set out in this Agreement:
- a) Make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits set forth in Schedule-F and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;
 - b) Procure, as required, the appropriate proprietary rights, licences, agreements and permissions for Materials, methods, processes and systems used or incorporated into the Project;
 - c) Make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Sub-contractors in connection with the performance of its obligations under this Agreement;
 - d) Ensure and procure that its Sub-contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Contractor's obligations under this Agreement;
 - e) Not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
 - f) Support, cooperate with and facilitate the Employer in the implementation and operation of the Project in accordance with the provisions of this Agreement;
 - g) Ensure that the Contractor and its Sub-contractors comply with the safety and welfare measures for labour in accordance with the Applicable Laws and Good

Industry Practice;

- h) Keep, on the Site, a copy of this Agreement, publications named in this Agreement, the Drawings, Documents relating to the Project, and Change of Employer's Requirement Orders and other communications given under this Agreement. The Employer's Engineer and its authorised personnel shall have the right of access to all these documents at all reasonable times;
- i) Cooperate with other contractors if any employed by the Employer and personnel of any public Employer; and
- j) Not interfere unnecessarily or improperly with the convenience of the public, or the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Employer or of others.

3.1.8 The Contractor shall undertake all necessary superintendence to plan, arrange, direct, manage, inspect and test the Works.

3.1.9 Inspections and Audit by the WorldBank

The Contractor shall permit, and shall cause its Sub-contractors and sub-consultants to permit, the World Bank and/ or persons appointed by the WorldBank to inspect the Site and all accounts and records relating to the performance of the Contract and the submission of the Bid, and to have such accounts and records audited by auditors appointed by the World Bank if requested by the World Bank. The Contractor's and its Sub-contractors' and sub-consultants' attention is drawn to Clause 3.9* Corrupt or Fraudulent Practices which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under Clause 11.6.1 constitute a prohibited practice subject to Contract termination (as well as to a determination of ineligibility pursuant to the WorldBank's prevailing sanctions procedures).

3.2 Obligations Relating to Sub-contracts and any other Agreements

3.2.1 The Contractor shall not sub-contract any Works in more than 10% (ten percent) of the Contract Price and shall carry out Works directly under its own supervision and through its own personnel in at least 90% (ninety percent) of the Contract Price. Provided, however, that in respect of the Works carried out directly by the Contractor, it may enter into contracts for the supply and installation of Materials, Plant, equipment, road furniture, safety devices and labour, as the case may be, for such Works. The Parties further agree that all obligations and liabilities under this Agreement for the entire Project shall at all times remain with the Contractor.

3.2.2 In the event any sub-contract for Works, or the aggregate of such sub-contracts with any Sub-contractor, exceeds 5% (five percent) of the Contract Price, the Contractor shall communicate the name and particulars, including the relevant experience of the Sub-contractor, to the Employer prior to entering into any such sub-contract. The Employer shall examine the particulars of the Sub-contractor from the national security and public interest perspective and may require the Contractor, no later than 15 (fifteen) business days from the date of receiving the communication from the Contractor, not to proceed with the sub-contract, and the Contractor shall comply there with.

3.2.3 In the event any sub-contract referred to in Clause 3.2.2 relates to a Sub-contractor who has, over the preceding 3 (three) years, not undertaken at least one work of a similar nature with a contract value exceeding 80% (eighty per cent) of the value of the sub-contract to be awarded here under and received payments in respect thereof for an amount equal to at least such 80% (eighty per cent), the Employer may, no later than 15 (fifteen) business days from the date of receiving the communication from the Contractor, require the Contractor not to proceed with such sub-contract, and the Contractor shall comply there with.

3.2.4 It is expressly agreed that the Contractor shall, at all times, be responsible and liable for all

its obligations under this Agreement notwithstanding anything contained in the agreements with its Sub-contractors or any other agreement that maybe entered into by the Contractor, and no default under any such agreement shall excuse the Contractor from its obligations or liability here under.

3.3 Employment of Foreign Nationals

The Contractor acknowledges, agrees and undertakes that employment of foreign personnel by the Contractor and/ or its Sub-contractors and their sub-contractors shall be subject to grant of requisite regulatory permits and approvals including employment/ residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of the Contractor. Notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Contractor or any of its Sub-contractors or their sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Contractor from the performance and discharge of its obligations and liabilities under this Agreement.

3.4 Contractor's Personnel

3.4.1 The Contractor shall ensure that the personnel engaged by it or by its Sub-contractors in the performance of its obligations under this Agreement are at all times appropriately qualified, skilled and experienced in the respective functions in conformity with Good Industry Practice. The Contractor shall give preference to the local villagers for unskilled labour requirement and provide a quarterly report to the Employer's Engineer on the details of person days of employment provided to the local villagers (for both men and women separately).

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

3.4.3 The Contractor shall on receiving such a direction from the Employer's Engineer order for the removal of such person or persons with immediate effect, it shall be the duty of the Contractor to ensure that such persons are evicted from the Site within 10 (ten) days of any such direction being issued in pursuance of Clause 3.4.2. The Contractor shall further ensure that such persons have no further connection with the Works under this Agreement. The Contractor shall then appoint (or cause to be appointed) a replacement within 28 days from the date of such direction to remove, all at the Contractor's cost.

3.5 Advertisement on Terminal / Site/ Project

The Project or any part thereof shall not be used in any manner to advertise any commercial product or services.

3.6 Contractor's Care of the Works

The Contractor shall bear full risk in and take full responsibility for the care of the Works, and of the Materials, goods and equipment for incorporation therein, from the Appointed Date until the date of Provisional Certificate (with respect to the Works completed prior to the issuance of the Provisional Certificate) and/ or Completion Certificate (with respect to the Works referred to in the Punch List), save and except to the extent that any such loss or damage shall have arisen from any default or neglect of the Employer.

3.7 Electricity, Water and other Services

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

3.8 Unforeseeable Difficulties

Except as otherwise stated in the Agreement:

- a) The Contractor accepts complete responsibility for having foreseen all difficulties and costs of successfully completing the Works;
- b) The Contract Price shall not be adjusted to take account to any unforeseen difficulties or costs; and
- c) The Scheduled Completion Date shall not be adjusted to take account of any unforeseen difficulties or costs.

3.9 Corrupt or Fraudulent Practices

The Bank requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in this Bidding Document.

ARTICLE 4 OBLIGATIONS OF THE EMPLOYER

4.1 Obligations of the Employer

- 4.1.1 The Employer shall, at its own cost and expense, undertake, comply with and perform all its obligations set out in this Agreement or arising here under.
- 4.1.2 The Employer shall be responsible for the correctness of the Employer's Requirement and Project Facilities.
- 4.1.3 The Employer shall provide to the Contractor:
- a) Upon receiving the Performance Security under Clause 7.1.1, Site in accordance with the provisions of Clauses 8.2 and 8.3, as specified in Article 8;
 - b) Deleted
- 4.1.4 If the Contractor suffers delay and/or incurs cost as a result of delay in providing the access to the Site or approval of General Arrangement Drawing (GAD), as the case may be, in accordance with the provisions of Clause 4.1.3 shall entitle the Contractor to Damages in a sum calculated in accordance with the provisions of Clause 8.3 of this Agreement and Time Extension in accordance with the provisions of Clause 10.5 of this Agreement. For the avoidance of doubt, the Parties agree that the Damages for delay in approval of GAD shall be deemed to be equal to the Damages payable under the provisions of Clause 8.3 for delay in providing access to the Site.
- 4.1.5 Notwithstanding any thing to the contrary contained in this Agreement, the Parties expressly agree that the aggregate Damages payable under Clauses 4.1.4, 8.3 and 9.2 shall not exceed 1% (one percent) of the Contract Price. For the avoidance of doubt, the Damages payable by the Employer under the aforesaid Clauses shall not be additive if they arise concurrently from more than one cause but relate to the same part of the Site .
- Both the Parties agree that payment of these Damages shall be full and final settlement of all claims of the Contractor and such compensation shall be the sole remedy against delays of the Employer and both Parties further agree this as final cure against delays of the Employer.
- 4.1.6 The Employer agrees to provide support to the Contractor and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:
- a) Upon written request from the Contractor, and subject to the Contractor complying with Applicable Laws, provide reasonable support to the Contractor in procuring Applicable Permits required from any Government Instrumentality for implementation of the Project;
 - b) Upon written request from the Contractor, provide reasonable assistance to the Contractor in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favourable than those generally available to commercial customers receiving substantially equivalent services;
 - c) Procure that no barriers that would have a material adverse effect on the Works are erected or placed on or about the Site by any Government Instrumentality or persons claiming through or under it, except for reasons of Emergency, national security, law and order or collection of inter-state taxes;
 - d) Not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
 - e) Support, cooperate with and facilitate the Contractor in the implementation of the Project in accordance with the provisions of this Agreement; and

- f) Upon written request from the Contractor and subject to the provisions of Clause 3.3, provide reasonable assistance to the Contractor and any expatriate personnel of the Contractor or its Sub-contractors to obtain applicable visas and work permits for the purposes of discharge by the Contractor or its Sub-contractors of their obligations under this Agreement and the agreements with the Sub-contractors.
- g) Upon written request from the Contractor and subject to the provisions of the Contract and as per the prevailing norms of Government of India, shall issue exemption certificate for excise duty/customs duty for materials used in the work as per the latest notification and based on the work requirements.

4.2 Maintenance obligations prior to the Appointed Date - Deleted

4.3 Environmental Clearances

EIA Notification 2006 does not classify terminals/jetties/ floating terminals on river or dredging in the river as a project requiring environmental clearance. But the EMP for the Project shall be required to be implemented by the Contractor.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 Representations and warranties of the Contractor

The Contractor represents and warrants to the Employer that:

- a) It is duly organized and validly existing under the laws of India, and has full power to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- b) It has taken all necessary corporate and/ or other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- c) This Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms here of;
- d) It is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability or responsibility hereunder;
- e) The information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- f) The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum and articles of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- g) There are no actions, suits, proceedings, or investigation pending or, to its knowledge, threatened against it at law or inequity before any court or before any other judicial, quasi-judicial or other Employer, the out come of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- h) It has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no factor circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- i) It has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief for any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;
- j) No representation nor warranty by it contained herein or in any other document furnished by it to the Employer or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- k) No sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Contract or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Employer in connection there with;

- l) All information provided by the (selected Bidder/ members of the JV) in response to the **Request for Proposals** (RFP) or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects; and
- m) Nothing contained in this Agreement shall create any contractual relationship or obligation between the Employer and any Sub-contractors, designers, consultants or agents of the Contractor.

5.2 Representations and Warranties of the Employer

The Employer represents and warrants to the Contractor that:

- a) It has full power to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- b) It has taken all necessary actions under the Applicable Laws to authorize the execution, delivery and performance of this Agreement;
- c) It has the financial standing and capacity to perform its obligations under this Agreement;
- d) This Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms here of;
- e) It has no knowledge of any violation or default with respect to any order writ, injunction or an decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Employer's ability to perform its obligations under this Agreement;
- f) It has complied with Applicable Laws in all material respects;
- g) It has good and valid right to the Site and has the power to grant the Right of Way in respect there of to the Contractor; and
- h) It has procured access to the Site and environment clearances such that the Contractor can commence construction forth with on the Project as per Article 8.

5.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of their presentation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.

ARTICLE 6 DISCLAIMER

6.1 Disclaimer

- 6.1.1 The Contractor acknowledges that prior to the execution of this Agreement, the Contractor has, after a complete and careful examination, made an independent evaluation of the Invitation for Bid, Employer's Requirement, Specifications and Standards of design, construction and maintenance, Site, local conditions, physical qualities of ground, subsoil and geology, traffic volumes, suitability and availability of access routes to the Site and all information provided by the Employer or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Save as provided in Clause 4.1.2 and Clause 5.2, the Employer makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Contractor confirms that it shall have no claim whatsoever against the Employer in this regard.
- 6.1.2 The Contractor acknowledges and here by accepts to have satisfied itself as to the correctness and sufficiency of the Contract Price.
- 6.1.3 The Contractor acknowledges and here by accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 6.1.1 above and here by acknowledges and agrees that the Employer shall not be liable for the same in any manner whatsoever to the Contractor, or any person claiming through or under any of them, and shall not lead to any adjustment of Contract Price or Scheduled Completion Date.
- 6.1.4 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 6.1.1 above shall not vitiate this Agreement or render it voidable.
- 6.1.5 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 6.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error.
- 6.1.6 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Contractor; and the Employer shall not be liable in any manner for such risks or the consequences thereof.

Part III- Construction and Defect Liability Period

ARTICLE 7 PERFORMANCE SECURITY

7.1 Performance Security

- 7.1.1 The Contractor shall, for the performance of its obligations here under during the Construction Period, provide to the Employer, with in 28 (twentyeight) days of the date of LOA, an irrevocable and unconditional guarantee from a Scheduled/Nationalized Bank in the form set forth in Schedule-G (the“Performance Security”) for an amount equal to 5% (five percent) of the Contract Price (which is inclusive of 2% of Contract Price for ESHS Performance Security).The Performance Security shall be valid until 60 (sixty) days after the Defects Liability Period. Until such time the Performance Security is provided by the Contractor pursuant there to and the same comes into effect, the Bid Securing declaration shall remain in force and effect, and upon such provision of the Performance Security,the Employer shall release the Bid Securing declaration to the Contractor.
- 7.1.2 Not withstanding any thing to the contrary contained in this Agreement,the Parties agree that in the event of failure of the Contractor to provide the Performance Security in accordance with the provisions of Clause7.1.1 and with in the time specified there in or such extended period as may be provided by the Employer,in accordance with the provisions of Clause 7.1.3, the Employer may take action as mention in the Bid Securing declaration, and there upon all rights,privileges,claims and entitlements of the Contractor under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor,and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.
- 7.1.3 In the event the Contractor fails to provide the Performance Security with in 28 (twenty eight) days of LOA, it may seek extension of time for aperiod not exceeding 20 (Twenty) days on payment of Damages for such extended period in a sum calculated at the rate of 0.05%(zero point zero five percent) of the Contract Price for each day until the Performance Security is provided.

7.2 Extension of Performance Security

The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and any defects have been remedied.

7.3 Appropriation of Performance Security

- 7.3.1 Upon occurrence of a Contractor’s Default, the Employer shall, without prejudice to its other rights and remedies here under or in law, been titled to encash and appropriate the relevant amounts from the Performance Security as Damages for such Contractor’s Default.
- 7.3.2 Upon such encashment and appropriation from the Performance Security,the Contractor shall, within 30(thirty) days thereof, replenish, in case of partial appropriation,to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Contractor shall, with in the time so granted,replenish or furnish fresh Performance Security as afore said failing which the Employer shall be entitled to terminate the Agreement in accordance with Article23. Upon replenishment or furnishing of afresh Performance Security, as the case may be, as a foresaid, the Contractor shall be entitled to an additional Cure Period of 30 (thirty) days for remedying the Contractor’s Default, and in the event of the Contract or not curing its default with in such Cure Period, the Employer shall been titled to encash and appropriate such Performance Security as Damages,and to terminate this Agreement in accordance with Article23.

7.4 Release of Performance Security

The Employer shall return the Performance Security to the Contractor with in 60 (sixty) days of the later of the expiry of the Defects Liability Period under this Agreement. Notwithstanding the aforesaid, the Parties agree that the Employer shall not be obliged to release the Performance Security until all Defects identified during the Defects Liability Period have been rectified.

7.5 Retention Money

- 7.5.1 From every payment for Works due to the Contractor in accordance with the provisions of Clause 19.5, the Employer shall deduct 5% (fivepercent) there of as guarantee money for performance of the obligations of the Contract or during the Construction Period (the "Retention Money") subject to the condition that the maximum amount of Retention Money shall not exceed 5%(fivepercent) of the Contract Price.
- 7.5.2 Upon occurrence of a Contractor's Default, the Employer shall, without prejudice to its other rights and remedies here under or in law, be entitled to appropriate the relevant amounts from the Retention Money as Damages for such Contractor's Default.
- 7.5.3 The Contractor may, upon furnish in irrevocable and unconditional bank guarantee substantially in the form provided at Annex-II of Schedule-G, require the Employer to refund the Retention Money deducted by the Employer under the provisions of Clause 7.5.1. Provided that the refund here under shall be made in tranches of not less than 1% (one percent) of the Contract Price.
- 7.5.4 Within 15 (fifteen) days of the date of issue of the Completion Certificate, the Employer shall discharge the bank guarantees furnished by the Contractor under the provisions of Clause 7.5.3 and refund the balance of Retention Money remaining with the Employer after adjusting the amounts appropriated under the provisions of Clause 7.5.2 and the amounts refunded under the provisions of Clause 7.5.3.
- 7.5.5 The Parties agree that in the event of Termination of this Agreement, the Retention Money and the bank guarantees specified in this Clause 7.5 shall be treated as if they are Performance Security and shall be reckoned as such for the purposes of Termination Payment under Clause 23.6.

ARTICLE 8 Access to Site

8.1 The Site

The site of the Terminal (the“Site”) shall comprise the site described in Schedule-A in respect of which the access shall be provided by the Employer to the Contractor.The Employer shall be responsible for:

- a) Acquiring and providing access to the Site in accordance with the finalized location by the Employer,free from all encroachments and encumbrances, and free access thereto for the execution of this Agreement;and
- b) obtaining licences and permits for environment clearance for the Project.

8.2 Procurement of the Site

8.2.1 The Employer’s Engineer and the Contractor shall, within15 (fifteen) days of the date of this Agreement, inspect the Site and prepare a memorandum containing an inventory of the Site including the vacant and unencumbered land, buildings, structures, roadworks, trees and any other immovable property on or attached to the Site. Subject to the provisions of Clause 8.2.3, such memorandum shall have appended there to an appendix (the“Appendix”) specifying in reasonable detail those parts of the Site to which vacant access and Right of Way has not been given to the Contractor. Signing of the memorandum, in two counter parts (each of which shall constitute an original), by the authorized representatives of the Parties shall be deemed to constitute a valid evidence of giving the Project Site access to the Contractor for discharging its obligations under and in accordance with the provisions of this Agreement and for no other purpose whatsoever.

Whenever the Employer is ready to hand over any part or parts of the Site included in the Appendix, it shall inform the Contractor,by notice,the proposed date and time such of handing over.The Employer’s Engineer and the Contractor shall,on the date so notified,inspect the specified parts of the Site,and prepare a memorandum containing an inventory of the vacant and unencumbered land,buildings,structures,road works,trees andany other immovable property on or attached to the Site so handed over. Signing of the memorandum,in two counterparts(each of which shall constitute an original), by the authorized representatives of the Parties shall be deemed to constitute a valid evidence of giving the relevant access to the site to the Contractor.

8.2.2 The Employer shall providethe access to Site to the Contractor in respect of all land included in the Appendix by the date specified in Schedule-A for those parts of the Site referred to there in,or no later than 90(ninety)days of the Appointed Date for those parts of the Site which have not been specified in Schedule-A, and in the event of delay for any reason other than Force Majeure or breach of this Agreement by the Contractor,it shall pay to the Contractor,Damages in a sum calculated in accordance with Clause 8.3.

8.2.3 Notwithstanding anything to the contrary contained in this Clause 8.2,the Employer shall specify the parts of the Site,if any,for which access to Site shall be provided to the Contractor on the dates specified in Schedule-A.Such parts shall also be included in the Appendix prepared in pursuance of Clause 8.2.1.For th eavoidance of doubt, the Parties expressly agree that the Damages specified here under,and the Time Extension specified in Clause 10.5 shall be restricted only to failure of the Employer to provide the access to Site for and in respect of the width of the roadway and its embankment.

8.3 Damages for delay inhanding over the Site

8.3.1 In the event the access to the Site to any part of the Site is not provided by the Employer on or before the date(s) specified in Clause 8.2 for any reason otherthan Force Majeure or breach of this Agreement by the Contractor, the Employer shall pay Damages to the Contractor in a sum calculated in accordance with the following formula for and in respect of those parts of the Site to which the Right of Way has not been provided:

Amount of Damages in Rs. Per day per sq metre= $0.05 \times C \times 1/A \times 1/N$, Where

C = the Contract Price; A=Area of the Site in sq m; and

N=Completion period in days (Appointed Date to Scheduled Completion Date)

In the event that any Damages are due and payable to the Contractor under the provisions of this Clause 8.3.1 for delay in providing the access to Site, the Contractor shall, subject to the provisions of Clause 10.5, be entitled to Time Extension equal to the period for which the Damages have become due and payable under this Clause 8.3.1, save and except that:

- a) If any delays involve time overlaps, the overlaps shall not be additive; and
- b) Such Time Extension shall be restricted only to the Works which are affected by the delay in providing the access to the Site.

For the avoidance of doubt, the Parties expressly agree that the Damages specified hereunder, and the Time Extension specified in Clause 10.5 shall be restricted only to failure of the Employer to provide the access to the Site required for construction work.

8.3.2 Notwithstanding anything to the contrary contained in this Agreement, the Contractor expressly agrees that Works on all parts of the Site for which access to the Site is granted within 90 (ninety) days of the Appointed Date, or with respect to the parts of the Site provided in Article 8, no later than the date(s) specified therein as per Schedule A, as the case may be, shall be completed before the Scheduled Completion Date and shall not qualify for any Time Extension under the provisions of Clause 8.3.1.

8.3.3 Notwithstanding anything to the contrary contained in this Agreement, the Employer may at anytime withdraw any Works forming part of this Agreement, subject to such Works not exceeding an aggregate value, such value to be determined in accordance with Schedule H, equal to 10% (ten) percent of the Contract Price.

Provided that if any Works cannot be undertaken within the municipal limits of a town or within any area falling in a reserved forest or wildlife sanctuary, as the case may be, because the requisite clearances or approvals for commencing construction of Works therein have not been given within 240 (two hundred and forty) days of the Appointed date, the affected Works shall be deemed to be withdrawn under the provisions of this Clause 8.3.3 unless the Parties agree to the contrary, and such Works shall not be computed for the purposes of the aforesaid ceiling of 10% (ten percent) hereunder.

8.3.4 In the event of withdrawal of Works under Clause 8.3.3, the Contract Price shall be reduced by an amount equal to 90 (ninety) percent of the value of the Works withdrawn and the Contractor shall not be entitled to any other compensation or Damages for the withdrawal of Works.

Provided that if any Works are withdrawn after commencement of the Construction of such works, the Employer shall pay to the Contractor 110% (one hundred and ten percent) of the fair value of the work done, as assessed by the Employer's Engineer in accordance with Article 13.2.3(a).

8.4 Site to be free from Encumbrances

Subject to the provisions of Clause 8.2, the Site shall be made available by the Employer to the Contractor pursuant here to free from all Encumbrances and occupations and without the Contractor being required to make any payment to the Employer on account of any costs, compensation, expenses and charges for the acquisition and use of such Site for the duration of the Project Completion Schedule. For the avoidance of doubt, it is agreed that the existing rights of way, easements, privileges, liberties and appurtenances to the Site shall not be deemed to be Encumbrances. It is further agreed that, unless otherwise specified in this Agreement, the Contractor accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Site.

8.5 Protection of Site from encroachments

On and after signing the memorandum and/ or subsequent memorandum referred to in Clause 8.2.1, and until the issue of the Completion Certificate, the Contractor shall maintain a round-the-clock vigil over the Site and shall ensure and procure that no encroachment thereon takes place. During the Construction Period, the Contractor shall protect the Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Sub-contractor or other person claiming through or under the Agreement to place or create any Encumbrance or security threat overall or any part of the Site or the Project Assets, or on any rights of the Contractor therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement. In the event of any encroachment or occupation on any part of the Site, the Contractor shall report such encroachment or occupation forthwith to the Employer and undertake its removal at its own cost and expenses.

8.6 Special/ temporary Right of Way

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

8.7 Access to the Employer and the Employer's Engineer

8.7.1 The access to the Site given to the Contractor hereunder shall always be subject to the right of access of the Employer and the Employer's Engineer and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

8.7.2 The Contractor shall ensure, subject to all relevant safety procedures, that the Employer has unrestricted access to the Site during any emergency situation, as decided by the Employer's Engineer.

8.8 Geological and archaeological finds

It is expressly agreed that mining, geological or archaeological rights do not form part of this Agreement with the Contractor for the Works, and the Contractor hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site shall vest in and belong to the Employer or the concerned Government Instrumentality. The Contractor shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Employer forthwith of the discovery thereof and comply with such instructions as the concerned

Government Instrumentality may reasonably give for the removal of such property. For the avoidance of doubt, it is agreed that any reasonable expenses incurred by the Contractor hereunder shall be reimbursed by the Employer. It is also agreed that the Employer shall procure that the instructions hereunder are issued by the concerned Government Instrumentality within a reasonable period.

8.9 Vehicle for Employer

DELETED

ARTICLE 9 UTILITIES AND TREES

9.1 Existing Utilities and Roads

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

9.2 Shifting of Obstructing Utilities

The Contractor shall, in accordance with Applicable Laws and with assistance of the Employer, shift any utility (including electric lines, water pipes, telephone cables etc.) to an appropriate location or alignment, if such utility or obstruction adversely affects the execution of Works or causes damage to the Project in accordance with this Agreement. The Contractor shall engage registered contractors of concerned utility Agency for such shifting. For shifting of electrical utilities, contractors registered with ASEB [Assam State Electricity Board] and have C or A grade License from Chief Electrical Inspector to Government shall be employed. For other works, registered contractors of concerned departments/ Authorities with Grade I qualification shall be employed. All the costs towards shifting of utilities shall deemed to be included in Contract Price and no additional payments on this account shall be made unless included in priced bill of quantities. However, the Employer will assist in obtaining required permissions for such shifting from the concerned utility Agency including submission of application on Employer name. The works shall be carried out in close coordination with utility agency and all precaution / conditions stipulated by the agency shall be diligently followed.

9.3 New Utilities

- 9.3.1 The Contractor shall allow, subject to such conditions as the Employer may specify, access to, and use of the Site for laying telephone lines, water pipes, electric cables or other public utilities. Where such access or use causes any financial loss to the Contractor, it may require the user of the Site to pay compensation or damages as per Applicable Laws. For the avoidance of doubt, it is agreed that use of the Site under this Clause 9.3 shall not in any manner relieve the Contractor of its obligation to construct the Project in accordance with this Agreement and any damage caused by such use shall be restored forth with at the cost of the Employer.
- 9.3.2 The Employer may, by notice, require the Contractor to connect any adjoining road to the Project, and the connecting portion thereof falling within the Site shall be constructed by the Contractor at the Employer's costing accordance with Article 10.
- 9.3.3 The Employer may by notice require the Contractor to connect, through a paved road, any adjoining public facility or amenity to the Project, where upon the connecting portion thereof that falls within the Site shall be constructed by the Contractor on payment of the cost. The cost to be paid by the Employer to the Contractor shall be determined by the Employer's Engineer. For the avoidance of doubt, in the event such road is to be constructed for the benefit of any entity, the Employer may require such entity to make an advance deposit with the Contractor or the Employer, as the case may be, of an amount equal to the estimated cost as determined by the Employer's Engineer and such advance shall be adjusted against the cost of construction as determined by the Employer's Engineer here under.
- 9.3.4 In the event the construction of any Works is affected by a new utility or works undertaken in accordance with this Clause 9.3, the Contractor shall be entitled to a reasonable Time Extension as determined by the Employer's Engineer.

9.4 Felling of Trees

The Employer shall assist the Contractor in obtaining the Applicable Permits for felling and disposal of trees to be identified by the Contractor for this purpose if and only if such trees cause a Material Adverse Effect on the construction or during defect liability period of the Project. The cost of such felling and disposal shall be included in the Contract Price. The Parties here to agree that the felled trees shall be deemed to be owned by the Contractor after depositing the required amount to the concerned Department at the rates estimated by the Forest Department, Government of Assam and shall be disposed in such manner and subject to such conditions of the concerned Department. However, the Employer will assist in obtaining applicable permits for felling of trees.

ARTICLE 10 DESIGN AND CONSTRUCTION OF THE TERMINAL

10.1 Obligations prior to Commencement of Works

10.1.1 Within 20 (twenty) days of the Appointed Date, the Contractor shall:

- a) Appoint its representative, duly authorized to deal with the Employer in respect of all matters under or arising out of or relating to this Agreement;
- b) Appoint a design director (the "Design Director") who will head the Contractor's design unit and shall be responsible for surveys, investigations, collection of data, and preparation of preliminary and detailed designs;
- c) Undertake and perform all such acts, deeds and things as may be necessary or required before commencement of Works under and in accordance with this Agreement, the Applicable Laws and Applicable Permits; and
- d) Make its own arrangements for raw materials needed for the Project under and in accordance with the Applicable Laws and Applicable Permits.
- e) Prepare construction zone and Camp Site safety checklist.
- f) Prepare updated Environmental Management Plan (EMP) including the action plan and checklist.

10.1.2 The Employer shall, within 15 (fifteen) days of the date of this Agreement, appoint an engineer (the "Employer's Engineer") to discharge the functions and duties specified in this Agreement, and shall notify to the Contractor the name address and the date of appointment of the Employer's Engineer forth with.

10.1.3 Within 30 (thirty) days of the Appointed Date, the Contractor shall submit to the Employer and the Employer's Engineer a resource loaded programme (the "Programme") for the Works, developed using networking techniques (like Ms-Project / Primavera) giving the following details:

Part-I: Contractor's organisation for the Project the general method and arrangements for design and construction, environmental management plan, Quality Assurance Plan including design, quality plan, traffic management and safety plan covering safety of users and workers during construction, Contractor's key personnel and equipment.

Part-II: Programme for completion of all stages of construction given in Schedule-H and Project Milestones of the Works as specified in Project Completion Schedule including resources, equipment, manpower & material required set forth in Schedule-J. The Programme shall include:

- ✓ The order in which the Contractor intends to carry out the Works, including the anticipated timing of design and stages of Works including resources, equipment, manpower & material required;
- ✓ The periods for reviews under Clause 10.2;
- ✓ The sequence and timing of inspections and tests specified in this Agreement.
- ✓ The Contractor shall submit a revised programme whenever the previous programme is inconsistent with the actual progress or with the Contractor's obligations.

Part-III: Monthly Cash Flow Forecast

10.1.4 The Contractor shall compute, on the basis of the Drawings prepared in accordance with

Clause 10.2.4, and provide to the Employer's Engineer, the length, area and numbers, as the case maybe, in respect of the various items of works specified in Schedule-H and comprising the Employer's Requirement. The Parties expressly agree that these details shall form the basis for estimating the interim payments for the Works in accordance with the provisions of Clause 19.3. For the avoidance of doubt, the sum of payments to be computed in respect of all the items of work shall not exceed the Contract Price, as may be adjusted in accordance with the provisions of this Agreement.

- 10.1.5 Within 20 (twenty) days of the Appointment Date, the Contractor shall appoint a safety consultant (the "Safety Consultant") to carry out safety audit at the design stage of the Project in accordance with the Applicable Laws and Good Industry Practice. The Safety Consultant shall be appointed after proposing to the Employer a panel of three names of qualified and experienced firms from whom the Employer may choose one to be the Safety Consultant. Provided, however, that if the panel is not acceptable to the Employer and the reasons for the same are furnished to the Contractor, the Contractor shall propose to the Employer a revised panel of three names for obtaining the consent of the Employer. The Contractor shall also obtain the consent of the Employer for the key personnel of the Safety Consultant who shall have adequate experience and qualifications in safety audit of the Inland Water Terminals. The Employer shall, within 15 (fifteen) days of receiving a proposal from the Contractor hereunder, convey its decision, with reasons, to the Contractor, and if no such decision is conveyed within the said period, the Contractor may proceed with engaging of the Safety Consultant.
- 10.1.6 The safety audit pursuant to Clause 10.1.5 shall be carried out by the Safety Consultant in respect of all such design details that have a bearing on safety of Users as well as pedestrians and animals involved in or associated with accidents. The recommendations of the Safety Consultant shall be incorporated in the design of the Terminal and the Contractor shall forward to the Employer's Engineer a certificate to this effect together with the recommendations of the Safety Consultant. In the event that any works required by the Safety Consultant shall fall beyond the scope of Schedule-B, Schedule-C or Schedule-D, the Contractor shall make a report thereon and seek the instructions of the Employer for Change in Employer's Requirement. For the avoidance of doubt, the Safety Consultant to be engaged by the Contractor shall be independent of the design and implementation team of the Contractor.

10.2 Design and Drawings

- 10.2.1 Design and Drawings shall be developed in conformity with the Specifications & Standards set forth in Schedule-D including carrying out hydrological and morphological modeling by using all the data of the potential effects both at the Site as well as downstream of Terminal construction, in particular with respect to erosion and accretion patterns. In the event, the Contractor requires any relaxation in design standards due to restricted access to the Site in any section, the alternative design criteria for such section shall be provided for review of the Employer's Engineer.
- 10.2.2 Within 20 (twenty) days of Appointment Date, the Contractor shall appoint a proof check consultant (the "Proof Consultant") after proposing to the Employer a panel of three names of qualified and experienced IIT institutions, except IIT Roorkee who were already engaged in the DPR stage, from whom the Employer may choose one to be the Proof Consultant. Provided, however, that if the panel is not acceptable to the Employer and the reasons for the same are furnished to the Contractor, the Contractor shall propose to the Employer a revised panel of three names for obtaining the consent of the Employer. The Contractor shall also obtain the consent of the Employer for two key personnel of the Proof Consultant who shall have adequate experience and qualifications in river/ marine civil works and berthing pontoons respectively. The Employer shall, within 15 (fifteen) days of receiving a proposal from the Contractor hereunder, convey its decision, with reasons, to the Contractor, and if no such decision is conveyed within the said period, the Contractor may proceed with engaging of the Proof Consultant.

10.2.3 The Proof Consultant shall

- a) Evolve a systems approach with the Design Director so as to minimize the time required for final designs and construction drawings; and
- b) Proof check the detailed calculations, drawings and designs, which have been approved by the Design Director.

10.2.4 In respect of the Contractor's obligations with respect to the design and Drawings of the Project, the following shall apply:

- i) The Contractor shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, three copies each of the design and Drawings, duly certified by the Proof Consultant, to the Employer's Engineer for review. Design and drawings provided shall include all required details for construction/ fabrication of the structures in accordance with Good Industry Practice.
- ii) By submitting the Drawings for review to the Employer's Engineer, the Contractor shall be deemed to have represented that it has determined and verified that the design and engineering, including field construction criteria related there to, are in conformity with the Employer's Requirement, the Specifications and Standards and the Applicable Laws;
- iii) Within 15 (fifteen) days of the receipt of the Drawings, the Employer's Engineer shall review the same and convey its observations to the Contractor with particular reference to their conformity or otherwise with the Employer's Requirement and the Specifications and Standards. The Contractor shall not be obliged to wait the observations of the Employer's Engineer on the Drawings submitted pursuant here to beyond the said period of 15 (fifteen) days and may begin or continue Works at its own discretion and risk; Provided, however that in case of a Major Structure, the aforesaid period of 15 (fifteen) days may be extended upto 30 (thirty) days;
- iv) If the aforesaid observations of the Employer's Engineer indicate that the Drawings are not in conformity with the Employer's Requirement or the Specifications & Standards, such Drawings shall be revised by the Contractor in conformity with the provisions of this Agreement and resubmitted to the Employer's Engineer for review. The Employer's Engineer shall give its observations, if any, within 10 (ten) days of receipt of the revised Drawings. In the event the Contractor fails to revise and resubmit such Drawings to the Employer's Engineer for review as aforesaid, the Employer's Engineer may withhold the payment for the affected works in accordance with the provisions of Clause 19.5.4. If the Contractor disputes any decision, direction or determination of the Employer's Engineer here under, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure;
- v) No review and/or observation of the Employer's Engineer and/or its failure to review and/or convey its observations on any Drawings shall relieve the Contractor of its obligations and liabilities under this Agreement in any manner nor shall the Employer's Engineer or the Employer be liable for the same in any manner; and if errors, omissions, ambiguities, inconsistencies, inadequacies or other Defects are found in the Drawings, they and the construction works shall be corrected at the Contractor's cost, notwithstanding any review under this Article 10;
- vi) The Contractor shall be responsible for delays in submitting the Drawing caused by reason of delays in surveys and field investigations, and shall not be entitled to seek any relief in that regard from the Employer; and
- vii) The Contractor warrants that its designers, including any third parties engaged by it, shall have the required experience and capability in accordance with Good

Industry Practice and it shall indemnify the Employer against any damage, expense, liability, loss or claim, which the Employer might incur, sustain or be subject to arising from any breach of the Contractor's design responsibility and/or warranty set out in this Clause.

- 10.2.5 Any cost or delay in construction due to revisions in design / drawings arising from review by the Employer's Engineer shall be borne by the Contractor.
- 10.2.6 Works shall be executed in accordance with the Drawings provided by the Contractor in accordance with the provisions of this Clause 10.2 and the observations of the Employer's Engineer there on as communicated pursuant to the provisions of Clause 10.2.4(d). Such Drawings shall not be amended or altered without prior written notice to the Employer's Engineer. If a Party becomes aware of an error or defect of a technical nature in the design or Drawings, that Party shall promptly give notice to the other Party of such error or defect.
- 10.2.7 Within 90(ninety) days of the Project Completion Date, the Contractor shall furnish to the Employer and the Employer's Engineer a complete set of as-built Drawings for all structures on appropriate scale as approved by the Employer's Engineer in 2(two) hardcopies in A1 size sheet and softcopy in electronic format(CD/DVD-ROM/Pen drive), reflecting the Terminal as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Project and set backlines, if any, of the buildings and structures forming part of Project Facilities.

10.3 Construction of the Project

- 10.3.1 The Contractor shall construct the Project as specified in Schedule-B and Schedule-C, and in conformity with the Specifications and Standards set forth in Schedule-D. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works. The scheduled completion period shall be 18 Months from the Appointed Date (the "Scheduled Completion Period") and the Contractor agrees and undertakes that the construction shall be completed on or before the Scheduled Completion Period, including any extension thereof.
- 10.3.2 The Contractor shall construct the Project in accordance with the Project Completion Schedule set forth in Schedule-J. In the event that the Contractor fails to achieve any Project Milestone or the Scheduled Completion Date within a period of 30(thirty) days from the date set forth in Schedule-J, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Employer, it shall pay Damages to the Employer of a sum calculated at the rate of 0.05%(zero point zero five percent) of the Contract Price for delay of each day reckoned from the date specified in Schedule-J and until such Project Milestone is achieved or the Works are completed; provided that if the period for any or all Project Milestones or the Scheduled Completion Date is extended in accordance with the provisions of this Agreement, the dates set forth in Schedule-J shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Schedule-J has been amended as above; provided further that in the event the Works are completed within or before the Scheduled Completion Date including any Time Extension, applicable for that work or section, the Damages paid under this Clause 10.3.2 shall be refunded by the Employer to the Contractor, but without any interest there on. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 10.3.2 shall be without prejudice to the rights of the Employer under this Agreement including the right of Termination thereof. The Parties further agree that Time Extension here under shall only be reckoned for and in respect of the affected works as specified in Clause 10.5.2.
- 10.3.3 The Employer shall notify the Contractor of its decision to impose Damages in pursuance with the provisions of this Clause 10.3. Provided that no deduction on account of Damages shall be affected by the Employer without notifying the Contractor of its decision to impose the Damages, and taking into consideration the representation, if any, made by the Contractor within 20(twenty) days of such notice. The Parties expressly agree that the total amount of Damages under Clause 10.3.2 shall not exceed 10% (ten percent) of the

Contract Price.

10.4 Maintenance during Construction Period

During the Construction Period, the Contractor shall maintain, at its cost, the existing assets (if any) of the Project so that the usage worthiness and safety there of are at no time materially inferior as compared to their condition 10(ten) days prior to the date of this Agreement, and shall undertake the necessary repair and maintenance works for this purpose; provided that the Contractor may, at its cost, interrupt and divert the flow of traffic if such interruption and diversion is necessary for the efficient progress of Works and conforms to Good Industry Practice; provided further that such interruption and diversion shall be undertaken by the Contractor only with the prior written approval of the Employer's Engineer which approval shall not be unreasonably withheld. For the avoidance of doubt, it is agreed that the Contractor shall at all times be responsible for ensuring safe operation of the Terminal.

10.5 Extension of time for completion

10.5.1 Without prejudice to any other provision of this Agreement for and in respect of extension of time, the Contractor shall be entitled to extension of time in the Project Completion Schedule (the "Time Extension") to the extent that completion of any Project Milestone is or will be delayed by any of the following, namely:

- a. Delay in providing the Right of Way, environment clearances or approval of related authorities, specified in Clause 4.1.4;
- b. Change of Employer's Requirement (unless an adjustment to the Scheduled Completion Date has been agreed under Article 13);
- c. Occurrence of a Force Majeure Event;
- d. Any delay, impediment or prevention caused by or attributable to the Employer, the Employer's personnel or the Employer's other contractors if any on the Site; and
- e. Any other cause or delay which entitles the Contractor to Time Extension in accordance with the provisions of this Agreement.

10.5.2 The Contractor shall, no later than 15(fifteen) business days from the occurrence of an event or circumstance specified in Clause 10.5.1, inform the Employer's Engineer by notice in writing, with a copy to the Employer, stating in reasonable detail with supporting particulars, the event or circumstances giving rise to the claim for Time Extension in accordance with the provisions of this Agreement. Provided that the period of 15(fifteen) business days shall be calculated from the date on which the Contractor became aware, or should have become aware, of the occurrence of such an event or circumstance. Provided further that not withstanding anything to the contrary contained in this Agreement, Time Extension shall be due and applicable only for the Works which are affected by the afore said events or circumstances and shall not in any manner affect the Project Completion Schedule for and in respect of the Works which are not affected hereunder.

10.5.3 In the event of the failure of the Contractor to issue to the Employer's Engineer a notice in accordance with the provisions of Clause 10.5.2 within the time specified therein, the Contractor shall not be entitled to any Time Extension and shall forfeit its right for any such claims in future. For the avoidance of doubt, in the event of failure of the Contractor to issue notice as specified in this clause 10.5.3, the Employer shall be discharged in connection with the claim.

10.5.4 The Employer's Engineer shall, on receipt of the claim in accordance with the provisions of Clause 10.5.2, examine the claim expeditiously within the time frame specified herein. In the event the Employer's Engineer requires any clarifications to examine the claim, the Employer's Engineer shall seek the same within 15(fifteen) days from the date of receiving the claim. The Contractor shall, on receipt of the communication of the Employer's Engineer requesting for clarification, furnish the same to the Employer's Engineer within 10(ten)days thereof. The Employer's Engineer shall, within a period of 60(sixty) days from the date of

receipt of such clarifications, forward in writing to the Contractor its determination of Time Extension.

Provided that when determining each extension of time under this Clause 10.5, the Employer's Engineer shall review previous determinations and may increase, but shall not decrease, the total Time Extension.

10.5.5 If the event or circumstance giving rise to the notice has a continuing effect:

- A fully detailed claim shall be considered as interim;
- The Contractor shall, no later than 10(ten) days after the close of each month, send further interim claims specifying the accumulated delay, the extension of time claimed, and such further particulars as the Employer's Engineer may reasonably require; and
- The Contractor shall send a final claim within 30(thirty) days after the effect of the event or the circumstances cases.

Upon receipt of the claim here under, the Employer's Engineer shall examine the same in accordance with the provisions of Clause 10.5.4 within a period of 60(sixty) days of the receipt thereof.

10.6 Incomplete Works

In the event the Contractor fails to complete the Works in accordance with the Project Completion Schedule, including any Time Extension granted under this Agreement, the Contractor shall endeavour to complete the balance work expeditiously and shall pay Damages to the Employer in accordance with the provisions of Clause 10.3.2 for delay of each day until the Works are completed in accordance with the provisions of this Agreement. Recovery of Damages under this Clause shall be without prejudice to the rights of the Employer under this Agreement including the right to termination under Clause 23.1.

10.7 Maintenance Manual

No later than 60(sixty) days prior to the Project Completion Date, the Contractor shall, in consultation with the Employer's Engineer, evolve a maintenance manual (the "Maintenance Manual") for the regular and preventive maintenance of the Project in conformity with the Specifications and Standards, safety requirements and Good Industry Practice, and shall provide 5(five) copies thereof to the Employer's Engineer. The Employer's Engineer shall review the Maintenance Manual within 15(fifteen) days of its receipt and communicate its comments to the Contractor for necessary modifications, if any.

10.8 Reports of Unusual occurrence

The Contractor shall, during the Construction Period, prior to the close of each day, send to the Employer and the Employer's Engineer, by facsimile or e-mail, a report stating accidents and unusual occurrences on the Terminal relating to the safety and security of the Users and terminal. A monthly summary of such reports shall also be sent within 3(three) business days of the closing of month. For the purposes of the Terminal shall include:

- a. accident, death or severe injury to any person;
- b. damaged or dislodged fixed equipment;
- c. flooding of terminal and
- d. any other unusual occurrence.

ARTICLE 11 QUALITY ASSURANCE, MONITORING AND SUPERVISION

11.1 Quality of Materials and Workmanship

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

11.2 Quality Control System

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

11.2.2 The Contractor shall, within 30(thirty) days of the Appointed Date, submit to the Employer's Engineer its Quality Assurance Plan which shall include the following:

- a. Organisation, duties and responsibilities, procedures, inspections and documentation;
- b. Quality control mechanism including sampling and testing of Materials, test frequencies, standards, acceptance criteria, testing facilities, reporting, recording and interpretation of test results, approvals, checklist for site activities, and proforma for testing and calibration in accordance with the Specifications for civil works, relevant codal specifications and Good Industry Practice; and
- c. Internal quality audit system.

The Employer's Engineer shall convey its comments to the Contractor within a period of 21 (twenty-one) days of receipt of the QAP stating the modifications, if any, required, and the Contractor shall incorporate those in the QAP to the extent required for conforming with the provisions of this Clause 11.2.

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

11.2.4 The cost of testing of Construction, Materials and workmanship under this Article 11 shall be borne by the Contractor.

11.3 Methodology

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

11.4 Inspection and Technical Audit by the Employer

The Employer or any representative authorised by the Employer in his behalf may inspect and review the progress and quality of the construction of the Project and issue appropriate directions to the Employer's Engineer and the Contractor for taking remedial action in the event the Works are not in accordance with the provisions of this Agreement.

11.5 External Technical Audit

At any time during construction, the Employer may appoint an external technical auditor to conduct an audit of the quality of the Works. The findings of the audit, to the extent accepted by the Employer, shall be notified to the Contractor and the Employer's Engineer for taking remedial action in accordance with this Agreement. The Contractor shall provide all assistance as may be required by the audit or in the conduct of its audit here under. Notwithstanding anything contained in this Clause 11.5, the external technical

audit shall not affect any obligations of the Contractor or the Employer's Engineer under this Agreement.

11.6 Inspection of Construction Records

The Employer shall have the right to inspect the records of the Contractor relating to the Works.

11.6.1 Inspection and Audit by the World Bank

The WorldBank and /or persons appointed by the WorldBank shall have the right to inspect the Site and all accounts and records of the Contractor, its Sub-contractors and sub-consultants relating to the performance of the Contract and the submission of the Bid, and to have such accounts and records audited by auditors appointed by the World Bank if requested by the WorldBank. The Contractor's and its Sub-contractors' and sub-consultants' attention is drawn to Clause 3.9* Corruptor Fraudulent Practices + which provides, inter alia, that acts intended to materially impede the exercise of the World Bank's inspection and audit rights provided under this Clause 11.6.1 constitute a prohibited practice subject to Contract termination (as well as to a determination of ineligibility pursuant to the WorldBank's prevailing sanctions procedures).

11.7 Monthly Progress Reports

During the Construction Period, the Contractor shall, no later than 10 (ten) days after the close of each month, furnish to the Employer and the Employer's Engineer a monthly report on progress of the Works and shall promptly give such other relevant information as may be required by the Employer's Engineer.

11.8 Inspection

11.8.1 The Employer's Engineer and its authorised representative shall at all reasonable times:

- a. Have full access to all parts of the Site and all places from which natural Materials are being obtained for use in the Works; and
- b. During production, manufacture and construction at the Site and at the place of production, be entitled to examine, inspect, measure and test the Materials and workmanship, and to check the progress of manufacture of Materials.

11.8.2 The Contractor shall give the Employer's Engineer and its authorised agents access, facilities and safety equipment for carrying out their obligations under this Agreement.

11.8.3 The Employer's Engineer shall submit a monthly inspection report (the "Inspection Report") to the Employer and the Contractor bringing out the results of inspections and their medical action taken by the Contractor in respect of Defects or deficiencies. For the avoidance of doubt, such inspection or submission of Inspection Report by the Employer's Engineer shall not relieve or absolve the Contractor of its obligations and liabilities under this Agreement in any manner whatsoever.

11.9 Samples

The Contractor shall submit the following samples of Materials and relevant information to the Employer's Engineer for pre-construction review:

- a. Manufacturer's test reports and standard samples of manufactured Materials; and
- b. Samples of such other Materials as the Employer's Engineer may require.

11.10 Tests

11.10.1 For determining that the Works conform to the Specifications and Standards, the Employer's Engineer shall require the Contractor to carry out or cause to be carried out tests, at such time and frequency and in such manner as specified in this Agreement, and in accordance with Good Industry Practice for quality assurance. The checks by the Employer's Engineer shall comprise 100% (hundred percent) of all the quantity or number of tests prescribed for each category or type of test for quality control by the Contractor.

11.10.2 In the event that results of any tests conducted under this Clause 11.10 establish any Defects or deficiencies in the Works, the Contractor shall carry out remedial measures and furnish a report to the Employer's Engineer on this behalf. The Employer's Engineer shall require the Contractor to carry out or cause to be carried out tests to determine that such remedial measures have brought the Works into compliance with the Specifications and Standards, and the procedure shall be repeated until such Works conform to the Specifications and Standards. For the avoidance of doubt, the cost of such tests and remedial measures in pursuance thereof shall be solely borne by the Contractor.

11.11 Examination of Work before Covering-up

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

11.12 Rejection

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

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

11.13 Remedial Work

11.13.1 Notwithstanding any previous test or certification, the Employer's Engineer may instruct the Contractor to:

- a) Remove from the Site and replace any Plant or Materials which are not in accordance with the provisions of this Agreement;
- b) Remove and re-execute any work which is not in accordance with the provisions of this Agreement and the Specification and Standards; and
- c) Execute any work which is urgently required for the safety of the Project whether because of an accident, unforeseeable event or otherwise; provided that in case of any work required on account of a Force Majeure Event, the provisions of Clause 21.6 shall apply.

11.13.2 If the Contractor fails to comply with the instructions issued by the Employer's Engineer under Clause 11.13.1, within the time specified in the Employer's Engineer's notice or as mutually agreed, the Employer's Engineer may advise the Employer to have the Work executed by another agency. The cost so incurred by the Employer for undertaking such work shall, without prejudice to the rights of the Employer to recover Damages in

accordance with the provisions of this Agreement, be recoverable from the Contractor and maybe deducted by the Employer from any monies due to be paid to the Contractor.

11.14 Delays during Construction

Without prejudice to the provisions of Clause 10.3.2, in the event the Contractor does not achieve any of the Project Milestones or the Employer's Engineer shall have reasonably determined that the rate of progress of Works is such that Completion of the Project is not likely to be achieved by the end of the Scheduled Completion Date, it shall notify the same to the Contractor, and the Contractor shall, within 15 (fifteen) days of such notice, by a communication inform the Employer's Engineer in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve the Project Completion Date.

11.15 Quality Control Records and Documents

The Contractor shall handover to the Employer's Engineer a copy of all its quality control records and documents before the Completion Certificate is issued pursuant to Clause 12.2.

11.16 Video Recording

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

11.17 Suspension of Unsafe Construction Works

- 11.17.1 Upon recommendation of the Employer's Engineer to this effect, the Employer may by notice require the Contractor to suspend forth with the whole or any part of the Works if, in the reasonable opinion of the Employer's Engineer, such work threatens the safety of the Users and pedestrians.
- 11.17.2 The Contractor shall, pursuant to the notice under Clause 11.17.1, suspend the Works or any part thereof or such time and in such manner as may be specified by the Employer and thereupon carry out remedial measures to secure the safety of suspended works, the Users and pedestrians. The Contractor may by notice require the Employer's Engineer to inspect such remedial measures forth with and make a report to the Employer recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the Employer's Engineer, the Employer shall either revoke such suspension or instruct the Contractor to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Employer, and the procedure set forth in this Clause 11.17 shall be repeated until the suspension hereunder is revoked.
- 11.17.3 Subject to the provisions of Clause 21.6, all reasonable costs incurred for maintaining and protecting the Works or part thereof during the period of suspension (the "Preservation Costs"), shall be borne by the Contractor; provided that if the suspension has occurred as a result of any breach of this Agreement by the Employer, the Preservation Costs shall be borne by the Employer.
- 11.17.4 If suspension of Works is for reasons not attributable to the Contractor, the Employer's Engineer shall determine any Time Extension to which the Contractor is reasonably entitled.

11.18 Protection of Environment

The Contractor shall ensure that during continuance of the Contract, the Contractor and his Sub-contractor(s) shall abide at all times by all existing enactments on environmental protection and rules made thereunder, regulations, latest notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local Employer. Salient features of some of the major laws that are applicable are given below:

11.18.1 The Water (Prevention and Control of Pollution) Act,1974

This provides for the prevention and control of water pollution and the maintaining and restoring of wholesomeness of water. Pollution means such contamination of water or such alteration of the physical,chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid,gaseous or solid substance into water (whether directly or indirectly) as may,or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic,commercial,industrial, agricultural or other legitimate uses,or to the life and health of animals or plants or of aquatic organisms.

11.18.2 The Air (Prevention and Control of Pollution) Act,1981

This provides for prevention, control and abatement of airpollution.'Air Pollution' means the presence in the atmosphere of any'airpollutant',which means anysolid,liquid or gaseous substance (includingnoise) present in the atmosphere in such concentration as maybe or tend to be injurious to humanbeings or otherliving creatures or plants or property or environment.

11.18.3 The Environment (Protection) Act,1986

This provides for the protection and improvement of environment and for matters connected there with, and the prevention of hazards to humanbeings, other living creatures, plants and property. 'Environment' includes water, air and land and theinter-relationship which exists among= and between water, air and land, and humanbeings, other living creatures,plants,micro-organismandproperty.

11.18.4 The Public Liability Insurance Act, 1991

This provides for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling hazardous substances and for matters connected here with or incidental there to. Hazardous substance means any substance or preparation which is defined as hazardous substance under the Environment (Protection) Act1986, and exceeding such quantity as may be specified by notification by the Central Government.

The Contractor shall take all reasonable steps to implement the environmental mitigation measures, Environmental Management Plan, inaccordance with objective, procedures and other provisions set forth there in and shall not take any action which would preventor interfere with such implementation. Further, he shall adhere to all environmental requirements of the Contract.

The reference to above mentioned Acts is only indicative. The Contractor shall follow and implement the Environmental Management Plan given at Specification and also the updates if any.

The Contractor shall develop Environmental Management Systems that covers all its operations and shall be certified to ISO14001within one year from the award of the Contract.

The Contractor shall develop Occupational Health&Safety Management Systems that covers all its activities/ operations and shall be certified to OHSAS 18001 within one year from the award for the Contract.

11.19 LabourLaws

The Contractor and its Sub-contractors shall abide at all times by all existing labour enactments and rules made there under, regulations,notifications and bye laws of Government and Government Instrumentality and any other labour law(including rules), regulations,bye laws that may be passed or notification that may be issued under any labour law infuture either by the Government and Government Instrumentality.

The Contractor shall keep the Employer indemnified incase any action is taken against

the Contractor by the competent Authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye-laws /acts/rules/regulations including amendments, if any, on the part of the Contractor, the Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The Contractor is expected to be acquainted with all the latest Applicable Laws, including those concerning safety at work.

ARTICLE 12 COMPLETION CERTIFICATE

12.1 Tests on Completion

- 12.1.1 At least 30(thirty) days prior to the likely completion of the Project, or a Section thereof, the Contractor shall notify the Employer's Engineer of its intent to subject the Project or a Section thereof, to Tests. The date and time of each of the Tests shall be determined by the Employer's Engineer in consultation with the Contractor and notified to the Employer who may designate its representative to witness the Tests. The Contractor shall either conduct the Tests as directed by the Employer's Engineer or provide such assistance as the Employer's Engineer may reasonably require for conducting the Tests. In the event of the Contractor and the Employer's Engineer failing to mutually agree on the dates for conducting the Tests, the Contractor shall fix the dates by giving not less than 10 (ten) days' notice to the Employer's Engineer.
- 12.1.2 All Tests shall be conducted in accordance with Schedule-K. The Employer's Engineer shall either conduct or observe, monitor and review the Tests conducted by the Contractor, as the case may be, and review the results of the Tests to determine compliance of the Project or a Section thereof, with Specifications and Standards and if it is reasonably anticipated or determined by the Employer's Engineer during the course of any Test that the performance of the Project or Section or any part thereof, does not meet the Specifications and Standards, it shall have the right to suspend or delay such Test and require the Contractor to remedy and rectify the Defect or deficiencies. Upon completion of each Test, the Employer's Engineer shall provide to the Contractor and the Employer copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Employer's Engineer may require the Contractor to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project or Section thereof with the Specifications and Standards.

12.2 Provisional Certificate

- 12.2.1 Subject to the provisions of Clause 12.2.5, upon completion of all Works forming part of the Project, save and except the Works for which Time Extension has been granted under Clause 10.5, the Employer's Engineer shall, at the request of the Contractor, issue a provisional certificate of completion substantially in the form set forth in Schedule-L (the "Provisional Certificate") if the Tests for and in respect of the completed Works are successful. The Provisional Certificate shall have appended thereto a list of outstanding items of work (the "Punch List") that need to be completed in accordance with the provisions of this Agreement. The Contractor undertakes to complete the minor outstanding items of works in respect of those Sections of the Terminal for which the Provisional Certificate has been issued, within a period of 30(thirty) days of the date of Provisional Certificate, and those parts of the Works in respect of which Time Extension has been granted, within the extended period thereof. For the avoidance of doubt, the Parties agree that the Punch List shall include all Works for which Time Extension has been granted and shall also include any minor outstanding items of work forming part of the completed Sections if such works do not materially affect the use of the completed Sections for their intended purpose. The Parties further agree that Provisional Certificate shall not be issued if the completed Works cannot be safely and reliably placed in service of the Users thereof.
- 12.2.2 Upon issue of Provisional Certificate, the provisions of Articles 14 and 17 shall apply to the completed parts of the Terminal and the property and ownership of all such completed Works shall vest in the Employer.
- 12.2.3 If the Employer's Engineer determines that the Project or any completed part thereof does not conform to the provisions of this Agreement and cannot be safely and reliably placed in operation, it shall forthwith make a report in this behalf and send copies thereof to the Employer and the Contractor and withhold issuance of the Provisional Certificate until the Defects or deficiencies are rectified by the Contractor and Tests are successful in accordance with this Article 12.

- 12.2.4 Notwithstanding anything to the contrary contained in Clause 12.2.3, the Employer may, at anytime after receiving a report from the Employer's Engineer under that Clause, direct the Employer's Engineer to issue a Provisional Certificate under Clause 12.2.1 and such direction shall be complied forth with.
- 12.2.5 No Provisional Certificate shall be issued under the provisions of this Clause 12.2 until the Contractor has submitted valid claims for payment of atleast 80%(eightypercent) of the amount arrived at after reducing the lump sum price specified in Clause 19.1.1 by the amount attributable to works which have been withdrawn under the provisions of Clause 8.3.3. For the avoidance of doubt and by way of illustration, the Parties agree that if the Contract Price specified in Clause 19.1.1 is Rs. _____.(Rs.Infigures) and the works withdrawn under Clause 8.3.3 have a value of Rs. _____ (Rs.....Infigures), a Provisional Certificate shall not be issued until valid claims for payment of an amount of Rs. _____(Rs.....Infigures) have been submitted by the Contractor in accordance with the provisions of this Agreement. It is further agreed that all price adjustments made in pursuance of Clause 19.10 shall not be reckoned for computation of the claims for payments refered to in this Clause 12.2.5.

12.3 Completion of Remaining Works

All items in the Punch List shall be completed by the Contractor in accordance with the provisions of this Agreement. For any delay in their completion other than for the reasons solely attributable to the Employer or due to Force Majeure, the Employer shall be entitled to recover Damages from the Contractor in accordance with the provisions of Clause 10.3.2 of this Agreement.

12.4 Completion Certificate

- 12.4.1 Upon completion of all Works, including the items specified in the Punch List, and the Employer's Engineer determining the Tests to be successful, it shall forth with issue to the Contractor and the Employer a certificate substantially in the form set forth in Schedule- M (the "Completion Certificate").
- 12.4.2 Upon receiving the Completion Certificate, the Contractor shall remove its equipment, materials, debris and temporary works from the Site within a period of 30(thirty)days thereof, failing which the Employer may remove or cause to be removed, such equipment, materials, debris and temporary works and recover from the Contractor an amount equal to 120% (one hundred and twenty percent) of the actual cost of removal incurred by the Employer.
- 12.4.3 Without prejudice to the obligations of the Contractor specified in Articles 14 and 17, the property and ownership of all the completed Works forming part of the Project shall vest in the Employer.

12.5 Rescheduling of Tests

If the Employer's Engineer certifies to the Employer and the Contractor that it is unable to issue the Completion Certificate or Provisional Certificate, as the case may be, because of events or circumstances on account of which the Tests could not be held or had to be suspended, the Contractor shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

ARTICLE 13 CHANGE OF EMPLOYER'S REQUIREMENT

13.1 Change of Employer's Requirement

13.1.1 The Employer may, notwithstanding anything to the contrary contained in this Agreement, require the Contractor to make modifications / alterations to the Works ("Change Of Employer's Requirement") before the issue of the Completion Certificate either by giving an instruction or by requesting the Contractor to submit a proposal for Change of Employer's Requirement involving additional cost to reduction in cost. Any such Change of Employer's Requirement shall be made and valued in accordance with the provisions of this Article 13.

13.1.2 Change of Employer's Requirement shall mean:

- a) Change in specifications of any item of Works;
- b) Omission of any work from the Employer's Requirement except under Clause 8.3.3; provided that, subject to Clause 13.5, the Employer shall not omit any work under this Clause in order to get it executed by any other Employer; and/or
- c) Any additional work, Plant, Materials or services which are not included in the Employer's Requirement, including any associated Tests on completion of construction.

13.1.3 If the Contractor determines at any time that a Change of Employer's Requirement will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Employer of executing, maintaining or operating the Project, (iii) improve the efficiency or value to the Employer of the completed Project, or (iv) otherwise be of benefit to the Employer, it shall prepare a proposal with relevant details at its own cost. The Contractor shall submit such proposal, supported with the relevant details and the amount of reduction in the Contract Price to the Employer through the Employer's Engineer to consider such Change of Employer's Requirement. The Employer shall, within 15 (fifteen) days of receipt of such proposal, either accept such Change of Employer's Requirement with modifications, if any, and initiate proceedings therefore in accordance with this Article 13 or reject the proposal and inform the Contractor of its decision. For the avoidance of doubt, the Parties agree that the Contractor shall not undertake any Change of Employer's Requirement without the express consent of the Employer, save and except any Works necessary for meeting any Emergency.

13.2 Procedure for Change of Employer's Requirement

13.2.1 In the event of the Employer determining that a Change of Employer's Requirement is necessary, it may direct the Employer's Engineer to issue to the Contractor a notice specifying in reasonable detail the works and services contemplated there under (the "Change of Employer's Requirement Notice").

13.2.2 Upon receipt of a Change of Employer's Requirement Notice, the Contractor shall, with due diligence, provide to the Employer and the Employer's Engineer such information as is necessary, together with preliminary documentation in support of:

- a) The impact, if any, which the Change of Employer's Requirement is likely to have on the Project Completion Schedule if the works or services are required to be carried out during the Construction Period; and
- b) The options for implementing the proposed Change of Employer's Requirement and the effect, if any, each such option would have on the costs and time thereof, including the following details:
 - i) Breakdown of the quantities, unit rates and cost for different items of work;

- ii) Proposed design for the Change of Employer's Requirement; and
- iii) proposed modifications, if any, to the Project Completion Schedule of the Project.

For the avoidance of doubt, the Parties expressly agree that, subject to the provisions of Clause 13.4.2, the Contract Price shall be increased or decreased, as the case may be, on account of Change of Employer's Requirement.

13.2.3 The Contractor's quotation of costs for the Change of Employer's Requirement shall be determined on the following principles:

- a) The cost of work shall be derived on the basis of Civil Works Standard Data Book and the applicable schedule of rates for the relevant circle, as published by the respective State Government, i.e. PWD/HD and such rates shall be indexed with reference to the WPI once every year if current rates are not available, with the base being the month and year of the publication of the said schedule of rates; provided, however, that for any item not included in the schedule of rates, the prevailing market rates as determined by the Employer's Engineer shall apply, and for any item in respect of which Civil Works Standard Data Book does not provide the requisite details, the Employer's Engineer shall determine the rate in accordance with Good Industry Practice.

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

- a) Issue a Change of Employer's Requirement Order requiring the Contractor to proceed with the performance thereof at the rates and conditions approved by the Employer till the matter is resolved in accordance with Article 26; or
- b) Proceed in accordance with Clause 13.5.

13.2.5 The provisions of this Agreement, in so far as they relate to Works and Tests, shall apply mutatis mutandis to the works undertaken by the Contractor under this Article 13.

13.3 Payment for Change of Employer's Requirement

Payment for Change of Employer's Requirement shall be made in accordance with the payment schedule specified in the Change of Employer's Requirement Order.

13.4 Restrictions on Change of Employer's Requirement

13.4.1 No Change of Employer's Requirement shall be executed unless the Employer has issued the Change of Employer's Requirement Order save and except any Works necessary for meeting any Emergency.

13.4.2 Unless the Parties mutually agree to the contrary, the total value of all Change of Employer's Requirement Orders shall not exceed 10 (ten) percent of the Contract Price.

13.4.3 Notwithstanding anything to the contrary in this Article 13, no change made necessary because of any default of the Contractor in the performance of its obligations under this Agreement shall be deemed to be Change of Employer's Requirement, and shall not result in any adjustment of the Contract Price or the Project Completion Schedule.

13.5 Power of the Employer to undertake works

13.5.1 In the event the Parties are unable to agree to the proposed Change of Employer's Requirement Orders in accordance with Clause 13.2, the Employer may, after giving notice to the Contractor and considering its reply there to, award such works or services to any

person on the basis of open competitive bidding from amongst bidders who are pre-qualified for undertaking the additional work; provided that the Contractor shall have the option of matching the first ranked bid in terms of the selection criteria, subject to payment of 2% (two percent) of the bid amount to the Employer and there upon securing the award of such works or services. For the avoidance of doubt, it is agreed that the Contractor shall be entitled to exercise such option only if it has participated in the bidding process and its bid does not exceed the first ranked bid by more than 10% (ten percent) thereof. It is also agreed that the Contractor shall provide assistance and cooperation to the person who undertakes the works or services here under, but shall not be responsible for rectification of any Defects and / or maintenance of works carried out by other agencies.

- 13.5.2 The works undertaken in accordance with this Clause 13.5 shall conform to the Specifications and Standards and shall be carried out in a manner that minimizes the disruption in operation of the Project. The provisions of this Agreement, in so far as they relate to Works and Tests, shall apply mutatis mutt and is to the works carried out under this Clause 13.5.

ARTICLE 14 MAINTENANCE

DELETED

ARTICLE 15 SUPERVISION AND MONITORING DURING MAINTENANCE

DELETED

ARTICLE 16 TRAFFIC REGULATION

16.1 Traffic Regulation by the Contractor

- 16.1.1 The Contractor shall take all the required measures and make arrangements for the safety of Users during the construction of the Project or a Section thereof in accordance with the provisions of Standard Specifications. It shall provide, erect and maintain all such barricades, signs, markings, flags, and lights as may be required by Good Industry Practice for the safety of the traffic passing through the Section under construction
- 16.1.2 All works shall be carried out in a manner creating least interference to traffic passing through the Project compound or a Section thereof. The Contractor shall take prior approval of the Employer's Engineer for any proposed arrangement for traffic regulation during Construction, which approval shall not be unreasonably withheld.

ARTICLE 17 DEFECTS LIABILITY

17.1 Defects Liability Period

17.1.1 The Contractor shall be responsible for all the Defects and deficiencies, except usual wear and tear in the Project or any Section thereof, till the expiry of a period of one year (12 months) commencing from the date of Provisional Certificate (the "Defects Liability Period"). Provided that the Defects Liability Period shall in no case be less than twelve months from the date of Completion Certificate for and in respect of works for which Time Extension was granted. Provided Further that the event no Provisional Certificate is issued; the Defects Liability Period shall commence from the date of the Completion Certificate. For the avoidance of doubt, any repairs or restoration on account of usual wear or tear in the Section thereof shall form part of the obligations of the Contractor as per this agreement.

17.1.2 Deleted

17.2 Remediating Defects

Save and except as provided in as per this agreement, the Contractor shall repair or rectify all Defects and deficiencies observed by the Employer's Engineer during the Defects Liability Period within a period of 15 (fifteen) days from the date of notice issued by the Employer's Engineer in this behalf, or within such reasonable period as may be determined by the Employer's Engineer at the request of the Contractor, in accordance with Good Industry Practice.

17.3 Cost of Remediating Defects

For the avoidance of doubt, any repair or rectification undertaken accordance with the provisions of Clause 17.2, including any additional testing, shall be carried out by the Contractor at its own risk and cost, to the extent that such rectification or repair is attributable to:

- a) The Design Of the Project;
- b) Plant, Materials or work man ship not being in accordance with this Agreement and the Specifications and Standards;
- c) Improper maintenance during construction of the Project by the Contractor; and/ or
- d) Failure by the Contractor to comply with any other obligation under this Agreement.

17.4 Contractor's Failure to Rectify Defects

In the event that the Contractor fails to repair or rectify such Defect or deficiency with in the period specified Clause 17.2, the Employer shall be entitled to get the same repaired, rectified or remedied at the Contractor's cost so as to make the Project conform to the Specifications and Standards and the provisions of this Agreement. All costs consequent thereon shall, after due consultation with the Employer and the Contractor, be determined by the Employer's Engineer. The cost so determined and an amount equal to 20% of the cost as Damages shall be recoverable by the Employer from the Contractor and may be deducted by the Employer from any monies due to the Contractor.

17.5 Contractor to Search Cause

17.5.1 The Employer's Engineer may instruct the Contractor to examine the cause of any Defect in the Works or part thereof before the expiration of before the expiry of the Defects Liability Period.

17.5.2 In the event any Defect identified under Clause 17.5.1 is attributable to the Contractor, the Contractor shall rectify such Defect within the period specified by the Employer's Engineer,

and shall bear the cost of the examination and rectification of such Defect.

- 17.5.3 In the event such Defect is not attributable to the Contractor, the Employer's Engineer shall, after due consultation with the Employer and the Contractor, determine the costs incurred by the Contractor on such examination and notify the same to the Contractor, with a copy to the Employer, and the Contractor shall be entitled to payment of such costs by the Employer.

17.6 Extension of Defects Liability Period

The Defects Liability Period shall be deemed to be extended till the identified Defects under Clause 17.2 have been remedied.

17.7 Performance Certificate

- 17.7.1 Performance of the Contractor's obligations shall not be considered to have been completed until the Employer's Engineer has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed its obligations with regard to any remedial or other work required as a result of any defect in the Works, as identified under Clause 17.1, to the satisfaction of the Employer's Engineer.
- 17.7.2 The Employer's Engineer shall issue the Performance Certificate substantially in the format set forth in Schedule-T within 28 days after the latest of the expiry dates of the Defects Liability Period, or as soon thereafter as the Contractor has supplied all the Contractor's documents, completed and tested all the Works, including remedy in any defects.

ARTICLE 18 EMPLOYER'S ENGINEER

18.1 Appointment of the Employer's Engineer

- 18.1.1 The Employer shall appoint a consulting engineering firm substantially in accordance with the selection criteria set forth in Schedule-O, to be the engineer under this Agreement (the "Employer's Engineer").
- 18.1.2 The appointment of the Employer's Engineer shall be made no later than 15(fifteen) days from the date of this Agreement. The Employer shall notify the appointment or replacement of the Employer's Engineer to the Contractor. In the event of any replacement or termination of Employer's Engineer, the Employer shall appoint its representative to act as Employer's Engineer till such replacement.
- 18.1.3 The staff of the Employer's Engineer shall include suitably qualified engineers and other professionals who are competent to assist the Employer's Engineer to carry out its duties.

18.2 Duties and Authority of the Employer's Engineer

- 18.2.1 The Employer's Engineer shall perform the duties and exercise authority in accordance with the provisions of this Agreement, and substantially in accordance with the terms of reference ("Terms of Reference" or "TOR") set forth in Annex1 of Schedule O, but subject to obtaining prior written approval of the Employer before determining:
- a) Any Time Extension;
 - b) Any additional cost to be paid by the Employer to the Contractor;
 - c) The Termination Payment; or
 - d) Any Other Matter Which Is Not Specified in (a), (b) or © above and which creates an obligation or liability on either Party for a sum exceeding 0.2% of Contract Price.
- 18.2.2 No decision or communication of the Employer's Engineer shall be effective or valid unless it is accompanied by an attested true copy of the approval of the Employer for and in respect of any matter specified in Clause18.2.1.
- 18.2.3 The Employer's Engineer shall submit regular periodic reports, at least once every month, to the Employer in respect of its duties and functions under this Agreement. Such reports shall be submitted by the Employer's Engineer within 10(ten) days of the beginning of every month. For the avoidance of doubt, the Employer's Engineer shall include in its report, compliance of the recommendations of the Safety Consultant.

18.3 Delegation by the Employer's Engineer

- 18.3.1 The Employer's Engineer may, by order in writing, delegate any of his duties and responsibilities suitably qualified and experienced personnel who are accountable to the Employer's Engineer, or may revoke any such delegation, under intimation to the Employer and the Contractor. Provided, however, that the Employer's Engineer shall be responsible and liable for all actions and omissions of such personnel.
- 18.3.2 Any failure of the Employer's Engineer to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Employer to reject the work, Plant or Materials, which is not in accordance with the provisions of this Agreement and the Specifications and Standards.
- 18.3.3 Notwithstanding anything stated in Clause 18.3.1 above, the Employer's Engineer shall not delegate the Employer to refer any matter for the Employer's prior approval wherever required in accordance with the provisions of Clause18.2.

18.4 Instructions of the Employer's Engineer

- 18.4.1 The Employer's Engineer may issue the Contractor instructions for remedying any Defect. The Contractor shall take such instruction from Employer's Engineer, or from an assistant to whom appropriate authority has been delegated underClause18.3.

- 18.4.2 The instructions issued by the Employer's Engineer shall be in writing. However, if the Employer's Engineer issues any oral instructions to the Contractor, it shall confirm in writing the oral instructions within 2(two)working days of issuing them.
- 18.4.3 In case the Contract or does not receive the confirmation of the oral instruction within the time specified in Clause 18.4.2, the Contractor shall seek the written confirmation of the oral instructions from the Employer's Engineer. The Contractor shall obtain acknowledgement from the Employer's Engineer of the communication seeking written confirmation. In case of failure of the Employer's Engineer or its delegated assistant to reply to the Contractor within 2(two) days of the receipt of the communication from the Contractor, the Contractor may not carry out the instruction.
- 18.4.4 In case of any dispute on any of the instructions issued by the delegated assistant, the Contract or may refer the dispute to the Employer's Engineer, who shall then confirm, reverse or vary the instructions within 7 (seven) business days of the dispute being referred.

18.5 Determination by the Employer's Engineer

- 18.5.1 The Employer's Engineer shall consult with each Party in an endeavor to reach agreement wherever this Agreement provides for the determination of any matter by the Employer's Engineer. If such agreement is not achieved, the Employer's Engineer shall make affair determination according to this Agreement having due regard to all relevant circumstances. The Employer's Engineer shall give notice to both the Parties of each agreement or determination, with supporting particulars.
- 18.5.2 Each Party shall give effect to each agreement or determination made by the Employer's Engineer in accordance with the provisions of this Agreement. Provided, however, that if any Party disputes any instruction, decision, direction or determination of the Employer's Engineer, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

18.6 Remuneration of the Employer's Engineer

The remuneration, cost and expenses of the Employer's Engineer shall be paid by the Employer.

18.7 Termination of the Employer's Engineer

The Employer may, in its discretion, replace the Employer's Engineer at any time, but only after appointment of another Employer's Engineer in accordance with Clause18.1.

18.8 Resolution of issues between Employer's Engineer and Contractor

If the Contractor has reasons to believe that the Employer's Engineer is not discharging its duties and functions in accordance with the provisions of this Agreement, it may make a written representation to the Employer. Upon receipt of such representation, the Employer shall hold a tripartite meeting with the Contractor and Employer's Engineer and make best efforts for an amicable resolution of the representation. If the issue is not resolved at this stage, then the Employer shall take up this matter to the top management of the Employer's Engineer and the Contractor for resolution. If still remains unresolved, then the decision of the Employer in this regard is final and binding.

Part IV- Financial Covenants

ARTICLE 19 PAYMENTS

19.1 Contract Price

- 19.1.1 The Employer shall make payments to the Contractor for the Works on the basis of the lump sum price accepted by the Employer in consideration of the obligations specified in this Agreement for an amount of Rs..... (Rs.....) (the "Contract Price"), which shall be subject to adjustments in accordance with the provisions of the Agreement. The Parties further agree that save and except as provided in this Agreement, the Contract Price shall be valid and effective until issue of Completion Certificate.
- 19.1.2 The Contract Price includes all GST, duties, taxes, royalty, cess, and fees that may be levied in accordance with the laws and regulations in force as on the Base Date on the Contractor's equipment, Plant, Materials and supplies acquired for the purpose of this Agreement and on the services performed under this Agreement. Nothing in this Agreement shall relieve the Contractor from its responsibility to pay any tax including any tax that may be levied in India on profits made by it in respect of this Agreement.
- 19.1.3 The Contract Price shall not be adjusted for any change in costs stated in Clause 19.1.2 above, except as stated in Clauses 19.10 and 19.17.
- 19.1.4 The Contract Price shall not be adjusted to take account of any unforeseen difficulties, results of surveys and investigations at site, site conditions or costs, unless otherwise provided for in this Agreement.
- 19.1.5 Unless otherwise stated in this Agreement, the Contract Price covers all the Contractor's obligations for the Works under this Agreement and all things necessary for the Construction and there me dying of any Defects in the Terminal.
- 19.1.6 The Contract Price shall be paid in the currency or currencies named in the Schedule - U of this Agreement.

19.2 Advance Payment

- 19.2.1 The Employer Shall Make an Interest-free advance payment (the "Advance Payment"), equal in amount 10% (ten percent) of the Contract Price, for mobilization expenses in for acquisition of equipment. The Advance Payment shall be made in two equal instalments of 5%(five percent) of the Contract Price each.
- 19.2.2 The Contract or may apply to the Employer for the first instalment the Advance Payment at any time after the Appointed Date, along with an irrevocable and unconditional guarantee from a Bank for an amount equivalent to 110%(one hundred and ten percent) of such instalment, substantially in the form provided at Annex-III of Schedule-G, to remain effective till the complete and full repayment thereof.
- 19.2.3 Any time After 60(sixty) days from the Appointed Date, the Contractor may apply for the second instalment of the Advance Payment along with an irrevocable and unconditional guarantee from a Bank for an amount equivalent to 110%(one hundred and ten percent) of such instalment, substantially in the form provided at Annex-III of Schedule-G, to remain effective till the complete and full repayment thereof. The application shall also include the details of utilization of earlier advances.
- 19.2.4 The first and second instalments shall be paid by the Employer to the Contractor within 15(fifteen) days of the receipt of its respective requests in accordance with the provisions of this Clause 19.2.
- 19.2.5 Each instalment of Advance Payment shall be repaid by the Contractor to the Employer no later than 365 (three hundred and sixty-five) days from the respective date of Advance Payment.
- 19.2.6 The Contractor shall repay each instalment of the Advance Payment on or before the due date of repayment. In the event of the Contractor's Failure to Make the repayments on time,

the Employer shall be entitled to encash the Bank guarantee for Advance Payment. The Parties expressly agree that for any delay in repayment of the Advance Payment, the Contractor shall pay interest to the Employer for each day of delay, such interest to be calculated at the rate of 18%(eighteen percent) per annum.

- 19.2.7 If the Advance Payment has not been fully repaid prior to Termination under Clause 21.7 or Article 23, as the case may be, the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Employer. Without prejudice to the provisions of Clause 19.2.7, in the event of Termination for Contractor's Default, the Advance Payment shall be deemed to carry interest at the rate of 10% (ten percent) per annum from the date of Advance Payment to the date of recovery by encashment of the Bank Guarantee for the Advance Payment. For the avoidance of doubt, the afore said interest shall be payable on each instalment of the Advance Payment, regardless of whether the instalment or any part thereof has been repaid to the Employer prior to Termination.

19.3 Procedure for estimating the payment for the Works

- 19.3.1 The Employer shall make interim payments to the Contractor as certified by the Employer's Engineer on completion of a stage, items completed, number or area as specified, and valued in accordance with the proportion of the Contract Price assigned to each item and its stage in Schedule-H.
- 19.3.2 The Contractor shall base its claim for interim payment for the stages completed till the end of the month for which the payment is claimed, valued in accordance with Clause 19.3.1, supported with necessary particulars and documents in accordance with this Agreement.
- 19.3.3 Any reduction in the Contract Price arising out of Change of Employer's Requirement or the works drawn under Clause 8.3 shall not affect the amounts payable for the items or stage payments there of which are not affected by such Change of Employer's Requirement or withdrawal. The Parties further agree that the adjustments arising out of the afore said modifications shall be carried out in a manner that the impact of such modifications is restricted to the said Change of Employer's Requirement or withdrawal, as the case maybe, and does not alter the payments due for and in respect of items or stage payments which do not form part of such Change of Employer's Requirement or withdrawal.

19.4 Stage Payment Statement for Works

The Contractor shall submit a statement (the "Stage Payment Statement"), in 3 copies, by the 7th(seventh) day of the month to the Employer's Engineer in the form set forth in Schedule-P, showing the amount calculated in accordance with Clause 19.3 to which the Contractor considers himself entitled for completed stage(s) of the Works. The Stage Payment Statement shall be accompanied with the progress reports and any other supporting documents. The Contractor shall not submit any claim for payment of incomplete stages of work.

19.5 Stage Payment for Works

- 19.5.1 Within 10(ten) days of receipt of the Stage Payment Statement from the Contractor pursuant to Clause 19.4, the Employer's Engineer shall broadly determine the amount due to the Contractor and recommend the release of 75(seventy-five) percent of the amount so determined as part payment against the Stage Payment Statement, pending issue of the Interim Payment Certificate(IPC) by the Employer's Engineer. Within 10(ten) days of the receipt of recommendation of the Employer's Engineer, the Employer shall make electronic payment directly to the Contractor's bank account.
- 19.5.2 Within 15(fifteen) days of the receipt of the Stage Payment Statement referred to in Clause 19.4, the Employer's Engineer shall determine and shall deliver to the Employer and the Contractor an IPC certifying the amount due and payable to the Contractor, after adjusting the payments already released to the Contractor against the said statement. For the avoidance of doubt, the Parties agree that the IPC shall specify all the amounts that have

been deducted from the Stage Payment Statement and the reasons therefor.

19.5.3 In cases where there is a difference of opinion as to the value of any stage, the Employer's Engineer's view shall prevail and interim payments shall be made to the Contractor on this basis; provided that the foregoing shall be without prejudice to the Contractor's right to raise a Dispute.

19.5.4 The Employer's Engineer may, for reasons to be recorded, withhold from payment:

- a) The estimated value of work or obligation that the Contractor has failed to perform in accordance with this Agreement and the Employer's Engineer had notified the Contractor; and
- b) The estimated cost of rectification of work done being not in accordance with this Agreement.

19.5.5 Payment by the Employer shall not be deemed to indicate the Employer's acceptance, approval, or satisfaction with the work done.

19.6 Monthly Maintenance Statement of the Terminal - Deleted

19.7 Payment for Maintenance of the Terminal-Deleted

19.8 Payment of Damages

19.8.1 The Contractor may claim Damages due and payable to it in accordance with the provisions of this Agreement.

19.8.2 The Employer's Engineer shall issue the IPC within 15(fifteen) days of the receipt of the claim under Clause 19.8.1, after making adjustments in accordance with the provisions of this Agreement. The Employer shall pay to the Contractor the amount due under any IPC within a period of 30(thirty) days from the date of the submission of the claim under this Clause 19.8. In the event of the failure of the Employer to make payment to the Contractor within the specified time, the Employer shall be liable to pay to the Contractor interest thereon and the provisions of Clause 19.9 shall apply mutatis mutandis thereto.

19.9 Time of payment and interest

19.9.1 The Employer shall pay to the Contractor any amount due under any payment certificate issued by the Employer's Engineer in accordance with the provisions of this Article 19, or in accordance with any other clause of this Agreement as follows:

- a) payment shall be made no later than 30(thirty) days from the date of submission of the Stage Payment Statement by the Contractor to the Employer's Engineer for certification in accordance with the provisions of Clause 19.4 for an IPC; provided that, in the event the IPC is not issued by the Employer's Engineer within the afore said period of 30 (thirty) days, the Employer shall pay the amount shown in the Contractor's Stage Payment Statement and any discrepancy there in shall be added to, or deducted from, the next payment certificate issued to the Contractor; and
- b) payment shall be made no later than 45(forty-five) days from the date of submission of the Final Payment Certificate for Works along with the discharge submitted to the Employer's Engineer in accordance with the provisions of Clause 19.15 for certification.

19.9.2 In the event of the failure of the Employer to make payment to the Contractor within the time period stated in this Clause 19.9, the Employer shall be liable to pay to the Contractor interest at 12% (twelve percent) per annum simple interest, calculated at quarterly basis, on all sums remaining unpaid from the date on which the same should have been paid, calculated in accordance with the provisions of Clause 19.9.1 (a) and (b) and till the date of actual payment.

19.10 Price adjustment for the Works- Deleted**19.11 Restrictions on price adjustment- Deleted****19.12 Price adjustment for Maintenance of Terminal-Deleted****19.13 Final Payment Statement**

19.13.1 Within 60(sixty) days after receiving the Completion Certificate under Clause 12.4, the Contractor shall submit to the Employer's Engineer for consideration six copies of a Final Payment Statement (the "Final Payment Statement") for Works, with supporting documents showing in detail, in the form prescribed by the Employer's Engineer:

- a) The summary of Contractor's Stage Payment claims for Works as submitted in accordance with Clause 19.4;
- b) The amounts received from the Employer against each claim; and
- c) Any further sums which the Contractor considers due to it from the Employer.

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

- An IPC for those parts of the Final Payment Statement which are not in dispute, along with a list of disputed items which shall then be settled in accordance with the provisions of Article 26; or
- A Final Payment Certificate in accordance with Clause 19.15 if there are no disputed items.

19.13.2 If the Employer's Engineer does not prescribe the form referred to in Clause 19.13.1 within 15(fifteen) days of the date of issue of the Completion Certificate, the Contractor shall submit the statement in such form as it deems fit.

19.14 Discharge

Upon submission of the Final Payment Statement for Works under Clause 19.13, the Contractor shall give to the Employer, with a copy to the Employer's Engineer, a written discharge confirming that the total of the Final Payment Statement represents full and final settlement of all monies due to the Contractor in respect of this Agreement for all the Works arising out of this Agreement, except for any monies due to either Party on account of any Defect. Provided that such discharge shall become effective only after the payment due has been made in accordance with the Final Payment Certificate issued pursuant to Clause 19.15.

19.15 Final Payment Certificate

19.15.1 Within 30(thirty) days after receipt of the Final Payment Statement for Works under Clause 19.13, and the written discharge under Clause 19.14, and there being no disputed items of claim, the Employer's Engineer shall deliver to the Employer, with a copy to the Contractor, a final payment certificate (the "Final Payment Certificate") stating the amount which, in the opinion of the Employer's Engineer, is finally due under this Agreement or otherwise. For the avoidance of doubt, before issuing the Final Payment Certificate, the Employer's Engineer shall ascertain from the Employer all amounts previously paid by the Employer and for all sums to which the Employer is entitled, the balance, if any, due from the Employer to the Contractor or from the Contractor to the Employer, as the case maybe.

19.15.2 The Employer shall, in accordance with the provisions of Clause 19.9, pay to the Contractor the amount which is stated as being finally due in the Final Payment Certificate.

19.16 Final payment statement for Maintenance- Deleted**19.17 Change in Law**

- 19.17.1 If as a result of Change in Law, the Contractor suffers any additional costs in the execution of the Works or in relation to the performance of its other obligations under this Agreement, the Contractor shall, within 15(fifteen) days from the date it becomes reasonably aware of such addition in cost, notify the Employer with a copy to the Employer's Engineer of such additional cost due to Change in Law.
- 19.17.2 If as a result of Change in Law, the Contractor benefits from any reduction in costs for the execution of this Agreement or in accordance with the provisions of this Agreement, either Party shall, within 15(fifteen) days from the date it becomes reasonably aware of such reduction in cost, notify the other Party with a copy to the Employer's Engineer of such reduction in cost due to Change in Law.
- 19.17.3 The Employer's Engineer shall, within 15(fifteen) days from the date of receipt of the notice from the Contractor or the Employer, determine any addition or reduction to the Contract Price, as the case maybe, due to the Change in Law.

19.18 Correction of Interim Payment Certificates

The Employer's Engineer may by an Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate issued by the Employer's Engineer.

19.19 Employer's Claims

If the Employer considers itself to be entitled to any payment from the Contract or under any Clause of this Agreement, it shall give notice and particulars to the Contractor 20(twenty) days before making the recovery from any amount due to the Contractor, and shall take into consideration the representation, if any, made by the Contractor in this behalf, before making such recovery.

19.20 Bonus for Early Completion

In the event that the Project Completion Date occurs prior to the Scheduled Completion Date, the Contractor shall be entitled to receive a payment of bonus equivalent to 0.03% (zero three percent) of the Contract Price for each day by which the Project Completion date precedes the Scheduled Completion Date, but subject to a maximum of 3% (three percent) of the Contract Price. Provided, however, that the payment of bonus, if any , shall be made only after the issue of the Completion Certificate. For the avoidance of the doubt, the Parties agree that for the purpose of determining the bonus payable hereunder, the Contract Price shall always be deemed to be the amount specified in Clause 19.1.1 and shall exclude any revision thereof for any reason. The Parties also agree that bonus shall be payable only if each work for which Extension of Time has been granted is completed within respective Extended Time.

ARTICLE 20 INSURANCE

20.1 Insurance for Works and Maintenance

20.1.1 The Contractor shall affect and maintain at its own cost the insurances specified in Schedule-Q and as per the requirements under the Applicable Laws.

20.1.2 Subject to the provisions of Clause 21.6, the Employer and the Contractor shall, in accordance with its obligations as provided for in this Agreement, be liable to be at the cost of any loss or damage that does not fall within the scope of this Article 20 or can not be recovered from the insurers.

20.1.3 Subject to the exceptions specified in Clause 20.1.4 below, the Contractor shall, save and except as provided for in this Agreement, fully indemnify, hold harmless and defend the Employer from and against any and all losses, damages, costs, charges and/or claims with respect to:

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

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

20.1.4 Notwithstanding any thing stated above in Clause 20.1.3, the Employer shall fully indemnify the Contractor from and against any and all losses, damages, costs, charges, proceedings and/or claims arising out of or with respect to

- a) The use or occupation of land or any part thereof by the Employer,
- b) The right of the Employer to execute the Works, or any part thereof, on, over, under, in or through any land,
- c) The damage to property which is the unavoidable result of the execution and completion of the Works, or the remedying of any Defects therein, in accordance with this Agreement; and
- d) The death of or injury to persons or loss of or damage to property resulting from any act or neglect of the Employer, its agents, servants or other contractors, not being employed by the Contractor.

Provided that, in the event of any injury or damage as a result of the contributory negligence of the Contractor, the Employer shall be liable to indemnify the Contractor from and against any and all losses, damages, costs, charges, proceedings and/or claims to the extent as may be proportionately determined to be the liability of the Employer, its servants or agents or other contractors not associated with the Contractor in such injury or damage.

20.1.5 Without prejudice to the obligations of the Parties as specified under Clauses 20.1.3 and 20.1.4, the Contractor shall maintain or effect such third-party insurances as may be required under the Applicable Laws.

20.1.6 The Contractor shall provide to the Employer within 30 days of the Appointed Date, evidence of professional liability insurance maintained by its Design Director and/or consultants to cover the risk of professional negligence in the design of Works. The professional liability coverage shall be for a sum of not less than [3% (three percent)] of the Contract Price and shall be maintained until the end of the Defects Liability Period.

20.2 Notice to the Employer

No later than 15 (fifteen) days after the date of this Agreement, the Contractor shall by notice furnish to the Employer, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 20. Within

15 (fifteen) days of receipt of such notice, the Employer may require the Contractor to effect and maintain such other insurances as may be necessary pursuant here to, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

20.3 Evidence of Insurance Cover

- 20.3.1 All insurances obtained by the Contractor in accordance with this Article 20 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 10 (ten) days from the Appointed Date, the Contractor shall furnish to the Employer notarised true copies of the certificate(s) of insurance, copies of insurance policies and premia payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of atleast 45 (forty-five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Contractor to the Employer. The Contractor shall act in accordance with the directions of the Employer. Provided that the Contractor shall produce to the Employer the insurance policies inforce and the receipts for payment of the current premia.
- 20.3.2 The Contractor shall ensure the adequacy of the insurances at all times in accordance with the provisions of this Agreement.

20.4 Remedy for Failure to Insure

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

20.5 Waiver of Subrogation

All insurance policies in respect of the insurance obtained by the Contractor pursuant to this Article 20 shall include a waiver of any and all rights of subrogation or recovery of the insurers there under against, interalia, the Employer, and its assigns, successors, undertakings and their subsidiaries, Affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counter claim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in anyway connected with any loss, liability or obligation covered by such policies of insurance.

20.6 Contractor's Waiver

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

20.7 Cross Liabilities

Any such insurance maintained or effected in pursuance of this Article 20 shall include a cross liability clause such that the insurance shall apply to the Contractor and to the Employer as separately insured.

20.8 Accident or injury to Workmen

Notwithstanding any thing stated in this Agreement, it is hereby expressly agreed between the Parties that the Employer shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the

Contractor or Sub-contractor, save and except as for death or injury resulting from any act, omission or default of the Employer, its agents or servants. The Contractor shall indemnify and keep indemnified the Employer from and against all such claims, proceedings, damages, costs, charges, and expenses whatsoever in respect of the above save and except for those acts, omissions or defaults for which the Employer shall be liable.

20.9 Insurance against Accident to Workmen

The Contractor shall affect and maintain during the Agreement such insurances as may be required to insure the Contractor's personnel and any other persons employed by it on the Terminal from and against any liability incurred in pursuance of this Article 20. Provided that for the purposes of this Clause 20.9, the Contractor's personnel / any person employed by the Contractor shall include the Sub-contractor and its personnel. It is further provided that, in respect of any persons employed by any Sub-contractor, the Contractor's obligations to insure as aforesaid under this Clause 20.9 shall be discharged if the Sub-contractor shall have insured against any liability in respect of such persons in such manner that the Employer is indemnified under the policy. The Contractor shall require such Sub-contractor to produce before the Employer, when required, such policy of insurance and the receipt for payment of the current premium within 10 (ten) days of such demand being made by the Employer.

20.10 Application of Insurance Proceeds

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

20.11 Compliance with Policy Conditions

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

Part V- Force Majeure and Termination

ARTICLE 21 FORCE MAJEURE

21.1 Force Majeure

As used in this Agreement, the expression “Force Majeure” or “Force Majeure Event” shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 21.2, 21.3 and 21.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the “Affected Party”) of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

21.2 Non-Political Event

A Non-Political Event shall mean one or more of the following acts or events:

- a) Act of God, pandemic, epidemic, extremely adverse weather conditions, lightning, earthquake, lockdown, government restrictions, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site),
- b) Strikes or boycotts (other than those involving the Contractor, Sub-contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty-four) hours and an aggregate period exceeding 10 (ten) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 21.3,
- c) Deleted
- d) Any judgement or order of any court of competent jurisdiction or statutory Employer made against the Contractor in any proceedings for reasons other than (i) failure of the Contractor to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Employer,
- e) The discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection, or
- f) Any event or circumstances of a nature analogous to any of the foregoing.

21.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

- a) An act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage,
- b) Industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 10 (ten) days in an Accounting Year,
- c) Any civil commotion, boycott or political agitation which prevents construction of the Lock by the Contractor for an aggregate period exceeding 10 (ten) days in an Accounting Year,
- d) Deleted,

- e) Any Indirect Political Event that causes a Non-Political Event, or
- f) Any event or circumstances of a nature analogous to any of the foregoing.

21.4 Political Event

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

- a) Change in Law, only if consequences there of cannot be dealt with under and in accordance with the provisions of Clause 19.17,
- b) Compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Contractor or of the Sub-Contractors,
- c) Unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Contractor or any of the Sub-contractors to perform the irrespective obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Contractor's or any Sub-contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit,
- d) Deleted, or
- e) Any event or circumstances of a nature analogous to any of the foregoing.

21.5 Duty to Report Force Majeure Event

21.5.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant here to shall include full particulars of:

- a) The nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 21 with evidence in support thereof,
- b) The estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement,
- c) The measures which the Affected Party is taking or proposes to take for all eviating the impact of such Force Majeure Event; and
- d) Any other information relevant to the Affected Party's claim.

21.5.2 The Affected Party shall not been titled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 10 (ten) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

21.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 21.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

21.6 Effect of Force Majeure Event on the Agreement

21.6.1 Upon the occurrence of any Force Majeure after the Appointed Date, the costs incurred and attributable to such event and directly relating to this Agreement (the "Force Majeure costs") shall be allocated and paid as follows:

- a) Upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure costs and neither Party shall be required to pay to the other Party any costs thereof,
- b) Upon occurrence of an Indirect Political Event, all Force Majeure costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the Contractor, and to the extent Force Majeure costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Employer to the Contractor for the Force Majeure events, and
- c) Upon occurrence of a Political Event, all Force Majeure costs attributable to such Political Event shall be reimbursed by the Employer to the Contractor.

For the avoidance of doubt, Force Majeure costs may include costs directly attributable to the Force Majeure Event, but shall not include debt repayment obligations, if any, of the Contractor.

- 21.6.2 Save and except as expressly provided in this Article 21, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant here to.
- 21.6.3 Upon the occurrence of any Force Majeure Event during the Construction Period, the Project Completion Schedule for and in respect of the affected Works shall be extended on a day for day basis for such period as performance of the Contractor's obligations is affected on account of the Force Majeure Event or its subsisting effects.

21.7 Termination Notice for Force Majeure Event

- 21.7.1 If a Force Majeure Event subsists for a period of 60 (sixty) days or more within a continuous period of 120 (one hundred and twenty) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 21, and upon issue of such Termination Notice, this Agreement shall, notwithstanding any thing to the contrary contained herein, stand terminated forth with; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a presentation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

21.8 Termination Payment for Force Majeure Event

- 21.8.1 In the event of this Agreement being terminated on account of a Non-Political Event, the Termination Payment shall be an amount equal to the sum payable under Clause 23.5.
- 21.8.2 If Termination is on account of an Indirect Political Event, the Termination Payment shall include:
- a) Any sums due and payable under Clause 23.5, and
 - b) The reasonable cost, as determined by the Employer's Engineer, of the Plant and Materials procured by the Contractor and transferred to the Employer for use in Construction, only if such Plant and Materials are in conformity with the Specifications and Standards,
- 21.8.3 If Termination is on account of a Political Event, the Employer shall make a Termination Payment to the Contractor in an amount that would be payable under Clause 23.6.2 as if it were an Employer Default.

21.9 Dispute Resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance

with the Dispute Resolution Procedure, provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

21.10 Excuse from Performance of Obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

- The suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event,
- The Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations.

ARTICLE 22 SUSPENSION OF CONTRACTOR'S RIGHTS

22.1 Suspension upon Contractor Default

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

22.2 Employer to act on behalf of Contractor

During the period of Suspension here under, all rights and liabilities vested in the Contractor in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the Employer for discharging the obligations of the Contractor under and in accordance with this Agreement shall be deemed to have been done or taken for and on behalf of the Contractor and the Contractor undertakes to indemnify the Employer for all costs incurred during such period. The Contractor hereby licenses and sub-licenses respectively, the Employer or any other person authorized by it under Clause 22.1 to use during Suspension, all Intellectual Property belonging to or licensed to the Contractor with respect to the Project and its design, engineering, construction and maintenance, and which issued or created by the Contractor in performing its obligations under the Agreement.

22.3 Revocation of Suspension

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

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

22.4 Termination

22.4.1 At any time during the period of Suspension under this Article 22, the Contractor may by notice require the Employer to revoke the Suspension and issue a Termination Notice. The Employer shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 23.

22.4.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 90 (ninety) days from the date of Suspension here under, the Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, mutatis mutandis, to such Termination as if a Termination Notice had been issued by the Employer upon occurrence of a Contractor Default.

ARTICLE 23 TERMINATION

23.1 Termination for Contractor's Default

23.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Contractor fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Contractor shall be deemed to be in default of this Agreement (the "Contractor Default"), unless the default has occurred solely as a result of any breach of this Agreement by the Employer or due to Force Majeure. The defaults referred to herein shall include:

- a) The Contractor fails to provide, extend or replenish, as the case may be, the Performance Security in accordance with this Agreement,
- b) Subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 7.3, the Contractor fails to cure, within a Cure Period of 30 (thirty) days, the Contractor Default for which the whole or part of the Performance Security was appropriated,
- c) The Contractor does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule-J, subject to any Time Extension, and continues to be in default for 45 (forty-five) days,
- d) The Contractor abandons or manifests intention to abandon the construction of the Terminal without the prior written consent of the Employer,
- e) The Contractor fails to proceed with the Works in accordance with the provisions of Clause 10.1 or stops Works for 30 (thirty) days without reflecting the same in the current programme and such stoppage has not been authorized by the Employer's Engineer;
- f) The Project Completion Date does not occur within the period specified in Schedule-J for the Scheduled Completion Date, or any extension thereof,
- g) Failure to complete the Punch List items within the periods stipulated there for in Clause 12.2.1,
- h) The Contractor fails to rectify any Defect, the non-rectification of which shall have a Material Adverse Effect on the Project, within the time specified in this Agreement or as directed by the Employer's Engineer,
- i) The Contractor subcontracts the Works or any part thereof in violation of this Agreement or assigns any part of the Works without the prior approval of the Employer,
- j) The Contractor creates any Encumbrance in breach of this Agreement,
- k) An execution levied on any of the assets of the Contractor has caused a Material Adverse Effect,
- l) The Contractor is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Contractor or for the whole or material part of its assets that has a material bearing on the Project,
- m) The Contractor has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Employer, a Material Adverse Effect,
- n) A resolution for winding up of the Contractor is passed, or any petition for winding up of the Contractor is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Contractor is ordered to be wound up by court except for the purpose of amalgamation or reconstruction; provided that, as part of

such amalgamation or reconstruction, the entire property, assets and undertaking of the Contractor are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Contract or under this Agreement; and provided that:

- The amalgamated or reconstructed entity has the capability and experience necessary for the performance of its obligations under this Agreement; and
 - The amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and has a credit worthiness at least as good as that of the Contractor as at the Appointed Date,
- o) Any representation or warranty of the Contractor here in contained which is, as of the date hereof, found to be materially false or the Contractor is at any time here after found to be in breach thereof,
- p) The Contractor submits to the Employer any statement, notice or other document, in written or electronic form, which has a material effect on the Employer's rights, obligations or interests and which is false in material particulars,
- q) The Contractor has failed to fulfill any obligation, for which failure Termination has been specified in this Agreement, or
- r) The Contractor commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Projector on the Employer.
- s) Gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an induce mentor reward:
- For doing or for bearing to do any action in relation to the Contract, or
 - For showing or for bearing to show favour or disfavour to any person in relation to the Contract, or
 - If any of the Contractor's personnel, agents or Sub-contractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph(s). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination.
- 23.1.2 Without prejudice to any other rights or remedies which the Employer may have under this Agreement, upon occurrence of a Contractor Default, the Employer shall be titled to terminate this Agreement by issuing a Termination Notice to the Contractor; provided that before issuing the Termination Notice, the Employer shall by a notice informing the Contractor of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Contractor to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.
- 23.1.3 After termination of this Agreement for Contractor Default, the Employer may complete the Works and/or arrange for any other entities to do so. The Employer and these entities may then use any Materials, Plant and equipment, Contractor's documents and other design documents made by or on behalf of the Contractor.

23.2 Termination for Employer's Default

- 23.2.1 In the event that any of the defaults specified below shall have occurred, and the Employer fails to cure such default within a Cure Period of 60 (sixty) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "Employer's Default") unless the default has occurred as a result of any breach of this Agreement by the Contractor or due to Force Majeure. The defaults referred to herein shall include:
- a) the Employer commits a material default in complying with any of the provisions of

this Agreement and such default has a Material Adverse Effect on the Contractor;

- b) the Employer has failed to make payment of any amount due and payable to the Contractor within the period specified in this Agreement;
- c) the Employer repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement; or
- d) the Employer's Engineer fails to issue the relevant Interim Payment Certificate within 45 (forty-five) days after receiving a statement and supporting documents.

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

If on the consideration of the Employer's representation or otherwise, the Contractor does not issue the Termination Notice on such 15th day and prefers to continue with the Project, it is deemed that the cause of action of the Termination Notice has been condoned by the Contractor. Hence, he forfeits his right to any other remedy on that count.

23.3 Termination for Employer's convenience

Notwithstanding anything stated here in above, the Employer may terminate this Agreement for convenience. The termination shall take effect 30 (thirty) days from the date of notice hereunder.

23.4 Requirements after Termination

Upon Termination of this Agreement in accordance with the terms of this Article 23, the Contractor shall comply with and conform to the following:

- a) Deliver to the Employer all Plant and Materials which shall have become the property of the Employer under this Article 23,
- b) Deliver all relevant records, reports, Intellectual Property and other licences pertaining to the Works, maintenance, other design documents and in case of Termination occurring after the Provisional Certificate has been issued, the "as built" Drawings for the Works,
- c) Transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws, and
- d) Vacate the Site within 15 (fifteen) days.

23.5 Valuation of Unpaid Works

23.5.1 Within a period of 45 (forty-five) days after Termination under Clause 23.1, 23.2 or 23.3, as the case may be, has taken effect, the Employer's Engineer shall proceed in accordance with Clause 18.5 to determine as follows the valuation of unpaid Works (the "Valuation of Unpaid Works"):

- a) Value of the completed stage of the Works, less payments already made,
- b) Reasonable value of the partially completed stages of works as on the date of Termination, only if such works conform with the Specifications and Standards, and

23.5.2 The Valuation of Unpaid Works shall be communicated to the Employer, with a copy to the Contractor, within a period of 30 (thirty) days from the date of Termination.

23.6 Termination Payment

23.6.1 Upon Termination on account of Contractor's Default under Clause 23.1, the Employer shall:

- a) Encash and appropriate the Performance Security and Retention Money, or in the event the Contractor has failed to replenish or extend the Performance Security, claim the amount stipulated in Clause 7.1.1, as agreed pre-determined compensation to the Employer for any losses, delays and cost of completing the Works and rectify the defects, if any,
- b) Encash and appropriate the bank guarantee, if any, for and in respect of the outstanding Advance Payment and interest there on, and
- c) Pay to the Contractor, by way of Termination Payment, an amount equivalent to the Valuation of Unpaid Works after adjusting any other sums payable or recoverable, as the case may be, in accordance with the provisions of this Agreement.

23.6.2 Upon Termination on account of an Employer Default under Clause 23.2 or for Employer's convenience under Clause 23.3, the Employer shall:

- a) Return the Performance Security and Retention Money forth with,
- b) Encash and appropriate the bank guarantee, if any, for and in respect of the outstanding Advance Payment, and
- c) Pay to the Contractor, by way of Termination Payment, an amount equal to:
 - i) Valuation of Unpaid Works,
 - ii) The reasonable cost, as determined by the Employer's Engineer, of the Plant and Materials procured by the Contractor and transferred to the Employer for its use, only if such Plant and Materials are in conformity with the Specifications and Standards,
 - iii) The reasonable cost of temporary works, as determined by the Employer's Engineer, and
 - iv) 10% (ten percent) of the cost of the Works that are not commenced or not completed and shall adjust from the sum there of (i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement, and (ii) all taxes due to be deducted at source.

23.6.3 Termination Payment shall become due and payable to the Contractor within 30 (thirty) days of a demand being made by the Contractor to the Employer with the necessary particulars, and in the event of any delay, the Employer shall pay simple interest at 12% (twelve percent) per annum, calculated at quarterly rests, on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Employer of its payment obligations in respect there of here under.

23.6.4 The Contractor expressly agrees that Termination Payment under this Article 23 shall constitute a full and final settlement of all claims of the Contractor on account of Termination of this Agreement and that it shall not have any further right or claim under any law, treaty, convention, contractor otherwise.

23.7 Other rights and obligations of the Parties

Upon Termination for any reason whatsoever

- a) Property and ownership in all Materials, Plant and Works and the Project shall, as between the Contractor and the Employer, vest in the Employer in whole, provided that the foregoing shall be without prejudice to Clause 23.6.

- b) Risk of loss or damage to any Materials, Plant or Works and the care and custody thereof shall pass from the Contractor to the Employer, and
- c) The Employer shall have been titled to restrain the Contractor and any person claiming through or under the Agreement from entering upon the Site or any part of the Project except for taking possession of materials, stores, implements, construction plants and equipment of the Contractor, which have not been vested in the Employer in accordance with the provisions of this Agreement.

23.8 Survival of Rights

Notwithstanding anything to the contrary contained in this Agreement any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or Agreement. All rights and obligations of either Party under this Agreement, including Termination Payments, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

Part VI- Other Provisions

ARTICLE 24 ASSIGNMENT AND CHARGES

24.1 Restrictions on Assignment and Charges

This Agreement shall not be assigned by the Contractor to any person, save and except with the prior consent in writing of the Employer, which the Employer shall be entitled to decline the consent without assigning any reason.

24.2 Hypothecation of Materials or Plant

Notwithstanding the provisions of Clause 24.1, the Contractor may pledge or hypothecate to its lenders, any Materials or Plant prior to them in corporation in the Works. Further, the Contractor may, by written notice to the Employer, assign its right to receive payments under this Agreement either absolutely or by way of charge, to any person providing financing to the Contractor in connection with the performance of the Contractor's obligations under this Agreement. The Contractor acknowledges that any such assignment by the Contractor shall not relieve the Contractor from any obligations, duty or responsibility under this Agreement.

ARTICLE 25 LIABILITY AND INDEMNITY

25.1 General Indemnity

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

25.2 Indemnity by the Contractor

25.2.1 Without limiting the generality of Clause 25.1, the Contractor shall fully indemnify, hold harmless and defend the Employer and the Employer Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

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

25.2.2 Without Limiting the generality of the provisions of this Article 25, the Contractor shall fully indemnify, hold harmless and defend the Employer Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Employer Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Contractor or by the Sub-contractors in performing the Contractor's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Contractor shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction restraint order. If, in any such suit, action, claim or proceedings, the Terminal, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Contractor shall promptly make every reasonable effort to secure for the Employer a licence, at no cost to the Employer, authorising continued use of the infringing work. If the Contractor is unable to secure such licence within a reasonable time, the Contractor shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

25.3 Notice and Contest of Claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 25 (the "Indemnified Party") it shall notify the other Party (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

25.4 Defence of Claims

25.4.1 The Indemnified, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified here under, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 25, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party Prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified here under to the extent so compromised or settled.

25.4.2 If the Indemnifying Party has exercised its rights under Clause 25.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

25.4.3 If the Indemnifying Party exercises its rights under Clause 25.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

- a. The employment of counsel by such Party has been authorised in writing by the Indemnifying Party; or
- b. The Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or
- c. The Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or
- d. The Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
- e. That there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or
- f. That such claim, action, suit or proceeding involves or could have a material adverse effect beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 25.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements such counsel shall constitute legal or other expenses here under.

25.5 No Consequential Claims

Notwithstanding anything to the contrary contained in this Article 25, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

25.6 Survival on Termination

The provisions of this Article 25 shall survive Termination.

ARTICLE 26 DISPUTE & CONCILIATION

26.1 Dispute Resolution

- 26.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedures forth in Clause 26.2.
- 26.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non- privileged records, information and data pertaining to any Dispute.

26.2 Conciliation

- 26.2.1 In the event of any Dispute between the Parties, either Party may call upon the Employer's Engineer /, or such other person as the Parties may mutually agree upon (the "Conciliator") to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Conciliator or without the intervention of the Conciliator, either Party may require such Dispute to be referred to the Chairman of the Employer and the Chairman of the Board of Directors of the Contractor for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) business days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) business day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 26.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 26.3

26.3 Arbitration

- 26.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 26.2, shall be finally decided by reference to arbitration by a Board of Arbitrators appointed in accordance with Clause 26.3.2. Such arbitration shall be held in accordance with the Arbitration & Conciliation Act, 1996 of India and its subsequent amendments. The venue of such arbitration shall be Guwahati, Assam. The language of arbitration proceedings shall be English.
- 26.3.2 Dispute shall be settled by arbitration in accordance with the following provisions:
- a) Selection of Arbitrators. Each dispute submitted by a Party to arbitration shall be heard by an arbitration tribunal composed of three (3) arbitrators, in accordance with the following provisions:
 - i) The Employer and the Contractor shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration tribunal. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by Secretary, the Indian Council of Arbitration, New Delhi.
 - ii) If, in a dispute subject to paragraph (a) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary, the Indian Council of Arbitration, New Delhi to appoint an arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the arbitrator of the other Party for that dispute.

- b) Rules of Procedure: Arbitration proceedings shall be conducted in accordance with procedure of the Arbitration & Conciliation Act 1996, of India.
- c) Substitute Arbitrators: If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator.
- d) Nationality and Qualifications of Arbitrators: The arbitrators appointed pursuant to paragraphs 1(a) through 1(b) above shall be a legal or technical expert with extensive experience in relation to the matter in dispute.
- e) Miscellaneous. In any arbitration proceeding here under:
 - i) Proceedings shall be held in Guwahati, Assam.
 - ii) The English language shall be the official language for all purposes; and
 - iii) The decision of the majority of the arbitrators shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.
 - iv) The expenses incurred by each party in connection with the dispute preparation, presentation etc. of its proceedings as also the fees and expenses paid to the Arbitrator appointed by such party or on its behalf shall be borne by each Party itself. Fees and expenses for the Presiding Arbitrator including the cost of proceedings shall be shared equally by both the Parties.
 - v) Court Jurisdiction: Guwahati, Assam

ARTICLE 27 MISCELLANEOUS

27.1 Governing Law and Jurisdiction

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

27.2 Waiver of Immunity

Each Party unconditionally and irrevocably:

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

27.3 Delayed Payments

The Parties here to agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth there in, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, the defaulting Party shall pay simple interest for the period of delay calculated at a rate equal to 12% (twelve percent) per annum, calculated at quarterly rests, and recovery there of shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

27.4 Waiver

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

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

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

27.5 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

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

27.6 Exclusion of implied warranties etc.

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

27.7 Survival

27.7.1 Termination shall:

- a) Not relieve the Contractor or the Employer, as the case may be, of any obligations here under which expressly or by implication survive Termination here of; and
- b) Except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

27.7.2 All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

27.8 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject here of, and no amendment or modification here to shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties here to agree that any obligations of the Contractor arising from the IFB as the case may be, shall not be deemed to form part of this Agreement and treated as such.

27.9 Severability

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

27.10 No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or

liability upon either Party, and neither Party shall have any right, power or Employer to enter in to any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

27.11 Third parties

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

27.12 Successors and assigns

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

27.13 Notices

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

- a) In the case of the Contractor, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Contractor may from time to time designate by notice to the Employer; provided that notices or other communications to be given to an address outside Guwahati may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the person as the Contractor may from time to time designate by notice to the Employer;
- b) In the case of the Employer, be given by facsimile or e-mail and by letter delivered by hand and be addressed to the Employer with a copy delivered to the Employer Representative or such other person as the Employer may from time to time designate by notice to the Contractor; provided that if the Contractor does not have an office in Guwahati it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier; and
- c) Any notice or communication by a Party to the other Party, given in accordance here with, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

27.14 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in anyway relevant to this Agreement shall be in writing and in English language.

27.15 Counterparts

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

27.16 Confidentiality

The Parties shall treat the details of this Agreement as private and confidential, except to the extent necessary to carry out obligations under it or to comply with Applicable Laws. The Contractor shall not publish, permit to be published, or disclose any particulars of the Works in any trade or technical paper or elsewhere without the previous agreement of the Employer.

27.17 Copy right and Intellectual Property Rights

27.17.1 As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor. The Contractor shall be deemed (by signing this Agreement) to give to the Employer a non-terminable transferable non-exclusive royalty-free licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This licence shall:

- a) Apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- b) Entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- c) In the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by this Agreement, including replacements of any computers supplied by the Contractor:

27.17.2 The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Employer for purposes other than those permitted under this Clause 27.17.

27.17.3 As between the Parties, the Employer shall retain the copy right and other intellectual property rights in this Agreement and other documents made by (or on behalf of) the Employer. The Contractor may, at its cost, copy, use, and obtain communication of these documents for the purposes of this Agreement. They shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the contract.

27.18 Limitation of Liability

27.18.1 Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contractor for any indirect or consequential loss or damage which may be suffered by the other Party in connection with this Agreement, save and except as provided under Articles 23 and 25.

27.18.2 The total liability of one Party to the other Party under and in accordance with the provisions of this Agreement, save and except as provided in Articles 23 and 25, shall not exceed the Contract Price. For the avoidance of doubt, this Clause shall not limit the liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

ARTICLE 28 DEFINITIONS

28.1 Definitions

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

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

“Advance Payment” shall have the meaning set forth in Clause 19.2;

“Affected Party” shall have the meaning set forth in Clause 21.1;

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

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

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

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

“Appointed Date” means that date which is later of the 15th day of the date of this Agreement, the date on which the Contractor has delivered the Performance Security in accordance with the provisions of Article 7 and the date on which the Employer has provided in stretches the Right of Way on first Section as per Article 8;

“Arbitration Act” means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

“Employer” shall have the meaning attributed thereto in the array of Parties hereinafter above as set forth in the Recitals;

“Employer Default” shall have the meaning set forth in Clause 23.2;

“Employer’s Engineer” shall have the meaning set forth in Clause 18.1;

“Employer Representative” means such person or persons as may be authorised in writing by the Employer to act on its behalf under this Agreement and shall include any person or persons having authority from the Employer to exercise any rights or perform and fulfill any obligations of the Employer under this Agreement;

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

“Base Rate” means the floor rate of interest announced by the State Bank of India for all its lending operations;

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

“Bid” means the documents in their entirety comprised in the bid submitted by the (selected bidder/Consortium) in response to the Request for Qualification (RFQ) and Request for Proposals (RFP) in accordance with the provisions thereof;

“Bid Security/ Bid Securing Declaration” means the bid security provided by the Contractor to the Employer in accordance with the Request for Proposal, and which is to remain in force until substituted by the Performance Security;

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

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

“Change of Employer’s Requirement” shall have the meaning setforth in Article13;

“Change of Employer’s Requirement Notice” shall have the meaning setforth in Clause 13.2.1;

“Change of Employer’s Requirement Order” shall have the meaning setforth in Clause 13.2.4;

“Completion Certificate” shall have the meaning setforth in Clause 12.4;

“Consortium” means the consortium of entities which have formed a joint venture for implementation of this Project;

“Construction” shall have the meaning setforth in Clause 1.2.1(f);

“Construction Period” means the period commencing from the Appointed Date and ending on the date of the Completion Certificate;

“Contract Price” means the amount specified in Clause 19.1.1;

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

“Contractor Default” shall have the meaning setforth in Clause23.1;

“Cure Period” means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

- a) Commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
- b) Not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and
- c) Not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the Contractor requires any reasonable action by the Contractor that must be approved by the Employer or the Employer’s Engineer here under, the applicable Cure Period shall be extended by the period taken by the Employer or the Employer’s Engineer to accord their approval;

“**Damages**” shall have the meaning set forth in paragraph (w) of Clause 1.2.1;

“**Defect**” means any defector deficiency in construction of the Works or any part thereof, which does not conform with the Specifications and Standards, and in the case of maintenance, means any defector deficiency which is specified in Schedule-E;

“**Defects Liability Period**” shall have the meaning set forth in Clause 17.1;

“**Dispute**” shall have the meaning set forth in Clause 26.1.1;

“**Dispute Resolution Procedure**” means the procedure for resolution of Disputes set forth in Article 26;

“**Drawings**” means all of the drawings, calculations and documents pertaining to the Terminal as set forth in Schedule-I, and shall include ‘as built’ drawings of the Terminal;

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

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

“**Encumbrances**” means, in relation to the Site, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Site, where applicable herein but excluding utilities referred to in Clause 9.1;

“**EPC**” means engineering, procurement and construction;

“**Final Payment Certificate**” shall have the meaning set forth in Clause 19.15.1;

“**Final Payment Statement**” shall have the meaning set forth in Clause 19.13.1;

“**Force Majeure**” or “**Force Majeure Event**” shall have the meaning described to it in Clause 21.1;

“**GAD**” or “**General Arrangement Drawings**” shall have the meaning set forth in Clause 4.1.3 (b);

“**GOI/GOA**” or “**Government**” means the Government of India/Government of Assam as the case may be;

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

“**Government Instrumentality**” means any department, division or sub-division of the Government or the State Government and includes any commission, board, Employer, agency or municipal and other local Employer or statutory body including panchayat under the control of the Government or the State Government, as the case may be, and having jurisdiction overall or any part of the Terminal or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Agreement;

“**IRC**” means the Indian Roads Congress;

“**Indemnified Party**” means the Party entitled to the benefit of an indemnity pursuant to

Article 25;

“Indemnifying Party” means the Party obligated to indemnify the other Party pursuant to Article 25;

“Indirect Political Event” shall have the meaning set forth in Clause 21.3;

Insurance Cover” means the aggregate of the maximum sums insured under the insurances taken out by the Contractor pursuant to Article 20, and includes all insurances required to be taken out by the Contractor under Clauses 20.1 and 20.9 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

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

“Interim Payment Certificate” or “IPC” means the interim payment certificate issued by the Employer’s Engineer for payment to the Contractor in respect of Contractor’s claims for payment raised in accordance with the provisions of this Agreement;

“Lead Member” shall, in the case of a consortium, mean the member of such consortium who shall have the Employer to bind the contractor and each member of the Consortium; and shall be deemed to be the Contractor for the purposes of this Agreement;

“LOA” or “Letter of Acceptance” means the letter of acceptance referred to in Recital (E);

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

“Materials” are all the supplies used by the Contractor for incorporation in the Works of the Project;

“Non-Political Event” shall have the meaning set forth in Clause 21.2;

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

“Performance Security” shall have the meaning set forth in Clause 7.1;

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

“Political Event” shall have the meaning set forth in Clause 21.4;

“Programme” shall have the meaning set forth in Clause 10.1.3;

“Project” means the engineering, procurement, construction and defect liability of the Project in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Employer’s Requirement;

“Project Assets” means all physical and other assets relating to (a) tangible assets such as civil works and equipment including but not limited to foundations, embankments, pavements, pontoons, steel link spans, mooring dolphins, berths, deck, terminal building and facilities, , sign boards, , electrical systems, sewerage and draining systems,

communication systems, rest areas, parking areas, and administrative offices; and (b) Project Facilities situated on the Site;

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

“Project Completion Schedule” means the progressive Project Milestones set forth in Schedule-J for completion of the Project on or before the Scheduled Completion Date;

“Project Facilities” means all the amenities and facilities situated on the Site, as described in Schedule-C;

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

“Project Milestone” means the project milestone set forth in Schedule-J;

“Proof Consultant” shall have the meaning set forth in Clause 10.2.2;

“Provisional Certificate” shall have the meaning set forth in Clause 12.2;

“Punch List” shall have the meaning set forth in Clause 12.2.1;

“Quality Assurance Plan” or “QAP” shall have the meaning set forth in Clause 11.2;
“Re.”, “Rs.” or “Rupees” or “Indian Rupees” or “INR” means the lawful currency of the Republic of India;

“Request for Proposals” or “RFP” shall have the meaning set forth in Recital ‘D’;

“Request for Qualification” or “RFQ” shall have the meaning set forth in Recital ‘C’;

“Retention Money” shall have the meaning set forth in Clause 7.5.1;

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

“Safety Consultant” shall have the meaning set forth in Clause 10.1.5;

“Scheduled Completion Date” shall be the date set forth in Clause 10.3.1;

“Employer’s Requirement” shall have the meaning set forth in Clause 2.1;

“Section” means a part of the Project;

“Site” shall have the meaning set forth in Clause 8.1;

“Specifications and Standards” means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project, as set forth in Schedule-D, and any modifications thereof, or additions there to, as included in the design and engineering for the Project submitted by the Contractor to, and expressly approved by the Employer;

“Stage Payment Statement” shall have the meaning set forth in Clause 19.4;

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

“Suspension” shall have the meaning set forth in Article 22;

“Taxes” means any Indian taxes including GST, excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impostor surcharge of like nature (whether Central, State or local) on the goods, Materials, equipment and services incorporated

in and forming part of the Project charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation there to imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

“Terminal” means the inland waterway terminal and the allied riverine and onshore infrastructure for the development of the inland water transport terminal at the Gateway Guwahati Ghat including the Site comprising the entire site earmarked for the Project and all Project Assets, and its subsequent development and augmentation in accordance with this Agreement;

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

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

“Termination Payment” means the amount payable by either Party to the other upon Termination in accordance with Article 23;

“Terms of Reference” or “TOR” shall have the meaning set forth in Clause 18.2.1;

“Tests” means the tests set forth in Schedule-K to determine the completion of Works in accordance with the provisions of this Agreement;

“Time Extension” shall have the meaning set forth in Clause 10.5.1;

“User” means a person who travels or intends to travel on the Terminal or any part thereof in/on any vehicle;

“Valuation of Unpaid Works” shall have the meaning set forth in Clause 23.5.1;

“Works” means all works including survey and investigation, design, engineering, procurement, construction, Plant, Materials, maintenance, temporary works and other things necessary to complete the Terminal in accordance with this Agreement; and

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

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

SIGNED, SEALED AND
DELIVERED

For and on behalf of

AIWTDS by:

State Project Director,

.....

.....

(Signature)

(Name)

(Designation)

SIGNED, SEALED AND
DELIVERED

For and on behalf of

THE CONTRACTOR by:

(Signature)

(Name)

(Designation)

In the presence of 1.

2.

APPENDIX TO CONDITIONS OF CONTRACT Bank's Policy- Corrupt and Fraudulent Practices

(Text in this Appendix shall not be modified)

Guidelines for Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants by World Bank Borrowers, dated January 2011:

“Fraud and Corruption:

It is the Bank's policy to require that Borrowers (including beneficiaries of Bank loans), bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Bank-financed contracts. In pursuance of this policy, the Bank:

- a) Defines, for the purposes of this provision, the terms set forth below as follows:
 - i) “Corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii) “Fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - iii) “Collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv) “Coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v) “Obstructive practice” is
 - aa) Deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and / or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
 - bb) Acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 1.16 (e) below.
- b) Will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c) Will declare mis-procurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- d) Will sanction a firm or individual, at any time, in accordance with the prevailing Bank's sanctions procedures, including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Bank-financed contract; and (ii) to be a nominated;

- e) Will require that a clause be included in bidding documents and in contracts financed by a Bank loan, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit the Bank to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have the audited by auditors appointed by the Bank.

NOTES :

- In this context, any action to influence the procurement process or contract execution for undue advantage is improper.*
- For the purpose of this sub-paragraph, “another party” refers to a public official acting in relation to the procurement process or contract execution. In this context, “public official” includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.*
- For the purpose of this sub-paragraph, “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement processor contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.*
- For the purpose of this sub-paragraph, “parties” refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish bid prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.*
- For the purpose of this sub-paragraph, “party” refers to a participant in the procurement process or contract execution.*

SCHEDULES

SCHEDULE-A
PROJECT SITE DETAILS

(See Clauses 2.1 and 8.1)

(REFER VOLUME-II OF BIDDING DOCUMENT – General Information)

SCHEDULE-B
DEVELOPMENT OF THE TERMINAL

(See Clause 2.1)

(REFER VOLUME-II OF BIDDING DOCUMENT – Employer’s Design Requirements)

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SCHEDULE-C

PROJECT FACILITIES

(See Clause 2.1)

1. Project Facilities

The Contractor shall construct the Project Facilities in accordance with the provisions of this Agreement and as per the site requirements but keeping the safety aspects into consideration.

2. Description of Project Facilities

The project involves construction of below mentioned works:

- Site Grading
- Riverine Structures – Berthing Dolphins, Intermediate Dolphins, Bankseat
- Linkspan and pontoons
- Terminal Building and ancillary services including plumbing works, Electrical Works.
- Furniture inside the Terminal Building and Control Room
- Furniture on the pontoons
- Electrical Works
- HVAC works
- Firefighting Works
- Water supply, Sewerage and Drainage Works
- Fenders, Bollards, Ladders, Lifebuoy rings, Handrails
- Solar Panels on top of the Linkspans
- Utilities and Control Room and Switchgear Room
- STP and solid waste segregation area
- Environmental Protection Works
- Landscape development
- Communication and IT systems – CCTVs, TV screens
- Preparation and implementation of Contractor's Environmental and Social Management plan, including an Environmental Monitoring Plan

SCHEDULE-D SPECIFICATIONS AND STANDARDS

(See Clause 2.1)

REFER VOLUME-II OF BIDDING DOCUMENT – SPECIFICATIONS AND STANDARDS

SCHEDULE-E MAINTENANCE REQUIREMENTS

(See Clause 2.1 and 14.2)

1. Maintenance Requirements during Construction

- 1.1 The Contractor shall, during construction period maintain the project area in accordance with the provisions of this Agreement, Applicable Laws and Applicable Permits.
- 1.2 The Contractor shall repair or rectify any Defect or deficiency setforth in Paragraph 2 of this Schedule-E within the time limit specified therein and any failure in this behalf shall constitute non-fulfillment of the maintenance obligations by the Contractor.
- 1.3 All Materials, works and construction operations shall conform to the relevant specifications mentioned in the Volume II of the bid document. Where the specifications for a work are not given, Good Industry Practice shall be adopted.

2. Repair/ rectification of Defects and deficiencies

The obligations of the Contractor in respect of maintenance requirements shall include repair and rectification of the Defects and deficiencies during construction and defect liability period.

3. Other Defects and deficiencies

The Employer's Engineer may, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards, and any deviation or deterioration beyond the permissible limit shall be repaired or rectified by the Contractor within the time limit specified by the Authority's Engineer.

4. Extension of time limit

Notwithstanding anything to the contrary specified in this Schedule-E, if the nature and extent of any Defect or deficiency justifies more time for its repair or rectification than the time specified herein, the Contractor shall be entitled to additional time in conformity with Good Industry Practice. Such additional time shall be determined by the Authority's Engineer and conveyed to the Contractor and the Authority with reasons thereof.

5. Emergency repairs/restoration

Notwithstanding anything to the contrary contained in this Schedule-E, if any Defect, deficiency or deterioration in the Terminal poses a hazard to safety or risk of damage to property, the Contractor shall promptly take all reasonable measures for eliminating or minimizing such danger.

6. Daily inspection by the Contractor

The Contractor shall, through its engineer, undertake a daily visual inspection of the Terminal and maintain a record there of in a register to be kept in such form and manner as the Employer's Engineer may specify. Such record shall be kept in safe custody of the Contractor and shall be open to inspection by the Authority and the Authority's Engineer at any time during office hours.

Annex-I

*(Schedule-E)***Repair/rectification of Defects and deficiencies****Correction of Defects:**

- The **Employer/Employer's representative** shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins on Completion. The defects liability period shall be extended for as long as defects remain to be corrected by the Contractor.
- Every time notice of a Defect is given, the Contractor shall correct the notified defect within the length of time specified by the Employer/Employer's representative notice.

Uncorrected Defects:

- If the contractor has not corrected the defect within the time specified in the Employer/Employer's representative notice, the Engineer-in-Charge will assess the cost of having the defect corrected and the contractor will pay this amount.
- The Employer/Employer's representative shall introduce O.K. cards and prescribed the formats there of. O.K. cards shall relate to all major components of the work. The contractor / his authorised representative shall be required to initiate and fill in and present the O.K. card to the construction staff who would check the respective items and send to the quality control staff of the Employer/Employer's representative for final check and clearance / O.K. Any defects pointed out by the construction supervision staff or by the Quality Control staff shall promptly be attended to by the contractors and the fact of doing so be duly recorded on the back of O.K. card.
- The Employer/Employer's representative may also introduce check lists which shall be kept in Bound registers by the construction supervision staff. The contractor may be required to fill up these lists in the first instance and shall be subsequently checked by the Construction / Quality Control engineers.
- If the work of remedying any defects or damages affects the performance of the works, the Engineer-in-Charge may require the repetition of any of the tests described in the Contract, including Tests on Completion and/or tests after completion. The requirement shall be made by notice within 28 days after the defect or damage is remedied. These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the contractor.

The Contractor shall repair and rectify the Defects and deficiencies specified in this Annex -I of Schedule -E within the time limit specified in the below table:

Sr.No	Nature of Defect or deficiency	Time limit for repair/rectification
1	Surface cracks on plaster	30 (thirty) days
2	Leakage of water from roof / fiber	24 (twenty four) hours
3	Peeling of floor tiles	3 (three) days
4	Damage or deterioration in kerb, parapets, handrails and crash barriers	3 (three) days
5	Structural cracks in beam, Column, wall and Slab	7 (seven) days
6	Damage to wearing coat	7 (seven) days
7	Gap in expansion joint	7 (seven) days
8	Growth of vegetation affecting the structure or obstructing the waterway	7 (seven) days
9	Leakage from pipe joints	3 (three) days
10	Malfunction of valves water network piping	3 (three) days
11	Malfunction of generator set	As early as possible/Within 24 (twenty four) hours
12	Malfunction of fire water pumps	As early as possible/Within 24 (twenty four) hours
13	Malfunction of potable water pumps	As early as possible/Within 24 (twenty four) hours
14	Water ingress or leakage in to Under slung compartment	As early as possible/Within 24 (twenty four) hours
15	Damage to doors, windows, ventilators	3 (three) days
16	Damage to electrical lamp post, junction boxes, cope boxes, power sockets etc	24 (twenty four) hours
17	Malfunction of electrical appliances	3 (three) days
18	Damage to piles, Pontoon and its components	7 (seven) days and shall be reduced to 3 days if it is critical.

SCHEDULE-F

APPLICABLE PERMITS

(See Clause 3.1.7(a))

1. Applicable Permits

- 1.1 The Contractor shall obtain, as required under the Applicable Laws, the following Applicable Permits:
- (a) Permission of the State Government for extraction of boulders from quarry;
 - (b) Permission of Village Panchayats and Pollution Control Board for installation of crushers;
 - (c) Licence for use of explosives;
 - (d) Permission of the State Government for drawing water from river/reservoir;
 - (e) Licence from inspector of factories or other competent Authority for setting up batching plant;
 - (f) Clearance of Pollution Control Board for setting up batching plant;
 - (g) Clearance of Village Panchayats and Pollution Control Board for setting up asphalt plant;
 - (h) Permission of Village Panchayats and State Government for borrow earth; and
 - (i) Any other permits or clearances required under Applicable Laws.
- 1.2 Applicable Permits, as required, relating to environmental protection and conservation shall have been procured by the Authority in accordance with the provisions of this Agreement.
- 1.3 NOC obtained for the proposed floating terminal from IWAI, NOC from GMDA (Guwahati Metropolitan Development Authority) is Annexed to Schedule -F, Contractor to follow the conditions specified in the letters during the implementation of the Project.

SCHEDULE-G

FORM OF BANK GUARANTEE Annex-I

Performance Security

(See Clauses 7.1.1, 7.5.3 and 19.2)

Assam Inland Water Transport Development Society (AIWTDS)

GS Road, Ulubari, Directorate of Inland Water Transport City

Guwahati, Assam

WHEREAS:

- A) [name and address of contractor] (hereinafter called the "Contractor") and *name and address of the Employer+, (hereinafter called the "Employer") have entered into an agreement (hereinafter called the "Agreement") for the "Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat" on River Brahmaputra on Engineering, Procurement and Construction (the "EPC") basis, subject to and in accordance with the provisions of the Agreement
- B) The Agreement requires the Contractor to furnish a Performance Security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the (Construction Period/Defects Liability Period) (as defined in the Agreement) in a sum of Rs..... cr. (Rupees crore) (the "Guarantee Amount").
- C) We, through our branch at (the "Bank") have agreed to furnish this bank guarantee (hereinafter called the "Guarantee") by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

- 1) The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Contractor's obligations during the (Construction Period/Defects Liability Period) under and in accordance with the Agreement, and agrees and undertakes to pay to the Employer, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Employer shall claim, without the Employer being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
- 2) A letter from the Employer that the Contractor has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Employer shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Agreement and its decision that the Contractor is in default shall be final and binding on the Bank, notwithstanding any differences between the Employer and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other Employer or body, or by the discharge of the Contractor for any reason whatsoever.
- 3) In order to give effect to this Guarantee, the Employer shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

- 4) It shall not be necessary, and the Bank hereby waives any necessity, for the Employer to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.
- 5) The Employer shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/ or performance of all or any of the obligations of the Contractor contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Employer against the Contractor, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Employer, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Employer of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other forbearance, indulgence, act or omission on the part of the Employer or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
- 6) This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Employer in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Contractor under the Agreement.
- 7) Notwithstanding anything contained herein before, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Employer on the Bank under this Guarantee all rights of the Employer under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
- 8) The Guarantee shall cease to be in force and effect on*unless a demand or claim under this Guarantee is made in writing before expiry of the Guarantee, the Bank shall be discharged from its liabilities hereunder.
- 9) The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Employer in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
- 10) Any notice by way of request, demand or otherwise here under may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Employer that the envelope was so posted shall be conclusive.
- 11) This Guarantee shall come into force with immediate effect and shall remain in force and effect for up to the date specified in paragraph 8 above or until it is released earlier by the Employer pursuant to the provisions of the Agreement.
- 12) This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15 (a) is hereby excluded.

Signed and sealed this..... Day of....., 2021...at.....

SIGNED, SEALED AND DELIVERED For and on behalf of the Bankby:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

- Insert date being 60 (sixty) days from the Defects Liability Period*
- The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.*
- The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.*

SCHEDULE-G

Annex-II

Form for Guarantee for Withdrawal of Retention Money

(See Clause 7.5.3)

Assam Inland Water Transport Development Society (AIWTDS)

GS Road, Ulubari, Directorate of Inland Water Transport City

Guwahati, Assam

WHEREAS:

- A) *name and address of contractor (hereinafter called the "Contractor") has executed an agreement (hereinafter called the "Agreement") with the* name and address of the Employer, (hereinafter called the "Employer") for the Construction of the Terminal and Riverine Infrastructure at Guwahati Gateway Ghat on River Brahmaputra on Engineering, Procurement and Construction (the"EPC") basis, subject to and in accordance with the provisions of the Agreement.
- B) In accordance with Clause 7.5.3 of the Agreement, the Contract or may withdraw the retention money (hereinafter called the "Retention Money") after furnishing to the Employer a bank guarantee for an amount equal to the proposed withdrawal.
- C) We,.....through our branch at..... (the "Bank") have agreed to furnish this bank guarantee (hereinafter called the "Guarantee") for the amount of Rs.----- cr. (Rs.----- crore) (the "Guarantee Amount").

NOW, THEREFORE, the Bank hereby unconditionally and irrevocably guarantees and affirms as follows:

- 1) The Bank hereby unconditionally and irrevocably undertakes to pay to the Employer, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums up to an aggregate sum of the Guarantee Amount as the Employer shall claim, without the Employer being required to prove or to show grounds or reasons for its demand and / or for the sum specified therein.
- 2) A letter from the Employer, that the Contractor has committed default in the due and faithful performance of all or any of its obligations for under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Employer shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Agreement and its decision that the Contractor is in default shall be final, and binding on the Bank, notwithstanding any differences between the Employer and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other Employer or body, or by the discharge of the Contractor for any reason whatsoever.
- 3) In order to give effect to this Guarantee, the Employer shall be entitled to act as if the Bank were the principal debt or and any change in the constitution of the Contractor and / or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
- 4) It shall not be necessary, and the Bank hereby waives any necessity, for the Employer to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.
- 5) The Employer shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Retention Money and any of the rights and powers exercisable by the Employer against the Contractor, and

either to enforce or for bear from enforcing any of the terms and conditions contained in the Agreement and / or these curities available to the Employer, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Employer of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other for bearance, indulgence, act or omission on the part of the Employer or of any other matter or thing what so ever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

- 6) This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Employer in respect of or relating to the Retention Money.
- 7) Notwithstanding anything contained herein before, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Employer on the Bank under this Guarantee all rights of the Employer under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
- 8) The Guarantee shall cease to be inforce and effect 90 (ninety) days after the date of the Completion Certificate specified in Clause 12.4 of the Agreement.
- 9) The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Employer in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
- 10) Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Employer that the envelope was so posted shall be conclusive.
- 11) This Guarantee shall come into force with immediate effect and shall remain in force and effect up to the date specified in paragraph 8 above or utilities released earlier by the Employer pursuant to the provisions of the Agreement.
- 12) This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

Signed and sealed this..... Day of....., 2020.....at.....

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bankby:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

- The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.*
- The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.*

SCHEDULE-G Annex–III

Form for Guarantee for Advance Payment

(See Clause 19.2)

Assam Inland Water Transport Development Society (AIWTDS)

GS Road, Ulubari, Directorate of Inland Water Transport City

Guwahati, Assam

WHEREAS:

- A) [name and address of contractor] (hereinafter called the “Contractor”) has executed an agreement (hereinafter called the “Agreement”) with the* name and address of the Employer], (hereinafter called the “Employer”) for the Construction of the “Terminal and Riverine Infrastructure at Guwahati Gateway Ghat” on River Brahmaputra on Engineering, Procurement and Construction (the“EPC”) basis, subject to and in accordance with the provisions of the Agreement
- B) In accordance with Clause 19.2 of the Agreement, the Employer shall make to the Contractor an interest free advance payment (hereinafter called “Advance Payment”) equal to 10% (ten percent) of the Contract Price; and that the Advance Payment shall be made in three instalments subject to the Contractor furnishing an irrevocable and unconditional guarantee by a scheduled bank for an amount equivalent to 110% (one hundred and ten percent) of such instalment to remain effective till the complete and full repayment of the instalment of the Advance Payment as security for compliance with its obligations in accordance with the Agreement. The amount of {first / second / third} instalment of the Advance Payment is Rs. - ---- cr. (Rupees ----- crore) and the amount of this Guarantee is Rs. ----- cr. (Rupees ----- crore) (the “Guarantee Amount”).
- C) We, through our branch at (the “Bank”) have agreed to furnish this bank guarantee (hereinafter called the“Guarantee”) for the Guarantee Amount.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

- 1) The Bank hereby unconditionally and irrevocably guarantees the due and faithful repayment on time of the aforesaid instalment of the Advance Payment under and in accordance with the Agreement, and agrees and undertakes to pay to the Employer, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Contractor, such sum or sums upto an aggregate sum of the Guarantee Amount as the Employer shall claim, without the Employer being required to prove or to show grounds or reasons for its demand and / or for the sum specified therein.
- 2) A letter from the Employer that the Contractor has committed default in the due and faithful performance of all or any of its obligations for the repayment of the instalment of the Advance Payment under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Employer shall be the sole judge as to whether the Contractor is in default in due and faithful performance of its obligations during and under the Agreement and its decision that the Contractor is in default shall be final and binding on the Bank, notwithstanding any differences between the Employer and the Contractor, or any dispute between them pending before any court, tribunal, arbitrators or any other Employer or body, or by the discharge of the Contractor for any reason whatsoever.
- 3) In order to give effect to this Guarantee, the Employer shall be titled to act as if the Bank were the principal debtor and any change in the constitution of the Contractor and / or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

- 4) It shall not be necessary, and the Bank hereby waives any necessity, for the Employer to proceed against the Contractor before presenting to the Bank its demand under this Guarantee.
- 5) The Employer shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Advance Payment or to extend the time or period of its repayment or to postpone for anytime, and from time to time, any of the rights and powers exercisable by the Employer against the Contractor, and either to enforce or for bear from enforcing any of the terms and conditions contained in the Agreement and / or the securities available to the Employer, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Employer of the liberty with reference to the matters aforesaid or by reason of time being given to the Contractor or any other for bearance, indulgence, act or omission on the part of the Employer or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
- 6) This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter beheld by the Employer in respect of or relating to the Advance Payment.
- 7) Notwithstanding anything contained herein before, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Employer on the Bank under this Guarantee all rights of the Employer under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
- 8) The Guarantee shall cease to be inforce and effect on Unless a demand or claim under this Guarantee is made in writing on or before the aforesaid date, the Bank shall be discharged from its liabilities hereunder.
- 9) The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Employer in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
- 10) Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Employer that the envelope was so posted shall be conclusive.
- 11) This Guarantee shall come into force with immediate effect and shall remain in force and effect up to the date specified in paragraph 8 above or until it is released earlier by the Employer pursuant to the provisions of the Agreement.
- 12) This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15 (a) is hereby excluded.

Signed and sealed this..... Day of....., 20.....at.....

SIGNED, SEALED AND DELIVERED

For and on behalf of the Bank by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

- The Guarantee Amount should be equivalent to 110% of the value of the applicable instalment.*
- The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.*
- The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing branch.*
- Insert a date being 90 (ninety) days after the end of one year from the date of payment of the Advance payment to the Contractor (in accordance with Clause 19.2 of the Agreement)*

SCHEDULE-H
CONTRACT PRICE WEIGHTAGES
(See Clause 10.1.4 and 19.3)

Refer Volume III – BOQ

SCHEDULE-I DRAWINGS

(See Clause 10.2.4)

1) Drawings

In compliance of the obligations set forth in Clause 10.2 of this Agreement, the Contractor shall furnish to the Employer's Engineer, free of cost, all Drawings required for construction of the project. A preliminary list of drawings is given in Annex-I of this Schedule-I.

2) Additional Drawings

If the Employer's Engineer determines that for discharging its duties and function under this Agreement, it requires any drawings other than those listed in Annex-I, it may by notice require the Contractor to prepare and furnish such drawings forth with. Upon receiving a requisition to this effect, the Contractor shall promptly prepare and furnish such drawings to the Employer's Engineer, as if such drawings formed part of Annex-I of this Schedule-I.

SCHEDULE-I ANNEX-I

LIST OF DRAWINGS

SR. NO.	DRAWING NO.	TITLE	REV
A.	TERMINAL LAYOUT AND LAND AREA REQUIREMENT		
1	P.013223-P-20301-201	TERMINAL LAYOUT GUWAHATI GATEWAY GHAT	A
2	P.013223-P-20301-202	LAND AREA REQUIREMENT GUWAHATI GATEWAY GHAT	A
B..	SURVEYS AND INVESTIGATIONS		
1	P.013223-P-20312-201	BATHYMETRIC AND TOPOGRAPHIC SURVEY LAYOUT GUWAHATI GATEWAY GHAT	A
C	RIVERINE INFRASTRUCTURE		
1	P.013223-P-20305-201	GENERAL ARRANGEMENT OF GUWAHATI GATEWAY GHAT BERTHING & INTERMEDIATE PONTOONS	A
2	P.013223-P-20305-202	GENERAL ARRANGEMENT OF GUWAHATI GATEWAY GHAT-BERTHING & INTERMEDIATE PONTOONS (TYP. DETAILS)	A
3	P.013223-P-20305-203	GENERAL ARRANGEMENT OF GUWAHATI GATEWAY GHAT-BERTHING & INTERMEDIATE PONTOONS (ELEVATION)	A
4	P.013223-P-20305-204	GUWAHATI GATEWAY GHAT RIVERINE INFRASTRUCTURE G. ARRANGEMENT PLAN	A
5	P.013223-P-20305-205	GUWAHATI GATEWAY GHAT RIVERINE INFRASTRUCTURE L-SECTION A-A	A
6	P.013223-P-20305-206	GUWAHATI GATEWAY GHAT GENERAL ARRANGEMENT-PLAN & SECTIONS OF DOLPHINS AND BANKSEAT	A
7	P.013223-P-20305-207	REINFORCEMENT DETAILS OF BANKSEAT	A
8	P.013223-P-20305-208	REINFORCEMENT DETAILS OF DOLPHINS FOR BERTHING PONTOONS	A
9	P.013223-P-20305-209	REINFORCEMENT DETAILS OF DOLPHINS FOR INTERMEDIATES PONTOON	A
10	P.013223-P-20305-211	GENERAL ARRANGEMENT AND TYPICAL DETAILS OF STEEL LINKSPAN 32M	A
11	P.013223-P-20305-212	GENERAL ARRANGEMENT AND TYPICAL DETAILS OF STEEL LINKSPAN 20M	A
D	LANDSIDE INFRASTRUCTURE		
D1	ARCHITECTURE		
1	P.013223-P-20318-201	GUWAHATI GATEWAY GHAT TERMINAL BUILDING SITE LEVEL LAYOUT PLAN	A
2	P.013223-P-20318-202	GUWAHATI GATEWAY GHAT TERMINAL BUILDING SITE LEVEL LAYOUT PLAN	A
3	P.013223-P-20318-203	GUWAHATI GATEWAY GHAT TERMINAL BUILDING SITE SECTIONS	A
4	P.013223-P-20318-204	GUWAHATI GATEWAY GHAT TERMINAL BUILDING BOUNDARY WALL DETAIL PLAN, ELEVATION & SECTION	A
5	P.013223-P-20318-205	GUWAHATI GATEWAY GHAT TERMINAL BUILDING FLOOR PLANS	A
6	P.013223-P-20318-206	GUWAHATI GATEWAY GHAT TERMINAL ELEVATIONS & SECTIONS	A

SR. NO.	DRAWING NO.	TITLE	REV
7	P.013223-P-20318-207	GUWAHATI GATEWAY GHAT TERMINAL BUILDING BOUNDARY WALL DETAIL PLAN, ELEVATION AND SECTION	A
D2	STRUCTURAL		
1	P.013223-P-20318-220	GUWAHATI GATEWAY GHAT- FERRY TERMINAL BUILDING PILE & PILE CAP LAYOUT & DETAILS	A
2	P.013223-P-20318-221	GUWAHATI GATEWAY GHAT CAR PARKING BUILDING COLUMN LAYOUT & SECTIONAL DETAILS (1 OF 2)	A
3	P.013223-P-20318-221	GUWAHATI GATEWAY GHAT CAR PARKING BUILDING BEAM LAYOUT & SECTIONAL DETAILS (2 OF 2)	A
4	P.013223-P-20318-222	GUWAHATI GATEWAY GHAT ADDITIONAL BUILDING COLUMN LAYOUT & SECTIONAL DETAILS (1 OF 2)	A
5	P.013223-P-20318-222	GUWAHATI GATEWAY GHAT ADDITIONAL BUILDING BEAM LAYOUT & SECTIONAL DETAILS (2 OF 2)	A
6	P.013223-P-20318-223	GUWAHATI GATEWAY GHAT- FERRY TERMINAL BUILDING COLUMN LAYOUT & SECTIONAL DETAILS (1 of 3)	A
7	P.013223-P-20318-223	GUWAHATI GATEWAY GHAT- FERRY TERMINAL BUILDING LOW ROOF SLAB & BEAM LAYOUT & DETAILS (2 of 3)	A
8	P.013223-P-20318-223	GUWAHATI GATEWAY GHAT- FERRY TERMINAL BUILDING MID ROOF & HIGH ROOF SLAB & BEAM LAYOUT & DETAILS (3 of 3)	A
9	P.013223-P-20318-225	GUWAHATI GATEWAY GHAT- FERRY TERMINAL WATER SUPPLY SYSTEM, TRANSFORMERS, STP AREA, OIL COLLECTION PIT, DG SET - LAYOUT & DETAILS	A
D3	UTILITIES AND SERVICES		
1	P.013223-P-20318-240	SLD FOR OVERALL POWER DISTRIBUTION	A
2	P.013223-P-20318-241	ILLUMINATION LAYOUT PLAN OF TERMINAL BUILDING AND OUTDOOR AREA	A
3	P.013223-P-20318-242	ILLUMINATION LAYOUT PLAN PARKING BUILDING FLOOR PLAN (1 OF 2)	A
4	P.013223-P-20318-242	ILLUMINATION LAYOUT PLAN ADDITIONAL BUILDING GROUND FLOOR (2 OF 2)	A
5	P.013223-P-20318-243	ILLUMINATION LAYOUT OF BRIDGE	A
6	P.013223-P-20318-244	ILLUMINATION LAYOUT OF PONTOON	A
7	P.013223-P-20318-245	HVAC LAYOUT PLAN - TERMINAL AND ADDITIONAL BUILDING	A
8	P.013223-P-20318-250	GUWAHATI GATEWAY GHAT FIRE PROTECTION SCHEME	A
9	P.013223-P-20318-252	FIRE FIGHTING PROTECTION LAYOUT FOR GUWAHATI GATEWAY GHAT	A

SCHEDULE-J

PROJECT COMPLETION SCHEDULE

(See Clause 10.3.2)

PROJECT COMPLETION SCHEDULE

1. Project Completion Schedule

During Construction period, the Contractor shall comply with the requirements set forth in this Schedule-J for each of the Project Milestones and the **Scheduled Completion Date**. Within 15 (Fifteen) days of the date of each Project Milestone, the Contractor shall notify the Employer of such compliance along with necessary particulars thereof.

2. Project Milestone-I (Survey, Investigations, detailed design & drawings (expect good for construction drawings))

Project Milestone-I shall occur on the date falling on the 180th (One Hundred Eightieth) day from the Appointed Date (the "Project Milestone-I").

3. Project Milestone-II (Construction of Pile Foundation for Terminal Building)

Project Milestone-II shall occur on the date falling on the 330th (Three Hundred Thirtieth) day from the Appointed Date (the "Project Milestone-II").

4. Project Milestone-III (Construction of Pile Foundation for Riverine Works)

Project Milestone-III shall occur on the date falling on the 450th (Four Hundred Fiftieth) day from the Appointed Date (the "Project Milestone-III").

5. Project Milestone-IV (Construction of Terminal Building including land side infrastructure works)

Project Milestone-III shall occur on the date falling on the 500th (Five Hundredth) day from the Appointed Date (the "Project Milestone-IV").

6. Project Milestone-V (Installation of Link Spans and pontoons)

Project Milestone-V shall occur on the date falling on the 520th (Five Hundred Twentieth) day from the Appointed Date (the "Project Milestone-V").

7. Scheduled Completion Date

7.1 The Scheduled Completion Date shall occur on the 545th (Five Hundred Forty Fifth) day from the Appointed Date.

7.2 On or before the Scheduled Completion Date, the Contractor shall have completed construction in accordance with this Agreement.

8. Extension of time

Upon extension of the Scheduled Completion Date, in accordance with the provisions of this Agreement, the Project Completion Schedule shall be deemed to have been amended accordingly.

SCHEDULE-K

TESTS ON COMPLETION

(See Clause 12.1.2)

1. Schedule for Tests

- 1.1 The Contractor shall, no later than 30 (thirty) days prior to the likely completion of construction, notify the Employer's Engineer and the Employer of its intent to subject the Terminal to Tests, and no later than 10 (ten) days prior to the actual date of Tests, furnish to the Employer's Engineer and the Employer detailed inventory and particulars of all works and equipment forming part of Works.
- 1.2 The Contractor shall notify the Employer's Engineer of its readiness to subject the Terminal to Tests at any time after 10(ten) days from the date of such notice, and upon receipt of such notice, the Employer's Engineer shall, in consultation with the Contractor, determine the date and time for each Test and notify the same to the Employer who may design at its representative to witness the Tests. The Employer's Engineer shall there upon conduct the Tests itself for cause any of the Tests to be conducted in accordance with Article 12 and this Schedule – K.

2. Tests

- 2.1 The Employer's Engineer shall direct the Contractor to conduct a visual and physical check of construction to determine that all works and equipment forming part thereof conform to the provisions of the Contract. The physical tests shall include the following as required by codes and standards.
- Initial Pile Load tests (Vertical and Horizontal)
 - Dynamic high strain tests
 - Pile Integrity Tests
 - Concrete Cube Tests
 - Tests on aggregates
 - Tests on reinforcement
 - Tests on cement
 - Tests on steel plates/Steel Tubular Piles
 - Tests relevant for fenders, bollards etc.
 - All other tests specified elsewhere in the workmanship and materials specification, drawings, and scope of works.

All expenses related to the above tests are deemed to be included in the unit rate and no extra payment shall be payable to CONTRACTOR unless specifically provided in Bill of Quantities.

Upon completion of the electrical installation a test and measurement of the earth reading for the building is to be undertaken. The results of this test are to be certified by a properly qualified electrical engineer and the results are then to be presented to the Engineer for acceptance. Full load testing and commissioning of all components of the electrical system is to be included for the various components of the electrical system. The electrical works will not be approved until the entire system has been successfully tested and signed off in the presence of a suitable qualified the engineer.

- 2.2 Other tests: The Employer's Engineer may require the Contractor to carry out or cause to be carried additional tests, in accordance with Good Industry Practice, for determining the compliance of the Terminal with Specifications and Standards.
- 2.3 Environmental audit: The Employer's Engineer shall carryout a check to determine conformity of the Terminal with the environmental requirements set forth in Applicable Laws and Applicable Permits. The Employer's Engineer shall audit for the compliance to the safeguard provisions stipulated in EMP as per Contract documents.
- 2.4 Safety Audit: The Employer's Engineer shall carryout, or cause to be carried out, a safety audit to determine conformity of the Terminal with the safety requirements and Good Industry Practice.

3. Agency for conducting Tests

All Tests shall be conducted by the Employer's Engineer setforth in Schedule-Korsuch other agency or person as it may specify in consultation with the Employer.

4. Completion Certificate

Upon successful completion of Tests, the Employer's Engineer shall issue the Completion Certificate in accordance with the provisions of Article 12.

SCHEDULE-L

PROVISIONAL CERTIFICATE

(See Clause 12.2 and 12.4)

I, (Name of the Employer's Engineer), acting as the Employer's Engineer, under and in accordance with the Agreement dated (the "Agreement"), for construction of the "Inland Water Transport (IWT) Ferry Terminal at Guwahati Gateway Ghat, Assam" on River Brahmaputra on Engineering, Procurement and Construction (EPC) basis through (Name of Contractor), hereby certify that the Tests in accordance with Article 12 of the Agreement have been undertaken to determine compliance of the Terminal with the provisions of the Agreement.

Works that are incomplete on account of Time Extension have been specified in the Punch List appended hereto, and the Contractor has agreed and accepted that it shall complete all such works in the time and manner set forth in the Agreement. In addition, certain minor works are incomplete and these are not likely to cause material inconvenience to the Users of the Terminal or affect their safety. The Contractor has agreed and accepted that as a condition of this Provisional Certificate, it shall complete such minor works within 30 (thirty) days hereof. These minor works have also been specified in the aforesaid Punch List.

In view of the foregoing, I am satisfied that the Terminal can be safely and reliably placed in service of the Users thereof, and in terms of the Agreement, the Terminal is hereby provisionally declared fit for entry into operation on this theday of.....2016

ACCEPTED, SIGNED, SEALED

SIGNED, SEALED AND DELIVERED AND DELIVERED

For and on behalf of

For and on behalf of

CONTRACTOR by:

EMPLOYER'S ENGINEER by:

(Signature)

(Signature)

COMPLETION CERTIFICATE

- 1 I (Name of the Employer's Engineer), acting as the Employer's Engineer, under and in accordance with the Agreement dated (the "Agreement"), for "Construction of Terminal and Riverine Infrastructure at Guwahati Gateway Ghat" on River Bramhaputra on Engineering, Procurement and Construction (EPC) basis through (Name of Contractor), hereby certify that the Tests in accordance with Article 12 of the Agreement have been successfully undertaken to determine compliance of the Lock with the provisions of the Agreement, and I am satisfied that the Lock can be safely and reliably placed in service of the Users thereof.

- 2 It is certified that, in terms of the aforesaid Agreement, all works forming part of Terminal have been completed, and the Terminal is hereby declared fit for entry into operation on this theday of..... 20

SIGNED, SEALED AND DELIVERED

For and on behalf of the Employer's Engineer by:

(Signature)

(Name)

(Designation)

(Address)

SCHEDULE-M
PAYMENT REDUCTION FOR NONCOMPLIANCE

(See Clause 14.6, 15.2 and 19.7)

DELETED

SCHEDULE-N

SELECTION OF EMPLOYER'S ENGINEER

(See Clause 18.1.1)

1. Selection of Employer's Engineer

- 1.1 The provisions of the World Bank's "Procurement Regulations for IPF Borrowers, July 2016_Revised August 2018" ("Procurement Regulations") shall apply for selection of an experienced firm to discharge the functions and duties of an Employer's Engineer.
- 1.2 In the event of termination of the Technical Consultants appointed in accordance with the provisions of Paragraph 1.1, the Employer shall appoint another firm of Technical Consultants forth with and may engage a government - owned entity in accordance with the provisions of Paragraph 3 of this Schedule - N.

2. Terms of Reference

The Terms of Reference for the Employer's Engineer (the "TOR") shall substantially conform with Annex 1 to this Schedule N.

3. Appointment of Government entity as Employer's Engineer

Notwithstanding anything to the contrary contained in this Schedule, the Employer may in its discretion appoint a government - owned entity as the Employer's Engineer; provided that such entity shall be a body corporate having as one of its primary functions the provision of consulting, advisory and supervisory services for engineering projects; provided further that a government – owned entity which is owned or controlled by the Employer shall not be eligible for appointment as Employer's Engineer.

SCHEDULE-N Annex-1

TERMS OF REFERENCE FOR EMPLOYER'S ENGINEER

Refer Annexure 1 of SCHEDULE - N

1. Background

- 1.1 Assam has approximately 1980 km of navigable waterways of which the most important for transport purposes are the Brahmaputra and Barak Rivers. The Brahmaputra River with a length of 891 Km between the Bangladesh Border and Sadiya, was declared National Waterway no. 2 by the Government of India in 1988, the development of its navigation infrastructure thereafter being the responsibility of the Inland Waterways Authority of India (IWAI). IWAI is currently aiming to maintain a navigable depth of 2.5m from Bangladesh Border to Neamati (629 Km), 2.0 m from Neamati – Dibrugarh (139 Km) and 1.5m from Dibrugarh – Sadiya. However, while IWAI is responsible for the navigation 'fairway' it does not have responsibility for operating water transport services. These services are provided by the State or local governments.
- 1.2 Both urban and rural ferry services are provided by the Directorate of Inland Waterway Transport Assam, and by country boat operators – typically small independent and informal private businesses. In addition to the 97 ferry service routes designated by the Directorate of IWT, there are numerous routes licensed by the local (village) and district councils. Other users of the river include the Central Inland Water Corporation Limited, security forces, tourist organizations and other private cargo operators.
- 1.3 The Directorate of Inland Waterway Transport Assam (DIWTA), established in 1958 and part of the Assam Transport Department, is responsible for developing, maintaining and regulating IWT services in the state. It also operates and maintains many of the passenger transport services, ferry terminals and navigation aids on both Brahmaputra and Barak Rivers. Headquartered in Guwahati, it has three divisional offices in Guwahati, Dibrugarh and Silchar; five sub-divisional offices in Guwahati, Goalpara, Jorhat, Dibrugarh and Hailakandi; and three commercial offices at Guwahati, Goalpara and Dibrugarh. It also has a Crew Training Centre at Guwahati. DIWTA currently has a total of about 4,330 regular staff.
- 1.4 In order to leverage the benefits of inland water transport, the Government of Assam wishes to transform the quality of inland water transport services and integrate high quality passenger and vehicle ferry services, and inland water freight transport into Assam's wider transport network system. The Government of Assam has applied for World Bank loan assistance to implement its the Assam Inland Water Transport Project (AIWTP).
- 1.5 Under the AIWTP, the construction works for developing state of the art international standards' IWT Terminal at Guwahati Gateway Ghat (GGG) (the "**Project**" or the "**Terminal**") are proposed to be awarded and commence soon. The Detailed Project Report (DPR) and the bid document based on the DPR is under preparation. This would be a major landmark for the entire AIWTP.
- 1.6 The state-of-the-art terminal under the Project shall include Terminal complex with required facilities and amenities, provisions for berthing, approach trestles and steel link spans with supporting structures to cater to high water level variations between HFL and LFL during the year, floating pontoons and facilities for boarding & de-boarding of passengers/loading & unloading of cargo, bank protection, navigation aids and other auxiliary support systems. In order to increase the last mile connectivity, approach road and related infrastructure to terminals connecting nearby main roads may also be undertaken under this development.

2. Project Component

- 2.1 Assam Inland Water Transport Development Society(AIWTDS) is the Project Management Unit (hereinafter called also the '**Employer**') of Assam Inland Water Transport Project and it intends to engage a Technical Support Services Consultant (TSSC) for development of the

Project as mentioned in Section 7 of this Terms of Reference. The TSSC will efficiently manage the entity appointed for undertaking the Project works (the “**Contractor**”) and provide assistance to successfully complete and deliver the Project (as defined in Section 7) on behalf of AIWTDS. TSSC shall ensure progress of the works and quality of deliverables by Contractor in implementation of the Project as per the WB guidelines and applicable Employer’s acts, rules and regulations. The TSSC will provide Technical Support Services (TSS) on technical, construction and advisory related matters for successful completion of the Terminal development works in Guwahati Gateway Ghat (GGG). Such services shall be in the form of on-site advisory and support services covering all critical aspects of the Project.

- 2.2** TSSC shall be a well-equipped and qualified firm to provide consultancy services in particular the works for engineering and execution, contract management, work safety issue, overall project performance management of the Contractor (and all execution agencies under the Contractor) and reporting the same along with providing related operational support to AIWTDS/World Bank. The TSSC shall be responsible for day to day construction management, quality assurance and control, safety management and supervision services including review of engineering design, approval of materials and managing day to day construction at site / installation of all the works along with associated works as outlined in this document.

3. Objective of Consultancy

- 3.1** The objective of this consultancy is to efficiently manage the contracts for construction works for the Project such that all activities envisaged for the Project are completed in agreed timeline, within budgeted cost & technical specifications and in full compliance with the World Bank guidelines and applicable Employer’s acts, rules and regulations. The objective is also to ensure compliance to loan agreement covenants and to achieve project monitoring indicators and milestones as agreed-upon in the stipulated time frame.

- 3.2** The TSSC will be required to provide a team of suitably qualified experts (qualifications given in section 11) covering the disciplines required for the consultancy for a period, including full-time and need based/ part time resource deployment, as specified in Section 10 of this ToR.

The following are the principal tasks envisaged under the TSSC services.

- 3.2.1** Design review and technical support
- 3.2.2** Comprehensive project technical support as per the technical requirements including day to day supervision for ensuring progress, review of designs, environmental and social management, quality and safety parameters as outlined for scope of Contractor, coordination and management with all stakeholders including Contractor and Consultants.
- 3.2.3** Contract management and administration services
- 3.2.4** Preparing Project Reports and reviewing / updating project activities, monitoring of work progress, suggest measures to make up delay in progress, process extension of time, if any. The Consultant shall prepare suitable progress reporting formats and establish a comprehensive reporting system in discussion / agreement with AIWTDS.
- 3.2.5** Ensuring compliance to quality and safety parameters for the Project
- 3.2.6** MIS operational support
- 3.2.7** Manage Engineering, procurement and construction

4. Implementation Mechanism

- 4.1** AIWTDS will administer the Project and shall nominate one “Engineer in Charge” for the Project outlined in Section 7 of this TOR. TSSC shall act as “Engineer’s Representative” of the “Engineer in Charge”.
- 4.2** The “Resident Engineer ” for the Project shall be responsible for management of all project activities and shall make all engineering decisions at site during the implementation of the

Contract, after requisite approvals of Engineer-In-Charge. The Resident Engineer of TSSC shall be responsible and report to respective Authorized official of AIWTDS for the Project. The Terminal and associated infrastructure under the Project shall have one Resident Engineer from TSSC posted at Terminal Site along with core and support team as per terms outlined in Section 10 of TOR.

- 4.3** The State Project Director, AIWTDS has charge of overall project administration. The Engineer-In-Charge will be the main interface between the Employer and TSSC. The Engineer-In-Charge shall regularly co-ordinate with and arrange for all submittals, deliverables from TSSC including but not limited to progress reports, design submittals, financial issues, risk management etc. to AIWTDS for managing and ensuring smooth functioning of Project Site within timelines, budget and agreed quality and safety parameters as outlined in Contract.

5. Contract Management Framework

The Engineer In-Charge and his assigned team from AIWTDS shall engage regularly with the TSSC for efficiently completing the various delivery items and regular coordination with TSSC at Project Site (s)/AIWTDS office. Frequent meetings between the AIWTDS, Directorate of Inland Water Transport (DIWTA), TSSC and representatives from World Bank at the Employer's office in Guwahati are foreseen during the period of Services. The project team will meet at least monthly and the TSSC through Engineer In-Charge will report progress to these meetings. During the entire period of Services, the TSSC shall interact closely with AIWTDS /DIWTA/ World Bank/ any other authorized representatives of the Employer to receive input and provide information sought by Employer.

6. Employer's Requirements: Overview

- 6.1 Project:** Construction of Inland Water Transport (IWT) Ferry Terminal and supporting riverine infrastructure at Guwahati Gateway Ghat (GGG), located in Guwahati, Assam.

6.1.1 Project Completion Time: Estimated Project Completion time is 24 months.

6.1.2 All eligible Consultants shall have to participate in the competitive Request for Proposal (RFP) process for the Assignment.

7. Detailed Scope of Technical Support Services Consultant

The TSSC shall be responsible for effectively advising, assisting, and acting on behalf of the AIWTDS when so authorized, effective project management and supervision of the Project. All references made herein with respect AIWTDS, various consultants as appointed, contractor etc. including AIWTDS are hereby collectively referred as "**Stakeholders**" in this TOR and the same should be read in relevant context as applicable to and involving concerned stakeholder for purpose of coordination and reporting to be undertaken by TSSC. The mechanism and mode of implementation along with contractual framework for executing this TOR and formal reporting structure involving all stakeholders is clearly explained in section 2 to 5 of TOR.

The quality of TSSC services for construction management and supervision at site should be of the standard expected under the Project Agreement with the World Bank.

The Project comprises of terminals and riverine infrastructure at Guwahati Gateway Ghat (GGG) and the construction works are likely to commence in July 2021. The TSSC must ensure deployment of the Key-Experts proposed in the RFP for the duration of the Project. In certain unavoidable circumstances the Client may accept an alternative Key Expert having equal or better qualifications and experience than those of the originally proposed Key Expert. Non-compliance of this requirements may lead to termination of Contract at any time.

Overall the scope of the TSSC services shall be as indicated herein in Phase 1, Phase 2 and Phase 3 but not limited thereto.

PHASE – 1**7.1 Bid Process Management****7.1.1 Task 1: Bid process management for selection of Contractor(s) and execution of contract(s)**

- i. Assist AIWTDS in organizing and conduct of the pre-bid meetings.
- ii. Provide inputs in the pre-bid meeting[s], drafting meeting minutes and assist in the preparation/issuance of clarifications in response to pre-bid queries to the prospective bidders.
- iii. Prepare detailed roadmap and provide all necessary details in the evaluation of bids and checking of technical submission including any deviations or value engineering.
- iv. Assist in carrying out the technical evaluation of the bids and preparation of the Technical Evaluation Report as per the World Bank guidelines
- v. Assist in carrying out the financial evaluation and analysis of the bids received and submission of the evaluation reports.
- vi. Prepare justification statement for the rates quoted in bidding
- vii. Assist in finalization of notice of award/s, carrying out negotiation meeting and signing of the agreement with the selected contractor/s.

PHASE - 2**7.2 Project Preparation**

- (i) Acquaint with all the work done, reports / documents prepared for this project i.e. Review existing reports / documents prepared for this project prior to appointment of TSSC.
- (ii) Review and comment on baseline surveys and reports in respect of planned terminal and accordingly give final recommendations/changes to be incorporated in surveys and reports during the preparation of detailed designs by the Contractor.
- (iii) Review the work done and prior to appointment of TSSC e.g. implementation and completion reports, if any, and document them on soft and hard media, for ready reckoning for future recourse.
- (iv) Set procedures, systems, standards, criteria and reporting systems for the Contractor.
- (v) Assist AIWTDS in monitoring site-readiness for the projects.
- (vi) Carry out / assist AIWTDS for other activities required for preparation of project.
- (vii) Verify whether implementation of site-specific Resettlement Action Plan/Indigenous Peoples Development Plan(RAP-cum-IPDP)is completed prior to the handing over of the encumbrance free site area to the Contractor for initiating construction work. The TSSC shall provide options and advice in accordance to the Resettlement Policy Framework/Indigenous Peoples Development Framework (RPF/IPDF) in case of additional land requirement or resettlement impacts encountered during the implementation.

7.2.1 Task 1: Team Mobilization and Project Start-up

The Team Leader of TSSC,along with its team members, will prudently organize themselves and put in place accountable personnel, systems, processes and all that's needed to deliver it mandate effectively. This shall involve holding periodic meetings and preparing for (but not limited to) the following:

- (i) Rules and responsibilities of all parties and Stakeholders in the Project setup and lay out the rules and guidelines for implementation of the project.
- (ii) Status on award of contract(s)
- (iii) Reporting system and point of contact(s)
- (iv) Setting up of its project office nearby to the project location.
- (v) Issuing of Project Reports, Contract Documents and other background information related to the project.

7.2.2 Task 2: Review of available Contract Documents

- (i) Study of contract agreement between Employer and the Contractor(s):

TSSC shall also review the contract agreements for understanding the responsibilities vested with the Contractor involved in the project. The understanding of the contract provisions is very important in the overall success of the project. It is very important to have clarity and thorough understanding of various provisions, in all aspects, and adequately robust to cope up with the requirements for the successful completion of project. The provisions of the achievements of the milestones and the penalties, the procedure for dispute resolution, if arises are absolutely vital for the success of the project.

7.2.3 Task 3: Design Review

TSSC shall be responsible for review and finalization of detailed engineering designs, drawings and other technical document submission made by the Contractor to ensure compliance with applicable guidelines, standards, local rules and regulations, WB guidelines and Employers rules and regulations, Bureau of Indian Standards, and as per publications as well as best global engineering practices and any other developed countries standards in the order of appearance here above.

- (i) Review of detailed engineering designs, drawings and other technical document submission made by the Contractor as per the scope of the Project to ensure that they cater to site requirements, construction amenability and least life cycle cost aspects.
- (ii) Review and recommend for the issuance for execution of Contractor's design and drawings with approval of the Employer for Contractor(s).
- (iii) Review the project documents including designs and drawings and give recommendations as required. The review shall identify any defects or omissions that compromise the completeness or consistency of the construction drawing in regard to its field level execution that may affect the viability, accuracy or implementation of the construction contract, and suggest modification to the implementation agency in consultation with the Employer confirming the conformance with the requirements of the ESMP and RAP-cum-IPDP for the GGG.
- (iv) Review Contractors' Occupational Health and Safety (OHS) plan, Labour management and Workers' Camp Management Plan and contractor's code of conduct (CoC) with a grievance mechanism for contractor's personnel to confirm that it meets with the requirements, in light of the site conditions and finalized design. Assist AIWTDS including other concerned stakeholders on actions required on review done / suggestions for design and construction aspects as and when required.
- (v) Review and approve the "as built" drawings submitted by the Contractor.
- (vi) Review the tender documents to make sure that necessary environmental and social obligations with effective non-compliance remedies are incorporated into the tender documents.

7.3 Project Monitoring and Control

TSSC shall be responsible for monitoring entire project development and progress related to execution thereby assisting all Stakeholders in efficient project management and rendering advice in taking necessary actions for timely and quality completion of the project.

- (i) Review and comment on the project schedule prepared by the Contractor(s)/ executing agency and assist all stakeholders to provide necessary approvals.
- (ii) Monitor project development at project site against agreed scheduling and co-ordinate for finalizing the mitigation plan in case of delay. Monitor physical and financial progress for execution of works. Assist in forward physical and financial planning
- (iii) Monitor project development goals for site execution against stipulated goals in project indicator framework.
- (iv) Update / revise project scheduling, developmental goals, physical and financial achievements of Contractor in co- ordination with all stakeholders.
- (v) Report weekly, monthly and quarterly project status to all stakeholders.

7.3.1 Detailed Tasks

- (i) Review Contractor's detailed works program along with concerned stakeholders for procurement and installations and suggest modifications where deemed necessary.
- (ii) Review the suitability of Contractor's superintending and key personnel and suggest modifications where required. Also review if the plant & equipment have been mobilized as per contract requirement and performing satisfactorily to meet the target of completion. If not, the Contractor shall be instructed to replace such equipment(s)
- (iii) Ensure that all the works carried out under this program fully comply with engineering designs, technical specifications, drawings, established codes & sound engineering practices.
- (iv) Assist in interpretation of the drawings and technical specifications etc. as and when required
- (v) Review the construction methodology proposed by the Contractor for execution of works and suggest modifications as necessary, in order to ensure that the same is satisfactory in respect of technical requirements, project implementation schedule and safety of the works, property, personnel & general public.
- (vi) The TSSC will assist concerned stakeholders to inspect the work on completion before taking over by the Employer and indicate any rectification required and outstanding work to be carried out by the Contractor prior to issuance of certificate of completion by Employer, and will indicate any defects to be rectified during defect liability period.
- (vii) Recommendations regarding methods and procedures for the evaluation and the system for monitoring of works after completion.

7.4 Project Execution

- (i) Assist in monitoring / execution of all works during contract period of the Project.
- (ii) Ensure adequacy, stability and safety of all personnel and construction works being executed by the Contractor during the construction, operation and maintenance up to the end of the defect liability period.

- (iii) Regular site reporting to monitor progress in implementation, including physical progress, Contractor performance, and adequacy of Contractor's supervision.
- (iv) Check measurement sheets / progress of works & milestones submitted in Contractor's bills submitted at intervals as per contract and certify payment due to the Contractor.

7.4.1 Detailed Tasks:

- (i) Assist in planning of all works.
- (ii) Assist in monitoring and tracking statutory approvals and clearances.
- (iii) Assist concerned stakeholders to deal with performance deviation by Contractor.
- (iv) Advise and assist concerned stakeholders in defending Employer's stand
- (v) Advise and assist in minimizing disputes / claims.
- (vi) Advise and assist concerned stakeholders in coordination and external meetings.
- (vii) Assist and advise on encumbrance removal / utility shifting during construction period.
- (viii) Assist/ advice regarding timely handing over the site to the Contractor in stages and the advance actions required to be taken for the handing over of the site and to achieve the milestones for completion of the construction packages.
- (ix) Carry out proper monitoring of progress of the works through computer aided project management techniques;
- (x) Check Contractor's setting out of works prior to execution, for conformance with the 'Good for Construction' drawings and file daily, weekly and monthly reports with verify lines and levels to ensure works are being executed as per the approved drawings/layouts, alignments and levels.
- (xi) Approve Contractor's proposed designs/drawings for temporary works;
- (xii) Inspect at regular intervals the Contractor's work sites, plant and facilities;
- (xiii) Inspect worksite at regular intervals to ensure contractor's compliance with their contractual commitment, with specific focus shall be to ensure compliance with the contractor's ESMP, contractor's code of conduct and Labour management/labor Influx and Workers' Camp Management Plan, including measures for labour welfare and prevention of sexual exploitation, abuse harassment (SEAH), as per relevant laws and immediately notify both the Employer and the Contractor of any infringement or violation.
- (xiv) Maintain records, working/as-built drawings, and test data, details of variations, correspondence, and diaries in the formats approved/specified by the Employer;
- (xv) Ensure that the quality of materials used, meet the specifications of contract agreement.
- (xvi) Maintain records of all plant, labour and materials used in the construction of the works;
- (xvii) Ensure that the quality of workmanship and the temporary arrangements/ structures made for carrying out the works meet the requirement of specifications and safety standards.
- (xviii) Verify physically at least 10% the measurements taken by the Contractor for payment and maintain measurement records in standard format.

- (xix) Assist concerned stakeholders in scrutiny of invoices raised and settlement of all claims amicably.
- (xx) Issue interim quantity certificates for processing Contractor's invoice. Certify completion of part or all of the works for payment;
- (xxi) Analyze claims submitted by the Contractor and prepare recommendations for the approval of "Engineer in charge" in terms of both technical and financial issues, for the claims for response to the Contractor.

7.4.2 Labor Management Plan.

The TSSC consultant, shall monitor all the provisions of all Acts, Laws,

Regulations, Rules or by-laws of the Central Govt. State Govt., and or any local and Statutory

Authority amended from time to time and applicable is respect of engagement of labour, such as,

but not limited to:

- (i) The Payment of Wages Act, 1936.
- (ii) The Minimum Wages Act, 1948
- (iii) The Contract Labour (regulation and abolition) Act, 1970
- (iv) The Workmen's Compensation Act, 1973.
- (v) The Employer's Liability Act, 1938
- (vi) The Maternity Benefit Act, 1961
- (vii) The Industrial Employment (standing order act) 1946
- (viii) The Industrial Dispute Act, 1947
- (ix) The Payment of Bonus Act, 1965
- (x) The Employees Provident Fund Act, 1963
- (xi) The Personal Injuries (Compensation Insurance) Act, 1963
- (xii) The Employees State Insurance Act, 1948

Moreover, the TSSC consultant shall maintain all records pertaining to labour engaged directly or indirectly on the work on daily basis, duly signed by the Contractor's site in-charge and Engineer - in - charge or their representatives and produce the records as and when called for.

7.5 Quality Assurance and Quality Control

- (i) TSSC shall be responsible for Quality Assurance & Technical Auditing (QA/TA) of the construction works. Develop forms and procedures to ensure implementation of a proper Quality Assurance system on all activities and aspects of the project.
- (ii) Assist the concerned stakeholders on matters connected with quality assurance/control aspect of works to ensure the quality of work and its conformity with the standards & specifications prescribed in the contract.

7.5.1 Detailed Tasks:

- (i) To ensure high quality in construction works to be executed.

- (ii) Review and approve the quality assurance/ control system & procedures being followed by the Contractor.
- (iii) Check & approve sources of materials and ask the Contractor to submit materials ordering schedule;
- (iv) Review suitability of source and quality of construction materials based on inspections, test results/ manufacturer's certificates etc.
- (v) To assist concerned stakeholders in verification of the field-testing laboratories set up by the Contractor in respect of its facilities, adequacy, arrangements, equipment and laboratory staff etc.
- (vi) Witness all the Quality Control tests being conducted by the staff of the Contractor in the Contractor's field-testing laboratory. The TSSC will also ensure the compliance and review the test results of the samples of Contractor's Material tested at intervals agreed in inspection and Test Plan at Govt. Engineering College laboratory or approved NABL accredited laboratory.
- (vii) Assist during inspection of the construction equipment and other related machinery to assess their suitability for the works. The TSSC shall ensure that all testing equipment in use in the laboratory have valid calibration certificate. During course of inspection if any item of the work is found substandard or unacceptable, the TSSC would inform the concerned stakeholders the rectification or replacement required in writing, giving full justification thereof with necessary supporting data.

7.5.1.1 Task 1: Preparation of Quality Assurance Plan

- (i) The TSSC in discussion with Employer shall prepare a Quality Assurance Plan (QAP), which will detail, TSSC's Plan to conduct the various activities and measures/procedures to keep a check on the quality of the products.
- (ii) The quality Assurance Plan and Quality Control **procedures** will be continually checked by the TSSC's supervisory staff to oversee that the work is completed according to specifications as laid out in Tender and applicable Relevant Indian Code of Practice including international and good practices.
- (iii) The main considerations that should weigh with preparation of an overall Quality Assurance Plan are:
 - a) Clearly defining the objectives,
 - b) Enumerating the activities involved
 - c) Incorporating the requirements of quality in each activity and providing for a fail-proof safeguard, if any.
 - d) Laying down the surveillance plan, checks for each apprehended lapse and omission,
 - e) Inspection and Test Plans including frequency of tests, at field lab or external approved lab, including requirement for witnessing.
 - f) The TSSC shall also develop forms and procedures for proper implementation of Quality Assurance Plan. They shall, inter alia, include the following:
 - g) Procedure for storing of materials to be used in permanent works. Organization of materials from stockyards during laying and finished works
 - h) Type, frequency and procedure of tests for different kinds of materials used for construction and permanent installations including mechanical, electrical and electronic equipment.

- i) Inspection and test plans including requirement for witnessing
- j) Requirements for record keeping
- k) Norms and procedures for control of process related to laying of concrete structures and installation of other permanent works covering all disciplines involved in enabling Construction of Terminal.
- l) Acceptability criteria for works and workmanship
- m) Formats for recording and compilation of test data
- n) Reporting system for test results and for actions to be taken in respect of quality

7.5.1.2 Task 2: Review of Field-Testing Laboratories

The laboratory and all facilities thereby will be supplied through the Construction Contracts by the Contractor. The list of equipment being provided will be made available to the Team Leader by the Employer. The Team Leader with the assistance of Sr. Quality Assurance Engineer will check the field laboratory set up of Contractor against this list and report any discrepancies or additional equipment necessary.

7.5.1.3 Task 3: Quality and Technical Audit

- (i) All Test and Controls before, during and after execution of the works will be preliminary defined beforehand and agreed leading to an organized systematic Quality Control.
- (ii) The TSSC will review the laboratory setup of the Contractor including the calibration of equipment. A comprehensive Testing Program and standardization of forms for testing purpose will be set up. Typical standard sheets will be produced for all the test required. They shall, inter alia, include the following:
 - a) The type of test to be performed,
 - b) Demands of specifications in relation to materials or final product,
 - c) The person responsible for testing,
 - d) The periodicity and frequency of the test (Volume of works, daily, weekly, before execution, etc.)
 - e) The standard and limits to be observed.
- (iii) The TSSC shall ensure that the Contractor maintain systematic documentation of all testing as per the forms that will be developed by the TSSC.
- (iv) The TSSC 's team will audit the quality reports maintained by the Contractor and will also witness the testing of material. Where necessary, testing in other laboratories will be arranged by the Contractor and monitored by the TSSC.
- (v) The source of materials will also be reviewed, and test reports of quarry material will be audited to assess their engineering properties. For all prefabricated and ready-mix items, certificated from manufacturers will be audited to verify that that the items meet the project requirement and specifications.
- (vi) The TSSC will develop procedures to audit various items of construction and ensure that all concerned persons understand and implement these procedures with special emphasis on proper testing before any element is covered up. If during inspections the Consultant finds improper materials have been used or if tests fail to meet the requirement of the specification, the consultant will notify the concerned stakeholders.

- (vii) The TSSC will regularly inspect all the work site to ensure, on the basis of firsthand observation that works are being executed according to plans and specification and to provide on the job training to local supervision personnel. If any deficiencies in quality are observed during site visits, remedial measures will be initiated on the spot.
- (viii) Supervisory personnel will be educated in proper techniques to inspect/test for the problem and to prevent repetition.

7.6 Project Closure Stage

After completion of the construction, the TSSC will inspect the entire Project or parts of the Project with representatives of concerned Stakeholders.

- (i) Ensure that the Contractors' demobilization is as per the agreed Demobilization Plan.
- (ii) Check and certify As-Built Drawings prepared by the Contractors before issuance of Taking-Over Certificates.
- (iii) All defects, imperfections, and faults will be notified to the AIWTDS. AIWTDS will instruct the Contractor for rectification of the defects. Upon completion of all rectification a Final Inspection will be performed with AIWTDS and the Contractor.
- (iv) At the completion of the works, assist the Employer in preparing a consolidated Project Completion Report in the format as prescribed by Client.
- (v) Following final inspection of the project and the correction of all identified deficiencies on the project, the TSSC shall recommend to AIWTDS to issue the Project Completion Certificate

7.7 Other activities related to the Project

- (i) Efficient Documentation both on paper media and soft media
- (ii) Assist in handling RTI applications and assessment of RTI compliance related to field works.
- (iii) Assist in handling audit observations including preparation of detailed of reply on Audit Para, factual note.
- (iv) Assist in important Correspondence with the World Bank and AIWTDS.
- (v) Presenting project status during WB missions and AIWTDS meetings as well as to prepare power point presentation on the same as per requirement.
- (vi) To assist in monitoring and evaluation including updating the indicators of result framework of the project.
- (vii) Assist in arranging and conducting monthly progress review / coordination meetings and to prepare its minutes of meetings.

7.8 Deliverables

TSSC may be expected to conduct additional field inspection on the specific aspects as required. TSSC shall provide reasonable advance notice of planned visit to site, schedule of meetings for review, and documents required for review, etc. to AIWTDS. The observations of the TSSC team should be discussed with project management team of the AIWTDS before concluding the visit. The reporting would be as per the check lists, and format approved by AIWTDS and qualitative feedback should be captured in narrative in separate documents. Hard copies & soft copies of the reports should be submitted to the AIWTDS office. AIWTDS and supportive team may then record their responses to the reports filed by the TSSC to the Construction / implementation / monitoring agency. TSSC should provide clarifications / explanations to all the concerned agencies.

PHASE – 3**7.9 Defects Liability Period**

During this period the TSSC will make at least one visit per month to verify the behavior of the structure and note defects. The time schedule for the construction activities of the Guwahati Gateway Ghat has been proposed as 18 months after the award of contract. However for TSSC, the project duration considered as 24 Months which includes bid process management prior to award of contractor. The duration also includes extension of construction project due to unpredictable behaviour of river Brahmaputra which has been evidenced from past projects on NW-2

- (i) If necessary, the TSSC will notify AIWTDS in assessing any possible defect that may appear, care will be taken to differentiate between a “construction defect”, which is the Contractor’s responsibility to correct and “normal wear and tear”, which is a maintenance item.
- (ii) Following each inspection, a report detailing the observed defects will be prepared and discussed with the AIWTDS and the Contractor involved. A solution to the issues will be determined in consultation with AIWTDS and the Contractor.
- (iii) At the end of the Defects Liability Period the TSSC will make a final inspection with AIWTDS and the representative of the Contractor and certify to AIWTDS that all is in order and that the Contractor may be released from further obligation as per provision for contract.

8. Reporting Requirements and their timelines

The TSS will prepare and submit the following reports in hard and soft copy to AIWTDS in the format prepared by the TSSC and as approved by AIWTDS:

S.No	Particulars of the Report	No. of Copies	Content of the Report	Time of submission
1)	Inception Report	3	TSSC will submit an Inception Report at the end of first month containing a description on approach and methodology along with detailed work plan and resource deployment plan.	Within 30 days from commencement of services.
2)	Quality Assurance Plan	3	TSSC shall prepare a quality assurance plan for achieving quality in construction based on national / international standards and best practices being followed.	Within 30 days from commencement of services.
3)	Bid Process Management	3	Detailed description as mentioned above in Phase- 1	Upon submission of Bid for Works at Guwahati Gateway Ghat (GGG)
4)	Monthly Progress Reports	3	Detailed description as mentioned	For every month by 7 th date in following month
5)	Quarterly Progress Reports	3	Detailed description as mentioned below	For every Quarter by 7 th date in following Quarter

S.No	Particulars of the Report	No. of Copies	Content of the Report	Time of submission
6)	River Safety Compliance Report	3	The TSSC shall prepare and submit compliance report on implementation of river safety management plan on quarterly basis. The report shall include outcome of river safety audit conducted by the Safety Expert and also incorporate recommendations for improving during operation of vessels safety.	For every Quarter by 7 th date in following Quarter
7)	Standard operating procedure for evaluation	3	Recommendations regarding methods and procedures for evaluation and the system for monitoring the condition of works after completion after completion of each element (piles, link span, jetty, admin building etc)	Within one month after completion of consultancy assignment.
8)	Quality Certificate	3	Certificate regarding Quality of work executed for each activity of work and covering all types of works.	Within one month after completion of work.
9)	Defect Liability Report	3	Detailed description as mentioned above in Phase- 3	For every Quarter by 7 th date in following Quarter during the Defect Liability Period.
10)	Final Completion Report with CD	3	The TSSC will prepare a comprehensive final completion report including As Built drawing, approved design, Equipment's installed, Utilities and Services (Electrical, Mechanical, and Electronics) or before the end of Consultancy Services.	Within 90 days after issuance of Completion Certificate of the Civil Works Contract

The TSSC shall also prepare and submit the following reports (hard & soft copy) within 30 days from commencement of Service.

S. No.	Description	Number	Copies	Content of the Report
1	Construction monitoring Manual	1	3	Construction Monitoring Manual shall include detailed project procedures for efficient and time-bound implementation of the project and for progress monitoring and quality control. This Manual shall be submitted within three months of the commencement of the consultancy services.
2	Engineering Reports	As required	3	Engineering Report shall include the progress on design, comments and inputs, recommendations and

S. No.	Description	Number	Copies	Content of the Report
				highlight any issues which may lead to design changes and needs prior client approval. These report / technical recommendations by TSSC shall help AIWTDS to finalise all engineering designs, drawings necessary for development of the project (GGG)
3	Maintenance Manual	1	3	Maintenance Manual shall be submitted two months prior to the completion of construction prepared in line with Civil Works Contract.

Monthly Progress Reports

The TSSC shall prepare & submit a brief progress report summarizing the work accomplished by the supervision team for the preceding month. The report shall outline any problems encountered (administrative, technical or financial) and give details/ recommendations on how these problems have been/ may be overcome. Brief work progress summaries will be included for ongoing jetty and other major works, outlining problems encountered and solution/ recommended solutions. The report shall also record the status of payment of Contractor, monthly certificates of all claims for cost or time extensions, and of action required from government and other agencies to permit unconstrained works implementation.

Quarterly Progress Reports during the tenure of the Contract

The TSSC shall prepare a comprehensive report summarizing all activities under the supervision contract at the end of each quarter, and also at other times when considered warranted by either the TSSC or the Concerned Stakeholders because of delay of the construction works or because of the occurrence of technical or contractual difficulties. Such reports shall include but not be limited to, (i) Details of major milestones achieved (ii) the progress of the Contract (iii) all contract variations and change orders (iv) the status of Contractor's claims, if any; (v) details of construction related grievances reported during the time-period, etc. and will include brief descriptions of the technical and contractual problems being encountered, physical and financial progress in approved formats, financial status of the contract as a whole consisting of the cost incurred, cost forecast, as well as financial plan (by World Bank and the Government), compliance with safeguards requirement, and other relevant information on the ongoing contract.

Final Completion Reports

The TSSC shall prepare a comprehensive final Completion Report of the contract, after entire work reaches a stage of substantial completion during the period of the consultancy services. These reports must be submitted within one month after the completion of the work by the Contractor and before taking over of all the works by the AIWTDS. The report shall incorporate summary of the method of construction, the construction supervision performed, as built construction drawings, problems encountered & solutions undertaken thereon and recommendations for future projects of similar nature to be undertaken by AIWTDS. The Authority's Engineer will summarize and consolidate in a single report the key information to prepare the Final Completion Report on completion of the Civil Works contract including Services.

All the above mentioned reports, manual, certificates mentioned in Section-8 must be submitted to:

Deputy State Project Director,

**Assam Inland Water Transport Development Society,
3rd Floor, Office of Directorate of Inland Water Transport,
Ulubari, Guwahati, Assam.**

9. Data, services, and facilities to be provided by the employer

The following and any other such data, available with the AIWTDS shall be provided to the TSSC: models of past RFQ, RFP, project details, specifications, designs (as and when required) and Schedules or any other relevant document supportive to project development prepared by AIWTDS.

Professional and support counterpart personnel to be assigned by the Client to the Consultant's team: Project Manager (Technical), Project Support Engineer (Mechanical) and Project Support Engineer (Civil) Assam Inland Water Transport Development Society,

10. Staffing

The TSSC professionals must have relevant experience complying to the requirement of TOR, familiarity with the local conditions and prevalent local laws and must exhibit expertise of International standards in supervision of large infrastructure projects. Staff nominated by the selected TSSC must be confirmed as available for the project to do the scheduled work. At the time of RFP, the CVs of the proposed professionals must be submitted along with signed declaration by the proposed professionals confirming their availability for the project. CVs submitted without such declaration shall not be considered for evaluation.

The TSSC team must comprise of highly qualified and experienced Key and Non-Key Experts, best suited for the assignment. TSSC must provide CVs of both Key Experts and Non-Key Experts in their Technical Proposal. Some key experts shall be employed intermittently, at intervals which would be proposed by AIWTDS. The period of employment of key experts and non- key experts are indicated below:

S.No.	Resource	Deployment	
		No.	Man-months
1.00	Key Resources		
1.01	Team Leader cum Project Management Expert	1	15
1.02	Resident Engineer cum Construction Expert to be based at Site Full time	1	30
1.03	Sr. Quality Assurance cum Material Engineer	1	8
1.04	Sr. Electrical Engineer	1	8
1.05	Sr. Structural Engineer	1	8
1.06	Sr. Mechanical Engineer (Including Defect Liability Period)	1	8
1.07	Contract Specialist & Commercial manager	1	6
1.08	Environmental Specialist	1	18
1.09	Social Development Specialist	1	18
1.10	Safety Officer	1	24

S.No.	Resource	Deployment	
2.00	Non - Key Resource to be based at Site continuously		
2.01	Civil Engineer (Including Defect Liability Period)	1	24
2.02	Quality Control Engineer	1	18
2.03	Quantity Surveyor and Billing Engineer	1	18
2.04	MIS Expert	1	8
2.05	Project Planning & Scheduling Expert	1	8
3.00	Support Staff to be based at Site Full time		
3.01	Office Administrator & Document Controller	1	18
3.02	Office Support Staff	1	18

11. Qualification & Experience of Key Personnel

S. No.	Position	Educational Qualification	Experience, Roles & Responsibility
A. Key Experts			
1	Team Leader cum Project Management Expert	Should be a Graduate in Civil Engineering. Post-Graduation in Project Management / Port /Marine Engineering will be preferred. Minimum 20 years of overall experience, including 5 years of experience as Team Leader in Port/IWT related construction supervision and Project management.	<ol style="list-style-type: none"> 1. Experience in managing similar large infrastructure project with various financing and procurement arrangements, supervision of field engineers. 2. Ability to handle multiple projects simultaneously, should have handled as Resident Engineer or in a similar capacity at least three projects of similar works/magnitude. 3. Alternatively, should have the experience as Team Leader with 8 years' experience of Project monitoring and supervision of at least two infrastructure projects preferably in Port sector of which one project should be of similar works/magnitude.
2	Resident Engineer cum Construction Expert to be based at Site Full time	Should be a Graduate in Civil Engineering. Post-Graduation in Project Management/ Port /Marine Engineering will be preferred.	<ol style="list-style-type: none"> 1. Responsible for the project implementation activities of the respective Contractors. 2. Shall ensure execution of works on site as per specifications / standards

S. No.	Position	Educational Qualification	Experience, Roles & Responsibility
		<p>Minimum 15 years of overall experience including 5 years of experience in Port/IWT related constructions works / project management installation of large diameter driven and/or bored RCC piles or steel tubular piles or precast concrete piles of large lengths in marine/riverine conditions.</p>	<p>and interact with the AIWTDS and the respective Contractor.</p> <ol style="list-style-type: none"> 3. Shall guide, supervise, coordinate and monitor the work of other experts in his team as well as those of the respective Contractor. 4. Assist team leader in efficient functioning of TSSC office. 5. Should have a proven record of supervision / project management in projects of similar nature and magnitude.
3	Sr. Quality Assurance cum Material Engineer	<p>Should be a Graduate in Civil Engineering. Post-Graduation in Soil & Foundation Engineering / Geo-Technical Engineering will be preferred.</p> <p>Minimum 15 years of experience in works related to Port/Harbor /IWT structures, including at least 5 years of experience in formulation and implementation of Quality Assurance plan for civil works in Harbor/Port/Marine foundations/major infrastructure works and experience in Mobilization, installation and calibration of Lab equipment is essential.</p> <p>Should be conversant with internationally acceptable modern standards for Quality Assurance in Harbor/Marine/Port projects/major infrastructure works</p>	Responsible for supervising all the tests to be done in different stages of construction.
4	Sr. Electrical Engineer	<p>Should be a Graduate in Electrical Engineering. Post-Graduation in relevant field will be preferred.</p> <p>He should have minimum 15 years of experience in the</p>	<ol style="list-style-type: none"> 1. Should have handled as Site Engineer or in a similar capacity at least three projects of similar works/magnitude. 2. Alternatively, should have the experience as Site Engineer with 8 years'

S. No.	Position	Educational Qualification	Experience, Roles & Responsibility
		relevant field.	<p>experience of Project monitoring and supervision of at least three infrastructure projects preferably in Port sector of which one project should be of similar works/magnitude.</p> <p>3. Responsible for the entire project implementation activities of the respective Contractors.</p> <p>4. Ensure execution of electrical works on site as per specifications / standards, and continuously interact through Team Leader with the AIWTDS and the respective Contractor</p>
5	Sr. Structural Engineer	<p>Should be a Graduate in Civil Engineering. Higher qualifications and specialization in port related civil designs will be preferred.</p> <p>Should have minimum 15 years of design experience including 5 years of experience in Port/IWT related designs.</p>	<p>1. Should have handled similar assignment as Design Engineer manager or in a similar capacity for at least three projects of similar works/magnitude.</p> <p>2. Alternatively, he should have 8 years' experience of design in at least three infrastructure projects preferably in Port sector of which one project should be of similar works/magnitude.</p> <p>3. Responsible for the review of design. He shall undertake project site visits as and when required.</p>
6	Sr. Mechanical Engineer/ Marine Engineer	<p>Should be a Graduate in Mechanical / Marine Engineering with experience in construction</p> <p>Minimum 15 years of experience in the relevant field.</p>	<p>1. Responsible for all Mechanical works.</p> <p>2. Advice client on policy / guidelines of Central / State Govt. Related to IWT matter.</p> <p>3. Technical and contractual aspects of the projects.</p> <p>4. Supervise project clearances for the project.</p>
7	Contract Specialist and Commercial Manager	Should be a graduate in Civil Engineering from a reputed University or institution.	1. Experience in Preparation and maintenance of procurement plans bid process management,

S. No.	Position	Educational Qualification	Experience, Roles & Responsibility
		<p>Minimum 15 years of experience in managing procurement of various consultancy / works contracts under different modes of funding including the multilateral / bi-lateral funded large public sector programs and procurement of Contracts as per the procurement guidelines of Govt. of India and multilateral / bi-lateral funded projects</p>	<p>documentations, audit / review of procurement records, handling procurement related queries/complaints and any other requirement.</p> <ol style="list-style-type: none"> 2. Develop procurement and contracting strategy and plan, strategic sourcing solutions and value buying to increase procurement synergies between the different projects on the corridor. 3. Responsible for bid process management and selection of consultant for project development 4. Drive conceptualization of project contracts 5. Prepare RFP, PQ documents for invitation to bid for projects 6. Issue of NITs and Evaluation of proposals and recommendations to the AIWTDS. Final negotiation support and contracting with finalized parties to be awarded projects 7. Manage contract, including review of invoices from consultant, EPCM²⁵s and PMC²⁶s engaged by AIWTDS and match against relevant ToR / Contracts 8. Review compliance and adherence to project agreements, contractual clauses.
8	Safety Officer	<p>Diploma in civil engineering additional specialist training and qualifications directly relevant to engineering, traffic and transport safety in waterways/Infrastructure</p>	<ol style="list-style-type: none"> 1. Should have extensive International-standard experience and skills in waterways/large infrastructure design, construction with specialization in traffic safety

²⁵EPCM: Engineering Procurement and Construction Management

²⁶PMC: Project Management Consultant

S. No.	Position	Educational Qualification	Experience, Roles & Responsibility
		works. Minimum 7 years of relevant professional experience, in the waterways/infrastructure Safety field.	<p>/port/IWT construction engineering aspects of works.</p> <p>2. Should have sound knowledge of contemporary waterways/large infrastructure safety engineering 'best practice' and be soundly familiar with (i) Current policies, standards and/or guidelines relating to waterways/large infrastructure design and construction in India and (ii) Current safe traffic engineering' concepts and approaches demonstrated elsewhere that may be brought into application in IWT.</p> <p>9.</p>
B. Non-Key Expert			
1	Civil Engineer	<p>Should be a Graduate in Civil Engineering.</p> <p>Minimum 7 years in project management and construction supervision of civil Projects. Preference shall be given to executed port/IWT works /projects</p>	<p>1. Responsible for the project implementation activities of the respective Contractors.</p> <p>2. Ensure execution of works on site as per specifications and standards, and continuously interact with the AIWTDS and the respective Contractor.</p> <p>3. Assist Resident Engineer cum Construction Expert in supervision, coordination and monitoring the work of the respective Contractor.</p>
2	Quality Control Engineer	<p>Should be a Graduate in Civil Engineering. Post-Graduation in Soil & Foundation Engineering / Geo-Technical Engineering or material management with specialization in Port/Harbor/IWT structures will be preferred.</p> <p>Minimum 7 years' experience including 2 years' experience in formulation and implementation</p>	<p>1. Should be conversant with internationally acceptable modern standards for Quality Assurance in Harbor/Marine/Port projects/major infrastructure works.</p> <p>2. Assist Sr. Quality Assurance cum Material Engineer and shall be responsible for supervising all the tests to be done in different stages of construction, besides ensuring that specified tests</p>

S. No.	Position	Educational Qualification	Experience, Roles & Responsibility
		of Quality Assurance plan for civil works in Harbor/Port/Marine /major infrastructure works and experience in mobilization, installation and calibration of Lab equipment.	are done as per code / specifications laid down in the contract for all the different stages of construction.
4	MIS Expert	<p>Should be a Graduate in computer Science.</p> <p>Master's degree in Construction Management from a reputed and recognized university or institution shall be preferred</p> <p>Minimum 7 years of experience of working with Management Information System for Private / Public sector / Government organizations and specifically more than 5 years of experience in MIS implementation and Project management for large Infrastructure programs.</p>	<ol style="list-style-type: none"> 1. Design and maintain a database and regular process schedule for all the works undertaken by the Employer in the head office and/or by PIU formed by the Client. 2. Update the database for status of progress of ongoing and completed works and assist AIWTDS in ensuring that projects are developed in accordance with the agreements between AIWTDS, World Bank and the State Governments / other relevant implementation agencies. 3. Deploy pre-defined tracking processes, tools and dashboards and integration of tracking and follow up 4. Periodically track and report progress of Coordinating between work streams and resolving issues 5. Monitor projects at project level, provide feedback and intervene to course correct on issues that impact project value and timelines 6. Supervise and coordinate with AIWTDS' employees, program managers, Contractors and with other Government departments as directed by AIWTDS including coordinating with the consultants directly engaged by AIWTDS. 7. Prepare the guidelines / manuals / SOP for robust MIS system formed by the

S. No.	Position	Educational Qualification	Experience, Roles & Responsibility
			<p>Employer for different Projects with a viewpoint to integrate with head office MIS System.</p> <p>8. Coordinate with ERP consultants and implementing agency for its successful implementation.</p>
5	Quantity Surveyor and Billing	<p>Should be a Graduate in Engineering.</p> <p>Minimum 7 years in project management and construction supervision of civil Projects. Preference shall be given to executed port/IWT works /projects</p>	<ol style="list-style-type: none"> 1. Responsible for the carrying out and verification of quantity estimations for the projects. 2. Verify invoices raised by the contractor and coordinate with stakeholders to authorize the payments.
6	Planning and Scheduling Expert	<p>Should be a Graduate in Engineering.</p> <p>Minimum 7 years in project management and construction supervision of civil Projects. Preference shall be given to executed port/IWT works /projects</p>	<ol style="list-style-type: none"> 1. Track the project progress in project scheduling softwares. 2. Provide inputs to the stakeholders and TSSC team on the Physical/Financial progress. 3. Carry out delay analysis and Generate catch-up plan, prepare updated schedules.

SCHEDULE-O FORMS OF PAYMENT STATEMENTS

(See Clauses 19.4.1, 19.6.1, and 19.8.1)

1. Stage Payment Statement for Works

The Stage Payment Statement for Works shall state:

- a) The estimated amount for the Works executed in accordance with Clause 19.3.1 subsequent to the last claim;
- b) Amounts reflecting adjustments in price for the aforesaid claim;
- c) The estimated amount of each Change of Employer's Requirement Order executed subsequent to the last claim;
- d) Amounts reflecting adjustment in price, if any, for (c) above in accordance with the provisions of Clause 13.2.3 (a);
- e) Total of (a), (b), (c) and (d) above;
- f) Deductions:
 - i) Any amount to be deducted in accordance with the provisions of the Agreement except taxes;
 - ii) Any amount towards deduction of taxes; and
 - iii) Total of (i) and (ii) above.
- g) Net claim: (e) – (f) (iii);
- h) The amounts received by the Contractor upto the last claim:
 - For the Works executed (excluding Change of Employer's Requirement orders);
 - For Change of Employer's Requirement Orders, and
 - Taxes Deducted

2. Contractor's Claim for Damages

Note: The Contractor shall submit its claims in a form acceptable to the Employer.

SCHEDULE-P INSURANCE

(See Clause 20.1)

1. Insurance during Construction Period

- 1.1 The Contractor shall effect and maintain at its own cost, from the Appointed Date till the date of issue of the Completion Certificate, the following insurances for any loss or damage occurring on account of Non Political Event of Force Majeure, malicious act, accidental damage, explosion, fire and terrorism:
- a) Insurance of Works, Plant and Materials and an additional sum of 15 (fifteen) percent of such replacement cost to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature; and
 - b) Insurance for the Contractor's equipment and Documents brought on to the Site by the Contractor, for a sum sufficient to provide for their replacement at the Site.
- 1.2 The insurance under paragraph 1.1(a) and (b) above shall cover the Employer and the Contractor against all loss or damage from any cause arising under paragraph 1.1 other than risks which are not insurable at commercial terms.

2. Insurance for Contractor's Defects Liability

The Contractor shall effect and maintain insurance cover for the Works from the date of issue of the Completion Certificate until the end of the Defects Liability Period for any loss or damage for which the Contractor is liable and which arises from a cause occurring prior to the issue of the Completion Certificate. The Contractor shall also maintain other insurances for maximum sums as may be required under the Applicable Laws and in accordance with Good Industry Practice.

3. Insurance against Injury to persons and damage to Property

- 3.1 The Contractor shall insure against its liability for any loss, damage, death or bodily injury, or damage to any property (except things insured under Paragraphs 1 and 2 of this Schedule or to any person (except persons insured under Clause 20.9), which may arise out of the Contractor's performance of this Agreement. This insurance shall be for a limit per occurrence of not less than the amount stated below with no limit on the number of occurrences. The insurance cover shall be not less than: Rs. 2 lakhs
- 3.2 The insurance shall be extended to cover liability for all loss and damage to the Employer's property arising out of the Contractor's performance of this Agreement excluding:
- a) The Employer's right to have the construction works executed on, over, under, in or through any land, and to occupy this land for the Works; and
 - b) Damage which is an unavoidable result of the Contractor's obligations to execute the Works.

4. Insurance to be in Joint Names

The insurance under paragraphs 1 to 3 above shall be in the joint names of the Contractor and the Employer.

SCHEDULE-Q
TESTS ON COMPLETION OF DEFECT LIABILITY PERIOD

(See Clause 14.10)

DELETED

SCHEDULE-R

TAKING OVER CERTIFICATE

(See Clause 14.10)

I,(Name and designation of the Employer's representative) under and in accordance with the Agreement dated..... (the "Agreement"), for construction of Inland Water Transport (IWT) Ferry Terminal at Guwahati Gateway Ghat, Assam "on Bramhaputra on Engineering, Procurement and Construction (EPC) basis through (Name of Contractor), hereby certify that the Test son completion of Defects Liability Period in accordance with Article 17 of the Agreement have been successfully undertaken to determine compliance of the Terminal with the provisions of the Agreement and I hereby certify that the Employer has taken over the Terminal from the Contractor on this day.....

SIGNED, SEALED AND DELIVERED

(Signature)

(Name and designation of Employer's Representative)

(Address)

SCHEDULE-S

PERFORMANCE CERTIFICATE

(See Clause 17.7.2)

I, (Name and designation of the Employer's representative) under and in accordance with the Agreement dated..... (the "Agreement"), for construction of Inland Water Transport (IWT) Terminal at Guwahati Gateway Ghat, Assam" on River Bramhaputra on Engineering, Procurement and Construction (EPC) basis through (Name of Contractor), hereby certify that the Contractor has discharged all its obligations under the Agreement and in accordance with Article 17 of the Agreement I hereby issue Performance Certificate to the Contractor on this day.....

SIGNED, SEALED AND DELIVERED

(Signature)

(Name and designation of Employer's Representative)

(Address)

SCHEDULE-T(See Clause 19.1.6)

All payments under the Contract shall be made in Indian Rupees only.